

December 1, 2011

MEMORANDUM

TO: University Senate Members

FROM: Eric Kasischke
Chair of the University Senate

SUBJECT: University Senate Meeting on Thursday, December 8, 2011

The next meeting of the University Senate will be held on Thursday, December 8, 2011. The meeting will convene at **3:15 p.m.**, in the **Atrium of the Stamp Student Union**. If you are unable to attend or plan to arrive late, please contact the Senate Office¹ by calling 301-405-5805 or sending an email to senate-admin@umd.edu for an excused absence. Your response will assure an accurate quorum count for the meeting.

The meeting materials can be accessed on the Senate Web site. Please go to <http://www.senate.umd.edu/meetings/materials/> and click on the date of the meeting.

Meeting Agenda

1. Call to Order
2. Approval of the November 9, 2011 Senate Minutes (Action)
3. Report of the Chair

Committee Reports

4. Title Updates in the Senate Bylaws (Senate Doc. No. 11-12-08) (Action)
5. Preservation of Shared Governance During Reorganizations, Consolidations, and Mergers (Senate Doc. No. 09-10-49) (Action)
6. Revisions to the School of Public Health Plan of Organization (Senate Doc. No. 10-11-49) (Action)
7. Nominations Committee Slate (Senate Doc. No. 11-12-21) (Action)
8. Request to Review Domestic Partner Benefits (Senate Doc. No. 10-11-34) (Action)

¹ Any request for excused absence made after 1:00 p.m. will not be recorded as an excused absence.

9. Request for Non-Exempt Staff Issues and Development Review (Senate Doc. No. 10-11-57) (Action)
10. Updates to Procedural Requirements Pertaining to Sexual Harassment and Sexual Violence (Senate Doc. No. 11-12-10) (Action)
11. New Business
12. Adjournment

¹ Any request for excused absence made after 1:00 p.m. will not be recorded as an excused absence.

University Senate

November 9, 2011

Members Present

Members present at the meeting: 118

Call to Order

Senate Chair Kasischke called the meeting to order at 3:19 p.m.

Approval of the Minutes

Chair Kasischke asked for additions or corrections to the minutes of the October 20, 2011 meeting. Hearing none he declared the minutes approved as distributed.

Report of the Chair

Board of Regents Staff Awards

Kasischke reminded the Senate that the deadline for submitting nominations for the Board of Regents Staff Awards is Friday, November 11, 2011. This is an excellent opportunity for our staff to be recognized for the amazing work they do. Information about the nomination process and criteria are listed on the Senate website at <http://www.senate.umd.edu>. He encouraged senators to nominate a staff member.

Special Order of the Day

Wallace D. Loh

President of the University of Maryland, College Park
2011 State of the Campus Address

Overview

President Loh thanked everyone for their support over the last year. The University's rankings are rising: currently 17th amongst all public research universities and 5th amongst all public universities as best value. The success of our university is a result of the collective efforts of faculty, staff, students, and alumni.

Advances in the Last Year

Students are talented and they all love their experience at our University. This is manifested in our recent victory in the solar decathlon. We also recently earned a world record in human-powered flight. Loh also applauded the efforts of students in the recent production of *Rent* and performance of Mozart's *Requiem*.

President Loh stated that he could not list all of the accomplishments of our faculty and students over the last year but gave a few examples of our excellence. We have established seven new major centers that deal with issues such as cyber security, social and environmental issues in sustainability, health, neuroimaging, racial and economic disparities in health delivery, health and information systems, and food safety. We are addressing the grand challenges of the 21st century including issues

of health, national security, environmental sustainability, and quality of life. Faculty successes include numerous awards including the National Science Foundation NSF Career Award, Guggenheim Scholarship, and Fulbright Fellowships etc. He also noted the work of the staff and their value. He assured everyone that his administration is committed to a respectful work environment for everyone. The recent allegations of workplace harassment were addressed by the HR Working Group, and its recommendations were implemented immediately. This includes training of supervisors, English lessons, computer training, and changed appeals process. The alumni contributed over \$100M to the University. He thanked the staff of University Relations for their work raising funds in this difficult economy. Loh stated that one of his biggest challenges was vacancies in numerous administrative positions. Over the last year, we have filled nine vacancies including a new Provost, Vice President for Research, Vice President for Administrative Affairs, Vice President for Information Technology, Chief Diversity Officer, new Deans in CMNS and ARHU, and a new Chief of Staff. We are learning to work as a team and we will move forward. We have also launched four new searches for, the Provost, Vice President for University Relations, Dean of the School of Public Health, and Dean of the School of Journalism. Loh also expressed gratitude to our elected officials in Annapolis. He explained that the meaning of support in this economy is cutting the budget of higher education less than that of other state agencies. They have protected our budget. He stated that furloughs have now disappeared, we have the authority to give staff retention offers, and he will fight for merit increases. As long as the State has a \$1B shortfall, we are still at risk for budget reductions. He is hopeful because our University is an economic engine. For every \$1 invested in faculty/staff salaries, we generate \$3 in external research funding and \$8 of economic activity making us a \$3.4B economic engine for the State. It makes economic sense to invest in the University of Maryland.

Current Economic Conditions

We are facing an economic crisis of global proportion, a magnitude not seen since the Great Depression. We have 25 million Americans who are unemployed or underemployed and a huge national deficit. Our national debt is \$15 Trillion and climbing unless we take action. The Federal Reserve stated "unemployment and slow growth will be the norm for years to come". The State budget is growing by 3%/year in terms of revenue. Our required expenditures exceed the revenue. The only way to address this shortfall is to make cuts or increase revenues (i.e. raise taxes). We will not turn the economic corner for many years to come. Loh quoted Carmen Reinhart who reviewed 400 years of economic history concluded that recessions that are a result of a major financial crisis take 8-10 years to recover. At the Federal level, the most optimistic scenario for NSF, the National Institutes of Health (NIH), and other funding agencies is that federal funding will be flat. The Director of NSF plans to reallocate \$1B of his \$7B budget towards new opportunities. The Governor has frozen tuition for the past three years, but this year allowed a modest increase of 3%. He is committed to keeping higher education affordable. A number of other states have balanced their budgets by increasing tuition drastically.

Looking to the Future-Reinvestment Plan

In order to proceed, we need to follow these principles, increase revenue streams, reductions (fiscal discipline), reallocation, and reinvestment. He announced a major reinvestment plan. The first installment will be \$10M of which \$4M will be invested into educational excellence, \$2M in financial aid to enhance affordability, and \$4M in an innovation fund. Colleges can compete for the innovation fund for interdisciplinary cluster hires on a 1:1 match, innovation and entrepreneurship, and globalization and internationalization.

On the capital side, we will start spending \$10M/year for the foreseeable future in addressing the crumbling infrastructure at the University. We will receive \$5M from the Legislature and another \$5M from floating bonds. We are also advocating for new construction. If we apply State formulas, we are short 1.7M sq. ft., which is roughly 24 buildings. That is equivalent to 80% of the entire campus of the University of Maryland-Baltimore County. That kind of increase has a \$1.5B price tag. We have recently opened a new residence hall and have raised \$10M in private money to build the first teaching and learning center in the last 40 years. We have another new dorm that has been designed and should be opened in a couple years. We are also hoping to announce a significant gift that will allow us to build more facilities.

Intercollegiate Athletics

President Loh addressed the recent budget crisis in the Department of Intercollegiate Athletics. The DIA had been balancing its budget for the last seven years by borrowing from reserves. This is not a long-term solution, which is why he established a commission to help raise revenue, reduce costs, and make reinvestments. The number one priority was the welfare of the student athletes so that they are supported so that they can be successful on the field and in the classroom. The Commission's report is due on November 15, 2011. The Director of Athletics will respond to the report. The Athletic Council and the Senate Executive Committee will also review the recommendations before the President makes the final decision. Hard decisions will have to be made in a fair way according to a careful consideration of the issues and taking into account the advice of the leadership of the Senate and other constituencies.

Community Development

The major challenge to enhancing the excellence of the University is the surrounding community. We need to invest in community development. The biggest issue for parents is student safety. We have to expand concurrent jurisdiction, which will involve negotiation with the City. We need to contribute to enhancing education in the surrounding area. We are in discussion about establishing a charter school. We need to address the issue of transportation with the Purple Line. The Feds have allowed the State's application for the Purple Line to go forward to the engineering and planning stage with the highest marks possible. There may be funds for the Purple Line if President Obama's bill passes. The Purple Line is the most significant decision that he will make because it will impact the livability of this area for the next 50 years. We also need to have a town center, East Campus. It will include a first-class hotel and conference center, subsidized graduate student housing, retail, and upscale restaurants. We are negotiating with developers.

The UMCP/UMB Merger

This merger is an issue that the Board of Regents will make recommendation on by December 15, 2011. The Legislature will make the final decision. There is minimal collaboration with the two schools working independently. The other end of the spectrum is two institutions combined with one president, which could be seen as a hostile takeover. Last fall, our administration met with our counterparts at UMB. We are committed to collaboration. However, since our separation 40 years ago, there has been little to no collaboration. It needs to be formalized to perhaps a strategic alliance where certain areas such as the further development of Shady Grove, tech transfer activities, and investment in certain areas of research that are multi-disciplinary. The fourth option is described as "One Maryland", where there is one flagship with two campuses and two presidents. He does not believe that the status quo is an option and a full merger is also unlikely. The choice is between a strategic alliance and "One Maryland". The difference between the two options is that there are still two universities in the strategic alliance option where the "One Maryland" option has one combined university. If you are one university, with two campuses and two presidents, you can aggregate data and research results relevant to rankings between both institutions. That would place us in the top 10 of all universities in the country. Rankings are important because prospective students pay attention to this. We will be able to attract a larger percentage of the top students in Maryland. We will be able to paint ourselves as a global educational and research powerhouse. Major change, transformative excellence is never easy, speedy, or without controversy, but we must be focused not on what is but what can be in the future. We need vision that catapults both universities to global preeminence, but it will require leadership and perseverance. He stated that we will stick our necks out, we will aim high, we will work hard, we will think big, and we will take risks because that is the way to win the future.

PCC Proposal to Rename the Department of Geography to Geographical Sciences (Senate Doc. No. 11-12-13) (Action)

Elizabeth Beise, Member of the Programs, Curricula, & Courses (PCC) Committee, presented all three proposals to rename the Department, B.S., and M.A. and Ph.D. from Geography to Geographical Sciences to the Senate and provided background information.

Kasischke opened the floor to discussion of the PCC Proposal to Rename the Department of Geography to Geographical Sciences; hearing none, he called for a vote on the proposal. The result was 93 in favor, 4 opposed, and 2 abstentions.
The motion to approve the proposal passed.

PCC Proposal to Rename the B.S. in Geography to Geographical Sciences (Senate Doc. No. 11-12-14) (Action)

Kasischke opened the floor to discussion of the PCC Proposal to Rename the B.S. in Geography to Geographical Sciences; hearing none, he called for a vote on the

proposal. The result was 89 in favor, 5 opposed, and 2 abstentions. **The motion to approve the proposal passed.**

PCC Proposal to Rename the M.A. and Ph. D. in Geography to Geographical Sciences (Senate Doc. No. 11-12-15) (Action)

Kasischke opened the floor to discussion of the PCC Proposal to Rename the M.A. and Ph. D. in Geography to Geographical Sciences; hearing none, he called for a vote on the proposal. The result was 90 in favor, 5 opposed, and 3 abstentions. **The motion to approve the proposal passed.**

PCC Proposal to Establish a Master of Arts Program in Second Language Acquisition (Senate Doc. No. 11-12-16) (Action)

Elizabeth Beise, Member of the Programs, Curricula, & Courses (PCC) Committee, presented the two proposals to establish a Master of Arts Program and Graduate Certificate in Second Language Acquisition to the Senate and provided background information.

Kasischke opened the floor to discussion of the PCC Proposal to Establish a Master of Arts Program in Second Language Acquisition; hearing none, he called for a vote on the proposal. The result was 89 in favor, 1 opposed, and 2 abstentions. **The motion to approve the proposal passed.**

PCC Proposal to Establish a Graduate Certificate in Second Language Acquisition (Senate Doc. No. 11-12-17) (Action)

Kasischke opened the floor to discussion of the PCC Proposal to Establish a Graduate Certificate in Second Language Acquisition; hearing none, he called for a vote on the proposal. The result was 90 in favor, 3 opposed, and 2 abstentions. **The motion to approve the proposal passed.**

PCC Proposal to Establish a New Master and Doctoral Program in Higher Education, Student Affairs, and International Education Policy (Senate Doc. No. 11-12-18) (Action)

Elizabeth Beise, Member of the Programs, Curricula, & Courses (PCC) Committee, presented the proposal to Establish a New Master and Doctoral Program in Higher Education, Student Affairs, and International Education Policy to the Senate and provided background information.

Kasischke opened the floor to discussion of the PCC Proposal to Establish a New Master and Doctoral Program in Higher Education, Student Affairs, and International Education Policy; hearing none, he called for a vote on the proposal. The result was 92 in favor, 4 opposed, and 2 abstentions. **The motion to approve the proposal passed.**

PCC Proposal to Change the Name of the Master and Doctoral Programs in Counseling and Personnel Services to Counseling Psychology, School Psychology, and Counselor Education (Senate Doc. No. 11-12-19) (Action)

Elizabeth Beise, Member of the Programs, Curricula, & Courses (PCC) Committee, presented the proposal to Change the Name of the Master and Doctoral Programs in Counseling and Personnel Services to Counseling Psychology, School Psychology, and Counselor Education to the Senate and provided background information.

Kasischke opened the floor to discussion of the PCC Proposal to Change the Name of the Master and Doctoral Programs in Counseling and Personnel Services to Counseling Psychology, School Psychology, and Counselor Education; hearing none, he called for a vote on the proposal. The result was 89 in favor, 3 opposed, and 4 abstentions. **The motion to approve the proposal passed.**

Proposal to Review the University of Maryland Policies Concerning Academic Transcripts and Calculation of Grade Point Average (Senate Doc. No. 10-11-11) (Action)

Robert Buchanan, Chair of the Academic Procedures & Standards Committee presented the proposal to amend the University of Maryland Policies Concerning Academic Transcripts and Calculation of Grade Point Average to the Senate and provided background information.

Kasischke opened the floor to discussion.

Senator Levy, Faculty, College of Computer, Mathematical, and Natural Sciences, stated that he could not find the effect of this change on our graduate programs in the proposal. The Graduate School has GPA guidelines, which these changes will affect. Individual programs also have specific GPA requirements.

Buchanan invited Provost Wylie to respond. She in turn asked Dean Caramello to explain the Graduate School's review.

Dean Caramello, Graduate School, stated that Appendix 7 of the proposal outlines the impact on the graduate program. It will not affect any individual program with a GPA requirement above 3.0. They will still have that authority. These programs cannot set a requirement below a 3.0. In reviewing grades to graduate students over the last five years, the effect on overall GPA is 0.03 and the effect on number of students who would drop below 3.0 is minimal.

Senator Levy, Faculty, College of Computer, Mathematical, and Natural Sciences, asked if individual graduate programs should revisit their guidelines and adjust them to the new system as part of the implementation plan. There are guidelines where the average of certain courses must be a 3.5, which a student could get with a B and an A-. When this is implemented that will no longer be the case. If our program is happy with a B and an A-, it should be written into the guidelines.

Dean Caramello responded that individual programs can still specify programs in a different way, but this does not affect that ability.

Provost Wylie explained that throughout the University there are requirements at both the undergraduate and graduate levels that are specified by programs. They may require a particular grade in a course in order to proceed in the major or a particular grade or else the course has to be repeated. There are many requirements at the department level. Some are expressed in GPA and some in grades. At the present time the C requirement means a C+, C, or C-. All of the programs are going to have to look over their individual requirements and make a determination about whether or not a C- will satisfy or not. Until those changes are made, we are going to assume that it does. That is the only way that we can move forward with implementation.

Caramello clarified that the only exception is that the requirement cannot drop below a 3.0.

Senator Newhagen, Faculty, College of Journalism, stated that he was Chair of Educational Affairs Committee in 2005 that passed the original policy. He asked whether we would be abandoning the dual system so that there will be one uniform GPA reflecting a plus/minus system on a student's transcript. He also stated that it has taken 15 years to settle this issue.

Buchanan confirmed that that was the intent.

Senator Ellis, Undergraduate, Robert H. Smith School of Business, stated that she and other students were disappointed with the proposal and were not in favor of it. The proposal seems to be geared towards students looking to go to a graduate program. However, it has a negative impact on students going directly into the job market who will be assessed by their GPA. She stated that financial aid requirements have minimum GPA. She sees more negative effects than positive ones with this implementation.

Buchanan stated that the committee looked at the overall effect on GPA, and it had a minor effect. The committee also considered the specific experiences of members in terms of implementation and the reality is that grades are re-calculated to reflect the standard environment across universities when they apply for graduate programs or jobs. He also noted that our current policy is for the weighted system. Because it has not been implemented, we are behind most of the universities in the country.

Senator Tolu, Undergraduate, College of Computer, Mathematical, and Natural Sciences, stated that a lot of students are against the implementation plan. Student Government Association (SGA) polls show that a lot of students are against this plan. It is not in the best interest of students. She stated that the fractional change does affect when you are applying to graduate school. The GPA on your transcript is the one that people will look to. When we say that our peers have a similar plan, we are not accounting for the fact that they are more competitive universities than

ours. Our current system is working fine. The percentage of students getting an A+ is very small. This plan is discouraging to students striving for an A and it is just a 3.7. She also voiced concerns that transcripts will show both systems for students who are currently enrolled and how complex that would be. We should only apply this policy to incoming freshman.

Senator Miletich, Undergraduate, College of Arts & Humanities, asked why the 4.3 was being changed to 4.0 for an A+.

Buchanan stated that the 4.3 gives the impression of grade inflation and does not align with our peer institutions.

Senator Miletich, Undergraduate, College of Arts & Humanities, stated that he does not see the point in changing something that is not broken. There are more negative effects in this new plan.

Senator Ahmed, Undergraduate, School of Public Health, stated that he was concerned that we are not taking into account who this policy will impact. Students do not feel as if this plan is in our best interest. We need to consider our benefactors so that they want to come back and contribute to the University. He also stated that when he recalculated his own GPA, it dropped from a 3.54 to a 3.49 under the new plan. He would not have been accepted into certain programs if he had a GPA below 3.49. The .03 is just an average change. He urged the Senate to think about who will be affected.

Kasischke reminded senators that they could only speak again once all others have had the opportunity to speak.

Senator Blagadorskiy, Undergraduate, College of Letters & Sciences, stated that students are not supportive of this plan. He is pending admission into the Business School. His current GPA is 3.21 and he is hoping to get to the 3.5 threshold that is required to get into the program. While the average change in GPA was 0.03, his GPA would have changed by 0.1. He also stated that the uncertainty that this causes for admission into specific programs is unacceptable especially considering the high cost of tuition.

Senator Lathrop, Faculty, College of Computer, Mathematical, and Natural Sciences, stated that while the change in GPA is small, there is a human cost to this change that should be taken into account.

Dean Caramello, Graduate School, stated that it is a long-standing Graduate School policy to allow programs to make exceptions for students placed on probation. This is a routine practice.

Dean Hamilton, Undergraduate Studies, stated that there was a failure of will to make the change that was in the best interest of the University in 2005 when the original policy was created. Many of us have lamented that a change that needed to be made was not made. There will be a period of transition especially for people in

the C category. It is important that we benchmark and align with our peers. We should not be behind or have grade inflation. It is important for us to give students who want to achieve the extra point they deserve over people who did not bother. She also noted that other institutions like Virginia Tech, the University of Connecticut, the University of Florida, the University of Texas-Austin, the University of Washington, and the University of Minnesota all use similar plus/minus grading systems. Several other universities also use plus/minus grading.

Provost Wylie stated that she has been involved with this issue for many years. She noted the concern by our current students about going back and recalculating their GPA based upon this new scale. She clarified that there will be no change in any GPA that has been earned to date. Changes will only be applied to grades going forward. She believes that this new grading system will change behavior. You cannot apply an analogy by just going backwards because people know that a B- is the same as a B so why bother to do the extra work. It is an unfair criticism of the policy. We should look at the opportunity that it gives faculty to recognize the achievements of students.

Senator Fagan, Undergraduate, Robert H. Smith School of Business, introduced Elizabeth Moran to speak. Moran stated that she is currently a business student. She prefaced her comments by saying that she comes from a perspective as a student who works hard. She stated that most of her grades are low A's because that is what is feasible and reasonable. This plan is only negative. She does not believe that the majority of students even know about the policy change due to a lack of transparency in the process. Students have planned their academic careers based on the current system. She stated that she would not have taken her easiest classes her first year if she knew that she would have to get pluses in her last year. She would have spread her classes out more. It is a switch-up that she does not appreciate.

Buchanan commented on the issues about transparency by stating that this is not a new policy but rather just a matter of implementation of existing policy. The only change is to make the A+ from a 4.3 to a 4.0. It has been vetted for over 15 years. As a new professor, he spent a lot of time trying to give students the grade that they deserved only to discover that it did not count. This has been a long-standing transparent process.

Kaiyi Xie, Non-Voting Ex-Officio, SGA President, stated that the rationale for moving to the new system is not supported by studies in scientific journals. From his research he stated that studies show that student behavior did not change, and there was no statistical change in student motivation or performance in classes at an institution that made this switch. If student behavior is not modified, what is the end result. As to the question of whether this new plan changes faculty behavior, he believes that it is unfair to students who have already been here for several years if that is the case. There is no evidence of faculty behavior changes in the report. If faculty behavior does not change then the argument of behavior modification is moot. We already give the students that put in more effort that extra point because the plus on their transcript can be recalculated. We are not denying those who

received the plus the right to be recognized for their achievement because they are already recognized for their extra achievement. What is different is the numerical translation of that plus into what we have today. How does GPA correlate to your grade? He believes that a grade is not the problem, but the impact of the transition period is not reflected in the proposal. It is not fair to students who are in the old system 50% of the time and in the new 50% of the time because they have planned their academic careers around this system. There is discussion about standardizing because our peers do so but no talk about the impact of not standardizing our current policy. There is nothing that shows that we are hurt or penalized by our current system to justify making a change. We still have differentiation amongst our students. The proposal does not show that keeping the current system hurts student performance or our chances of admission into graduate programs or future jobs. That is a question that remains to be addressed by this implementation plan. He also inquired about the number of senators needed for a quorum.

Kasischke responded that the quorum for today's meeting was 61.

Xie made a motion to recommit the proposal to the APAS Committee to study the issue further and garner student input on the implementation plan. The motion was seconded.

Kasischke stated that in the interest of time, he would like to move to a vote on the motion.

Zach Cohen called for a point of order that the motion was debatable.

Marvin Breslow, Parliamentarian, agreed that the motion was debatable.

Kasischke opened the floor to discussion of the motion to recommit the proposal to the APAS Committee for further consideration. He also reminded the Senate that the meeting must end at 5:15 p.m. unless a motion to extend the meeting was approved.

Cohen inquired whether there was an objection to the motion to recommit.

Kasischke clarified that we are merely opening the floor to discussion of the motion to recommit.

Martha Nell Smith, Chair-Elect, made a motion to call the question and end debate on the motion to recommit. The motion was seconded.

Kasischke called for a vote on the motion to call the question and end debate on the motion to recommit the proposal to the committee. The result was 52 in favor, 22 opposed, and 2 abstentions. **The motion to call the question passed.**

Kasischke stated that we must now move to a vote on the motion to recommit the proposal to the committee. The result was 35 in favor, 41 opposed, and 1 abstention. **The motion to recommit the proposal to the committee failed.**

Martha Nell Smith, Chair-Elect, made a motion to call the question and end debate on the APAS Committee's proposal. She further stated that students are being hurt by the fact that our current policy is not being implemented. Grade recalculations do occur in business and graduate school. The motion was seconded.

Cohen asked for a point of personal privilege and requested that he be allowed to express the views of his constituents.

Marvin Breslow, Parliamentarian, stated that the motion to call the question is not debatable.

Kasischke called for a vote on the motion to call the question and end debate on the APAS Committee's proposal. The result was 67 in favor, 8 opposed, and 0 abstentions. **The motion to call the question passed.**

Kasischke stated that we must now move to a vote on the APAS Committee's proposal. The result was 49 in favor, 26 opposed, and 2 abstentions. **The motion to approve the proposal passed.**

Chair Kasischke adjourned the meeting because we had reached the end of the announced time for the meeting, 5:15 p.m.

The remaining two action items on the agenda will be placed on the agenda for the December 8, 2011 Senate Meeting.



University Senate TRANSMITTAL FORM

Senate Document #:	11-12-08
Title:	Title Updates in the Senate Bylaws
Presenter:	Kenneth R. Fleischmann, Chair, Elections, Representation, and Governance (ERG) Committee
Date of SEC Review:	October 24, 2011
Date of Senate Review:	December 8, 2011
Voting (highlight one):	<ol style="list-style-type: none"> 1. On resolutions or recommendations one by one, or 2. In a single vote 3. To endorse entire report
Statement of Issue:	Over the last several years, several administrative offices at the University have been renamed and staff titles have been revised. In addition, in the Spring of 2011, the Senate approved the renaming of the Senate CORE Committee to the General Education Committee. These changes have all occurred since the Senate Bylaws were last updated.
Relevant Policy # & URL:	N/A
Recommendation:	The ERG Committee recommends the Senate approve the suggested changes to the Senate Bylaws. The suggested changes can be found in the attached report.
Committee Work:	<p>The ERG Committee considered the charge and proposed changes to the Senate Bylaws in the fall of 2011 and found the suggested changes to be appropriate and necessary.</p> <p>The ERG Committee voted unanimously to approve the suggested changes.</p>
Alternatives:	The titles would remain the same leaving inaccuracies.
Risks:	The Bylaws could remain unchanged causing inaccuracies in staff titles and possibly causing confusion when appointing future members to Senate standing committees.
Financial Implications:	There are no financial implications.
Further Approvals Required:	Senate Approval. Presidential Approval.

Elections, Representation, and Governance (ERG) Committee
Report on Title Updates in the Senate Bylaws
Senate Doc # 11-12-08
October 2011

Background

Over the last several years, several administrative offices at the University have been renamed and staff titles have been revised. In addition, in the Spring of 2011, the Senate approved the renaming of the Senate CORE Committee to the General Education Committee. These changes have all occurred since the Senate Bylaws were last updated.

On September 27, 2011 the SEC requested that the ERG Committee consider the proposed changes to the Senate Bylaws and recommend whether they are appropriate.

Committee Work

The ERG Committee considered the charge and proposed changes to the Senate Bylaws in the fall of 2011. The committee discussed the importance of keeping Senate documents, such as the Senate Bylaws, updated. A careful review of the suggested changes found them to be appropriate and necessary. The ERG Committee voted unanimously to approve all the suggested changes.

Recommendation

The ERG Committee recommends the Senate approve the suggested changes to the Senate Bylaws as noted in blue font/track changes in Appendix 1.

Appendices

Appendix 1 – Proposal/Suggested Changes
Appendix 2 – Charge



**University Senate
PROPOSAL FORM**

Name:	University Senate Office
Date:	September 14, 2011
Title of Proposal:	Title Updates in the Senate Bylaws
Phone Number:	301- 405-5805
Email Address:	senate-admin@umd.edu
Campus Address:	1100 Marie Mount Hall, College Park, MD 20742-7541
Unit/Department/College:	University Senate Office
Constituency (faculty, staff, undergraduate, graduate):	Staff
Description of issue/concern/policy in question:	Many position and unit titles have changed since the Bylaws of the University Senate were last updated.
Description of action/changes you would like to see implemented and why:	The University Senate Office would like for a review to be conducted of the areas identified in attached PDF of the Bylaws. For accuracy purposes, the Bylaws should be updated to reflect proper titles.
Suggestions for how your proposal could be put into practice:	The Senate Elections, Representation, & Governance (ERG) Committee could be charged with reviewing these suggested changes to the Bylaws. If the committee approves, the recommended changes would be sent to the SEC and Senate for approval, as well.
Additional Information:	http://www.senate.umd.edu/governingdocs/bylawsrevised05-04-11.pdf

BYLAWS

OF THE

UNIVERSITY

SENATE

Amended May 4, 2011

BYLAWS OF THE UNIVERSITY SENATE
University of Maryland, College Park
Amended May 4, 2011

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BYLAWS OF THE UNIVERSITY SENATE
The University of Maryland, College Park

ARTICLE 1
AUTHORIZATION

- 1.1 These *Bylaws of the University Senate* (hereafter referred to as the *Bylaws*) are adopted according to Article 7 of the *Plan of Organization* (hereafter referred to as the *Plan*), and are subject to amendment as provided for in the *Plan*.

ARTICLE 2
MEMBERSHIP

- 2.1 The members of the Senate are as designated in Article 3 of the *Plan* and further specified in 2.1 and 2.2 below. All elected members are subject to the conditions stated in the *Plan*, including its provisions for expulsion, recall, and impeachment (Article 4.10, 4.11, and 5.6 of the *Plan* and Article 2.3 below).

2.1.a Staff Senators

For the purpose of Senate representation, the Staff Constituency is divided into the following categories. Each category shall elect one Senator from among its ranks for each 200 staff members or major fraction thereof.

1. Executive, Administrative, and Managerial Staff
2. Professional Staff
3. Secretarial and Clerical Staff
4. Technical and Para-Professional Staff
5. Skilled Crafts
6. Service and Maintenance

Exempt staff are in categories 1 and 2; non-exempt staff are in categories 3-6.

- 2.1.b Staff member job categories will not include the category designated for the President, vice presidents, provosts, and deans if they hold faculty rank.
- 2.1.c Any individual within the faculty member voting constituency cannot be included in the staff member voting constituency or nominated for election as a Senate staff member. Staff candidates for the Senate must have been employed at the University of Maryland College Park for 12 months prior to standing as candidates for Senate. Staff members may not stand for Senate elections while in the probationary period of employment.
- 2.1.d An ex officio member denoted in the *Plan* (Article 3.6.a.) who is not precluded from staff member categories as noted in Articles 2.1.b and 2.1.c may be elected as a voting member of the Senate by an appropriate constituency. Such ex officio members should also have been employed by the University of Maryland College Park for 12 months prior to standing as candidates for the Senate.
- 2.1.e As noted in the *Plan* (Article 3.3.c), the term of each staff Senator shall be three (3) years. Terms of staff members will be staggered in such a way that for each term, one-third of the total members from a job category are serving the first year of their term. Not every member of a specific job category shall be elected in the same year except in the case that the job categories are redefined by the University or these *Bylaws*. In such a circumstance, at the completion of the election, from those members who were elected:
- (1) One-third of the members in a job category who received the lowest number of votes will serve a one-year term,
 - (2) One-third of the members in a job category who received the second lowest number of votes will serve two-year terms,
 - (3) One-third of the members in a job category who received the highest number of votes will serve

three year-terms.

A person serving a one-year term is defined not to have served a full term and is eligible for re-election to a full term the following year.

2.2 Single Member Constituencies

The Senators defined in (a)-(e) below shall be voting members of the Senate. All elections held pursuant to this section shall be organized by the Senate Office.

- (a) Teaching Faculty who are not members of the Faculty Constituency as defined in Section 3.2 of the Plan shall elect two (2) Senators, for a term of one (1) year, their terms renewable for up to three (3) years. Full-time Instructor/Lecturers shall elect one (1) full-time representative and part-time Instructor/Lecturers shall elect one (1) part-time representative representing the Instructor/Lecturer constituency. When the Senate votes by constituencies, those Senators shall have the same voting rights as a Faculty Senator.
- (b) Research Faculty who are not members of the Faculty Constituency as defined in Section 3.2 of the Plan shall elect one (1) Senator from among their ranks for a term of one (1) year, renewable for up to three (3) years. When the Senate votes by constituencies, that Senator shall have the same voting rights as a Faculty Senator.
- (c) The part-time undergraduate students shall elect one (1) Senator from among their ranks for a term of one (1) year, renewable for up to three (3) years. When the Senate votes by constituencies, that Senator shall have the same voting rights as all other student Senators. A part-time student Senator who changes to full-time status subsequent to election may serve out his/her term.
- (d) The Contingent 2 Staff shall elect one (1) Senator from among their ranks for a term of one (1) year, renewable for up to three (3) years. When the Senate votes by constituencies, that Senator shall have the same voting rights as all other Staff Senators. The Contingent 2 Staff Senator shall have been employed by the University for twelve months prior to their election.
- (e) Emeritus Faculty who are not members of the Faculty Constituency as defined in Section 3.2 of the Plan shall elect one (1) Senator from among their ranks for a term of one (1) year, renewable for up to three (3) years. When the Senate votes by constituencies, that Senator shall have the same voting rights as a Faculty Senator.
- (f) The part-time graduate students shall elect one (1) Senator from among their ranks for a term of one (1) year, renewable for up to three (3) years. When the Senate votes by constituencies, that Senator shall have the same voting rights as all other student Senators. A part-time student Senator who changes to full-time status subsequent to election may serve out his/her term.
- (g) Adjunct Professors and Professors of the Practice who are not members of the Faculty Constituency as defined in Section 3.2 of the Plan together shall elect one (1) Senator from among their ranks for a term of one (1) year, renewable for up to three (3) years. When the Senate votes by constituencies, that Senator shall have the same voting rights as a Faculty Senator.

- 2.3 If any elected Senator is absent from two (2) consecutive regularly scheduled meetings of the Senate without prior approval from the Office of the University Senate (Article 4.10.a of the Plan), the Executive Secretary and Director shall notify the constituency of this fact. Also in accordance with Article 4.9 and 4.10 of the Plan, until the member attends a meeting of the Senate, or the Senator is expelled, that Senator shall be counted in the total membership when a quorum is defined for a meeting.

ARTICLE 3 MEETINGS

3.1 Regular Meetings:

The Senate shall schedule at least four (4) regular meetings each semester. The notice, agenda, and Amended May 4, 2011

supporting documents shall be mailed, by campus or electronic-mail, from the Senate Office to the membership no later than one calendar week prior to each regular meeting unless otherwise approved by the Executive Committee.

3.2 **Special Meetings:**

3.2.a Special meetings of the Senate may be called in any of the following ways, with the matter(s) to be considered to be specified in the call:

- (1) By the presiding officer of the Senate;
- (2) By a majority vote of the Executive Committee of the Senate;
- (3) By written petition of a majority of the elected members of the Senate. The petition shall be delivered to the Chair or the Executive Secretary and Director of the Senate. The Chair shall give notice of arrangements for the meeting within seventy-two (72) hours of receipt of a valid petition; and
- (4) By resolution of the Senate.

3.2.b The notice of a special meeting shall include the agenda and shall be sent to the members of the Senate as far in advance of the meeting as possible. The agenda of a special meeting may specify a scheduled time of adjournment and provide information on adjourned meetings.

3.2.c The scheduling of a special meeting shall reflect the urgency of the matter(s) specified in the call, the requirement of reasonable notice, and the availability of the membership.

3.3 **Openness of Meetings and Floor Privileges:**

3.3.a Meetings of the Senate shall be open to all members of the campus community except when the meetings are being conducted in closed session.

3.3.b Representatives of the news media shall be admitted to all meetings of the Senate except when the meetings are conducted in closed session. The use of television, video, or recording equipment shall not be permitted except by express consent of the Senate.

3.3.c When a report of a committee of the Senate is being considered, members of that committee who are not members of the Senate may sit with the Senate and have a voice but not a vote in the deliberations of the Senate on that report.

3.3.d Any Senator may request the privilege of the floor for any member of the campus community to speak on the subject before the Senate. The Chair shall rule on such requests.

3.3.e By vote of the Senate, by ruling of the Chair, or by order of the Executive Committee included in the agenda of the meeting, the Senate shall go into closed session. The ruling of the Chair and the order of the Executive Committee shall be subject to appeal, but the Chair shall determine whether such appeal shall be considered in open or closed session.

3.3.f While in closed session, the meeting shall be restricted to voting members of the Senate (Article 3 in the *Plan*), to members granted a voice but not a vote (Articles 3.6 and 5.2.c of the *Plan*), to the Executive Secretary and Director, to the parliamentarian and any staff required for keeping minutes and audio recordings, and to other persons expressly invited by the Senate.

3.4 **Rules for Procedure:**

3.4.a The version of *Robert's Rules of Order* that shall govern the conduct of Senate meetings shall be *Robert's Rules of Order, Newly Revised*.

3.4.b A quorum for meetings shall be defined as a majority of elected Senators who have not received prior approval for absence from the Office of the University Senate, or fifty (50) Senators, whichever number is higher. For the purpose of determining a quorum, ex officio members with or without vote shall not be considered.

ARTICLE 4 EXECUTIVE COMMITTEE

4.1 Membership and Election:

- 4.1.a As set forth in the *Plan* (Article 8.2), the members of the Executive Committee shall include the Chair and Chair-Elect of the Senate, and twelve (12) members elected from the voting membership of the Senate. One of the two staff members shall be elected by and from the Senators representing exempt staff, and the other shall be elected by and from the Senators representing nonexempt staff.
- 4.1.b Non-voting members of the Executive Committee shall be the President and the ~~Senior Vice President for Academic Affairs and Provost~~ Senior Vice President and Provost or their representatives; the Executive Secretary and Director of the Senate, who shall be secretary of the Executive Committee; and the Parliamentarian.
- 4.1.c The election of the Executive Committee shall be scheduled as a special order at the transitional meeting of the Senate in the Spring Semester, but in no case shall it precede the election of the Chair-Elect as provided for in the *Plan* (Article 5.3). In the event of a tie vote in the election for members of the Executive Committee, a ballot will be mailed to each Senator as soon as the votes are counted and the tie discovered. Ballots are to be returned within one (1) week from the date mailed.
- 4.1.d In the event of a vacancy on the Executive Committee, the available candidate who had received the next highest number of votes in the annual election for the Executive Committee shall fill the remainder of the unexpired term.

4.2 Charge: The Executive Committee shall exercise the following functions:

- 4.2.a Assist in carrying into effect the actions of the Senate;
- 4.2.b Act for the Senate as provided for by and subject to the limitations stated in Article 4.3;
- 4.2.c Act as an initiating body suggesting possible action by the Senate;
- 4.2.d Review and report to the Senate on administrative implementation of policies adopted by the Senate;
- 4.2.e Prepare the agenda for each Senate meeting as provided for by and subject to limitations stated in Article 4.4;
- 4.2.f Serve as a channel through which any member of the campus community may introduce matters for consideration by the Senate or its committees;
- 4.2.g Prepare and submit reports on the Senate's work to the President and the campus community;
- 4.2.h Review the operations of the Office of the University Senate in January of each year, and make recommendations to the President for improvements in those operations and for the replacement or continuation of the Executive Secretary and Director;
- 4.2.i Serve as the channel through which the Senate and the campus community may participate in the selection of officers of the campus and the University;
- 4.2.j Perform such other functions as may be given it in other provisions of these *Bylaws* and the *Plan*; and
- 4.2.k Conduct elections, by Senators representing faculty constituencies, for membership on system-wide bodies requiring faculty representatives.

4.3 **Rules Governing Executive Committee Action for the Senate:**

- 4.3.a Where time or the availability of the membership precludes a meeting of the Senate, as, for example, during the summer or between semesters, the Executive Committee may act for the Senate.
- 4.3.b A report of all actions taken by the Executive Committee when acting for the Senate, with supporting material, shall be included with the agenda of the next regular meeting of the Senate. By written request of ten (10) Senators, received by the Chair of the Senate prior to the call to order of that meeting, any Executive Committee action on behalf of the Senate shall be vacated and the item in question placed on the agenda as a special order. If any such item is not petitioned to the floor, it shall stand as an approved action of the Senate.

4.4 **Rules Governing Preparation of the Senate Agenda:**

- 4.4.a The order of business for regular meetings shall be as follows:
- (1) Call to order;
 - (2) Approval of the minutes of the previous regular meeting and any other intervening special meeting(s);
 - (3) Report of the Chair;
 - (4) Report of the Executive Committee;
 - (5) Special orders of the day;
 - (6) Unfinished business;
 - (7) Reports of committees;
 - (8) Other new business; and
 - (9) Adjournment.
- 4.4.b For regular meetings the Executive Committee shall consider all submissions for inclusion on the Senate agenda. The Executive Committee may not alter a submission, but may delay its inclusion, may include it on the agenda of a special meeting, may submit the material directly to a committee of the Senate, or may refuse to place it on the agenda if the material is inappropriate, incomplete, or unclear. The party making a submission shall be notified of the action taken in this regard by the Executive Committee.
- 4.4.c The order of business for a special meeting shall be as follows:
- (1) Call to order;
 - (2) Statement by the Chair of the nature and origin of the call of the meeting;
 - (3) The special order;
 - (4) Other business as determined by the Executive Committee; and
 - (5) Adjournment.
- 4.4.d For a special meeting the agenda shall include the matter(s) specified in the call of that meeting as the Special Order. Other items may be included on the agenda as the Executive Committee deems appropriate.

4.5 Meetings of the Executive Committee: A quorum of the Executive Committee shall be seven (7) voting
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members. Minutes of the meetings shall be kept. A report of the Executive Committee shall be submitted to the next regular meeting of the Senate. The Executive Committee shall meet at the call of the Chair or by petition of seven (7) voting members of the Executive Committee, or by petition of twenty-five (25) voting members of the Senate.

- 4.6 The Senate Budget: The Executive Secretary and Director shall be responsible for the Senate budget, shall consult with the Executive Committee on the preparation of the budget request, and shall report to the Executive Committee the funds received. The Executive Secretary and Director shall make an annual report to the Senate on expenditure of the Senate budget. Consent of the Executive Committee shall be required before any change in the budgeted use of Senate funds involving more than ten percent (10%) of the total may be undertaken.
- 4.7 **Referral of Items to Standing Committees:** The Executive Committee shall refer items to the standing committees.
- 4.7.a The Executive Committee shall refer an item to an appropriate committee when instructed by the Senate or when requested by the President, or when petitioned by 150 members of the Senate electorate.
- 4.7.b The Executive Committee may also refer any item it deems appropriate, and the standing committee shall give due consideration to such requests from the Executive Committee.
- 4.7.c The Chair of the Senate may, as need requires, act for the Executive Committee and refer items to standing committees. All such actions shall be reported at the next meeting of the Executive Committee.
- 4.8 To the extent permitted by law and University policy, the records of the Senate shall be open.

ARTICLE 5 COMMITTEES OF THE SENATE

- 5.1 **Standing Committees - Specifications:** The specifications of each standing committee of the Senate shall state its name, its specific charge, and any exceptions or additions to the basic charge to standing committees stated in Article 5.2. The specifications shall list all voting ex officio members and may restrict committee composition.
- 5.1.a General Standing Committees: In an appropriate section of Article 6 there shall be specifications for each general committee.
- 5.2 **Standing Committees - Basic Charge:** In its area of responsibility, as defined in its specifications, each committee shall be an arm of the Senate with the following powers:
- (1) To formulate and review policies to be established by the Senate according to the *Plan* (Article 1);
 - (2) To review established policies and their administration and to recommend any changes in policies or their administration that may be desirable;
 - (3) To serve in an advisory capacity, upon request, regarding the administration of policies;
 - (4) To function on request of the President or of the Executive Committee as a board of appeal with reference to actions and/or decisions made in the application of policies; and
 - (5) To recommend the creation of special subcommittees (Article 5.8) when deemed necessary.
- 5.3 **Standing Committees - General Committee Operation:**
- 5.3.a Agenda Determination:

- (1) Nonprocedural items shall be placed on the agenda of a general committee by vote of that committee, by referral from the Executive Committee (Article 4.7), or by referral of policy recommendations. The committee shall determine the priorities of its agenda items.
- (2) A general committee shall have principal responsibility for identifying matters of present and potential concern to the campus community within its area of responsibility. Such matters should be placed on the agenda of the general committee.

5.3.b Rules for Procedure of Standing Committees: The version of *Robert's Rules of Order* that shall govern the conduct of Standing Committees shall be *Robert's Rules of Order, Newly Revised*.

5.3.c Quorum Requirements of Standing Committees: Unless a quorum number is specified in the membership description of a committee, the quorum shall be a majority of voting members of the committee.

5.4 **Standing Committees - Reporting Responsibilities:** Each committee shall be responsible through its presiding officer for the timely delivery of the following reports.

5.4.a The Executive Secretary and Director shall receive an announcement of each meeting of the committee stating the time and place of the meeting with agenda items. It shall be sent as far in advance of the meeting as possible.

5.4.b The committee shall report its progress on agenda items as required by the Executive Secretary and Director or the Chair of the Senate.

5.4.c Reports providing information and/or recommendations to the Senate shall be submitted to the Executive Committee for inclusion on the Senate agenda. Reports resulting from the committee's advisory or board of appeals function shall be submitted to the appropriate Senate or campus officer, and the Executive Committee notified of the submission.

5.4.d Upon written request of at least four (4) members of a committee, the presiding officer of that committee shall include a minority statement with any committee report. Those requesting inclusion need not support the substance of the minority statement.

5.4.e An annual report shall be presented to the Chair of the Senate at the end of the academic year, or, if approved by the Chair, no later than August 16, for submission to the Senate. The report shall include a list of all items placed on the committee's agenda, noting the disposition of each. In the case of committees with little activity, the committee may recommend inactive status the ensuing year.

5.5 **Standing Committees - Selecting Members:** Persons shall be named to standing committees in accordance with the procedures listed below.

5.5.a The Committee on Committees, through the Senate office, shall maintain a database of the qualifications, preferred committees, and past committee service of members of the Senate electorate. Opportunity to update this database shall be provided annually. In the case of students, new information will be solicited through the most practical means. In the case of staff and faculty, current information will be forwarded with a request that the elector update the information. In conjunction with this annual update, the Senate office shall circulate prepared information on the duties, powers, and membership specifications of each committee and council to each unit, to all new electors, and to students requesting the information.

5.5.b The Committee on Committees shall submit nominations as necessary to maintain full and effective committee membership. No person shall be nominated for a committee position without consenting to serve on that committee, either through indicated preference or explicit agreement. In making nominations, the Committee on Committees shall keep in view the continuing membership of the committee to ensure that the full membership complies with specifications of the *Plan* and these *Bylaws*. Committee members shall be nominated consistent with requirements for diversity specified in Section 8.1 of the *Plan*.

- 5.5.c Ex officio members named in a committee's specifications shall be voting members unless otherwise specified in the *Bylaws*. Upon recommendation of the Committee on Committees, the Executive Committee may appoint ex officio members with particular expertise or benefit to the committee. Such members shall serve with voice, but without vote. The Executive Committee is empowered to make such changes in non-voting ex officio membership as appropriate.
- 5.5.d The Committee on Committees shall forward nominations to the Executive Committee to place on the Senate agenda for approval. Each nominee shall be identified by name, constituency, and Senate committee experience. The notice of nomination shall also include the name and constituency of continuing members of the committee, and the name and office of the current ex officio members, listed for information only. The nominations shall be subject to action by the Senate consistent with the *Plan* and the specifications of these *Bylaws*.
- 5.5.e Terms on standing committees shall be two (2) years for faculty and staff, and one (1) year for students. Appointments to two-year terms shall be staggered: that is, as far as practical, half of the terms from each faculty or staff constituency shall expire each year. Terms shall begin on the date of the transitional meeting of the Senate in the appropriate year.
- 5.5.f A member of a standing committee whose term is expiring may be appointed to another term, subject to restrictions (1) and (2) below. The Committee on Committees is particularly charged to consider the reappointment of active student members.
- (1) No reappointment shall be made that would cause the appointee to serve longer than four consecutive years on the same committee.
 - (2) At most, half of the non-student members of a committee whose terms are expiring in any given year may be reappointed.
- 5.5.g Terms as presiding officer of a committee shall be one year. A presiding officer may be reappointed if his/her tenure as a committee member is continuing; however, no one shall serve as presiding officer of a committee for more than two (2) consecutive years.
- 5.5.h Appointments of the presiding officers of committees shall be designated as the annual committee slate and shall be approved by the Senate at an appropriate meeting. Appointments to unexpired terms shall be for the remainder of the unexpired term and shall be acted upon by the Senate as placed on the agenda by the Executive Committee.
- 5.6 **Standing Committees - Replacing Presiding Officers and Members:** The presiding officer and members of any active standing committee may be replaced for cause after inquiry by the Executive Committee, subject to approval by the Senate (see Article 5.6.c).
- 5.6.a Cause, for presiding officers, is defined as the following:
- (1) Failure to activate the committee during the first semester after appointment in order to organize its business and determine an agenda; or
 - (2) Failure to activate the committee in order to respond to communications referred from the Executive Committee; or
 - (3) Failure to activate the committee in order to carry out specific charges required in Article 6 or other Senate documents.
- 5.6.b Cause, for members, is defined as the following:
- (1) Continual absence from committee meetings and/or lack of participation in committee activities; or
 - (2) Lack of registration on campus for students or termination of employment on campus for faculty and staff.

5.6.c Procedure for replacing presiding officers and members:

- (1) The decision to replace a presiding officer rests with the Executive Committee; and
- (2) Requests for replacing a committee member shall be submitted by the presiding officer of a committee to the Executive Committee; such requests will contain a statement citing the appropriate "cause."

5.6.d When the Executive Committee decides to replace a presiding officer or committee member, it shall request the Committee on Committees to identify a suitable replacement.

5.7 **Standing Committees - Appointing Special Subcommittees:** A standing committee of the Senate may appoint special subcommittees to assist in the effective performance of its responsibilities. Persons appointed to special subcommittees who are not members of standing committees must be approved by the Executive Committee. The Chair of any special subcommittee must be a member of the standing committee making the appointment.

5.8 **Special Committees:** A special committee of the Senate may be established by resolution of the Senate to carry out a specified task. The empowering resolution shall also stipulate the means of selecting the committee and any restrictions on its composition. The committee shall function until the completion of its tasks or until discharged by the Senate. A final report of its work shall be presented to the Senate. Members shall serve for the duration of the committee unless otherwise specified by the Senate.

ARTICLE 6 STANDING COMMITTEE SPECIFICATIONS

6.1 **Academic Procedures and Standards Committee:**

- 6.1.a Membership: The committee shall consist of an appointed presiding officer; ten (10) faculty members; three (3) undergraduate and two (2) graduate students; and the following persons or a representative of each: the ~~Senior Vice President for Academic Affairs and Provost~~ Senior Vice President and Provost, the Director of Undergraduate Admissions, ~~and~~ the Associate Provost for Academic Affairs and Dean ~~of for~~ Undergraduate Studies, and the Associate Provost for Academic Affairs and Dean of the Graduate School.
- 6.1.b Quorum: A quorum of the Academic Procedures and Standards Committee shall be nine (9) voting members.
- 6.1.c Charge: The committee shall formulate and continually review policies, rules, and regulations governing the admission, readmission, academic standing, and dismissal of all students for academic deficiency.
- 6.1.d Charge: The committee shall continually review policies and procedures for academic advisement, scheduling of classes, and registration.
- 6.1.e Charge: The committee shall formulate and continually review policies to be observed by the instructional staff in conducting classes, seminars, examinations, students' research, and student evaluations.
- 6.1.f Policies, rules, and regulations exclusively governing admission, readmission, scholastic standing, and dismissal of graduate students for academic deficiency shall be reviewed by an appropriate committee of the Graduate School. Such policies, rules, and regulations will be transmitted by the Graduate School directly to the Senate through the Executive Committee. Policies, rules, and regulations that concern both graduate and undergraduate matters shall be considered by both the Educational Affairs Committee and the appropriate committee of the Graduate School.

6.2 Campus Affairs Committee:

6.2.a Membership:

- (1) The committee shall consist of an appointed presiding officer; six (6) faculty members; two (2) undergraduate and two (2) graduate students; two (2) staff members; the President or a representative of the Student Government Association; the President of the Graduate Student Government or the President's graduate student designee; and the following persons or a representative of each: the ~~Senior Vice President for Academic Affairs and Provost~~Senior Vice President and Provost, the Vice President for Administrative Affairs, the Vice President for Student Affairs, the Vice President for University Relations, and the ~~Director of the Office of Diversity & Inclusion~~Director of the Office of Diversity Education and Compliance.
- (2) When discussions of safety are on the agenda, the Chief of Police, the President's Legal Office, the Director of Transportation Services, and other campus constituencies, as appropriate, shall be invited to participate or send a representative.
- (3) The Chair of this committee or a member designated by the Chair and approved by the Senate Executive Committee will serve as an ex officio member of the Athletic Council and the Campus Transportation Advisory Committee.

6.2.b Quorum: A quorum of the Campus Affairs Committee shall be nine (9) voting members.

6.2.c Charge: The committee shall formulate and continually review policies and regulations affecting the total campus, its functions, its facilities, its internal operation and external relationships, including the awarding of campus prizes and honors, and make recommendations concerning the future of the campus.

6.2.d Charge: The committee shall establish procedures for the periodic review of campus level administrators.

6.2.e Charge: The committee shall gather community input on safety and security issues and shall act as a liaison between the police and the campus community. The committee shall provide an annual report to the Senate regarding this charge.

6.3 Committee on Committees:

6.3.a Membership and terms:

- (1) As set forth in the *Plan* (Article 8.3.a), the Committee on Committees shall be chaired by the Chair-Elect of the Senate.
- (2) Besides the Chair-Elect of the Senate, the voting membership, as defined in the *Plan* (Article 8.3.a), shall consist of six (6) faculty members, with no more than one (1) from any college, elected by faculty Senators; two (2) staff members elected by staff Senators; and two (2) students elected by student Senators.
- (3) Students are elected to serve for one (1) year, faculty and staff for two (2) years, whether or not their membership in the Senate continues beyond their first year of service in the committee.
- (4) Terms of faculty and staff members are staggered in such a way that, at any time, no more than three (3) faculty members and one (1) staff member are serving the second year of their term.
- (5) In the event of a vacancy on the Committee on Committees, the available candidate who had received the next highest number of votes in the last annual election for the Committee on Committees, subject to provisions in 6.3.a(2), shall fill the remainder of the unexpired term.

6.3.b Charge:

- (1) As set forth in the *Plan* (Article 8.3.b), responsibilities of the Committee on Committees include:
- (a) Identification and recruitment of individuals for service on Senate committees,
 - (b) Identification and recruitment of individuals to serve as representatives of the Senate on University committees.
 - (c) Identification and recruitment of individuals to serve as representatives of the Senate on University committees.
- (2) Additional duties include
- (a) Identification of individuals for service on System committees,
 - (b) Ongoing assessment of the effectiveness of committees, and recommendation for improvements and changes in the operations and structure of the Elections, Representation and Governance Committee and the Executive Committee.
- 6.3.c Operation: The Committee on Committees shall follow the procedures specified for standing committees in Article 5 above, with the exception of 5.5.

6.4 Educational Affairs Committee:

- 6.4.a Membership: The committee shall consist of an appointed presiding officer; twelve (12) faculty members; two (2) staff members; two (2) undergraduate students and one (1) graduate student; the President or a representative of the Student Government Association; the President of the Graduate Student Government or the President's graduate student designee; and the following persons or a representative of each: the ~~Senior Vice President for Academic Affairs and Provost~~Senior Vice President and Provost, the Director of ~~the~~ Honors College, ~~and the Associate Provost for Academic Affairs and Dean of Undergraduate Studies,~~ and the Associate Provost for Academic Affairs and Dean of the Graduate School. The presiding officers of the Program, Curricula, and Courses (PCC) and the ~~General Education CORE Liberal Arts & Sciences (CORE)~~ Committees shall be non-voting, ex officio members.
- 6.4.b Quorum: A quorum of the Educational Affairs Committee shall be eleven (11) voting members.
- 6.4.c Charge: The committee shall formulate and continually review plans and policies to strengthen the educational system of the College Park campus. The committee shall receive ideas, recommendations, and plans for educational innovations from members of the campus community and others. The committee shall inform itself of conditions in the colleges, schools, and other academic units, and shall propose measures to make effective use of the resources of the campus for educational purposes.

6.5 Elections, Representation, and Governance Committee:

- 6.5.a Membership: The committee shall consist of an appointed presiding officer; seven (7) faculty members; two (2) staff members; two (2) undergraduate and two (2) graduate students; and the Director of Human Resources and the ~~Assistant Vice President for Institutional Research and Planning~~ Associate Vice President for Institutional Research, Planning, and Assessment.
- 6.5.b Quorum: A quorum of the Elections, Representation, and Governance Committee shall be eight (8) voting members.
- 6.5.c Charge: The committee shall review and recommend policies regarding the conduct of elections, determine correct apportionments for all constituencies, and investigate and adjudicate all charges arising from the management and results of Senate elections.

- 6.5.d Charge: The committee shall determine the correct apportionment for all constituencies every five (5) years in association with any review or revision of the *Plan* (Articles 3.8 and 6.3 of the *Plan*).
- 6.5.e Charge: The committee shall supervise all Senatorial elections and referenda in accordance with the *Plan* (Article 4.2), and shall cooperate with certain constituencies in their nomination and election processes in accordance with the *Plan* (Article 4.4) or as requested by the Executive Committee.
- 6.5.f Charge: The committee shall establish appropriate procedures for the tallying and reporting of election results (Article 4.8 of the *Plan*), and other such duties as appropriate (Articles 3.3.b and 3.4.b(2) of the *Plan*).
- 6.5.g Charge: The committee shall review the plans of organization of the colleges, schools, and other units, in accordance with the *Plan* (Article 11).
- 6.5.h Charge: The committee shall review and observe the operation and effectiveness of the University Senate and make any appropriate recommendations for improvements.
- 6.5.i Charge: The committee shall receive all petitions for impeachment of the Chair or Chair-Elect in accordance with the *Plan* (Article 5.6).
- 6.5.j Charge: The committee shall initiate procedures for expelling Senators in accordance with the *Plan* (Article 4.10).
- 6.5.k Charge: The committee shall receive all petitions for the recall of Senators in accordance with the *Plan* (Article 4.11).

6.6 **Equity, Diversity, & Inclusion Committee:**

- 6.6.a Membership: The committee shall consist of an appointed presiding officer; four (4) undergraduate and two (2) graduate students; six (6) faculty members; three (3) non-exempt staff members; the ~~Director of the Office of Diversity & Inclusion~~ [Director of the Office of Diversity Education and Compliance](#); one (1) exempt staff member or a Director from the ~~Office of Academic Affairs~~ [Office of the Senior Vice President for Academic Affairs and Provost](#); one (1) exempt staff member or a Director from the ~~Office~~ [Division](#) of Administrative Affairs; one (1) exempt staff member or a Director from the ~~Office~~ [Division](#) of Student Affairs; and the following persons or a representative of each: the ~~Senior Vice President for Academic Affairs and Provost~~ [Senior Vice President and Provost](#), the Vice President for Administrative Affairs, and the Vice President for Student Affairs.
- 6.6.b Quorum: A quorum of the Equity, Diversity, & Inclusion Committee shall be eleven (11) voting members.
- 6.6.c Charge: The committee shall carry out its responsibilities as detailed in Article 1, Section E of the Code on Equity, Diversity, and Inclusion, University of Maryland, College Park, and recommend any appropriate changes in the Code. It shall consider programs for improving equity, diversity, and inclusiveness at the University.

6.7 **Faculty Affairs Committee:**

- 6.7.a Membership: The committee shall consist of an appointed presiding officer; ten (10) faculty members, of whom four (4) shall be senators and two (2) must be untenured; one (1) undergraduate student and two (2) graduate students; one (1) staff member; and the following persons or a representative of each: the President, the ~~Senior Vice President for Academic Affairs and Provost~~ [Senior Vice President and Provost](#), and the Director of Human Resources.
- 6.7.b Quorum: A quorum of the Faculty Affairs Committee shall be eight (8) voting members.
- 6.7.c Charge: The committee shall formulate and continually review policies pertaining to faculty life,

employment, academic freedom, morale, and perquisites.

6.7.d Charge: The committee shall work for the advancement of academic freedom and the protection of faculty and research interests.

6.7.e Charge: The committee shall, in consultation with colleges, schools, and other academic units, establish procedures for the periodic review of academic administrators below the campus level.

6.8 General Education Committee:

6.8.a Membership: The committee shall consist of:

- (1) A presiding officer, who is a member of the faculty and is appointed by the chair of the Senate;
- (2) Twelve (12) faculty members consisting of:
 - (a) One (1) representative from each of the following entities: the College of Agriculture and Natural Resources; the School of Architecture, Planning, and Preservation; the College of Arts and Humanities; the College of Behavioral and Social Sciences; the Robert H. Smith School of Business and Management; the College of Computer, Mathematical, and Natural Sciences; the College of Education; the A. James Clark School of Engineering; the College of Information Studies; the Philip Merrill College of Journalism; the School of Public Health; and the School of Public Policy;
- (3) Four (4) students, of whom at least one (1) must be an undergraduate student and at least one (1) must be a graduate student, from four (4) different entities listed in 6.8.a(2)(a) above and those under the Office of Undergraduate Studies.
- (4) The Associate Provost for Academic Affairs and Dean for Undergraduate Studies, the Director of the Honors College, the Executive Director of College Park Scholars (or their designees), and the Associate Dean for General Education shall serve as voting ex officio members.

6.8.b Charge:

- (1) To facilitate the ongoing Core Liberal Arts and Sciences Program for students under the Core requirements, the General Education Committee shall exercise continuing supervisory authority and general oversight of the Core Liberal Arts and Sciences Program at the University of Maryland consistent with its authority as mandated by the report on undergraduate education entitled Promises to Keep: The College Park Plan for Undergraduate Education (Pease Report), adopted by the College Park Senate in March 1988 and in coordination with the General Education Program at the University of Maryland as described in the 2010 document Transforming General Education at the University of Maryland and the General Education Implementation Plan approved by the University Senate in February 2011. It shall also make periodic reports to the Senate on its evaluation of the effectiveness of the program and make any recommendations for revision or improvements it deems appropriate.
- (2) The General Education Committee shall exercise broad oversight and supervision of the General Education Program at the University of Maryland as described in the 2010 document Transforming General Education at the University of Maryland and the General Education Implementation Plan approved by the University Senate in February 2011. The General Education Committee shall review and make recommendations concerning the General Education Program to the Senate and the Associate Provost for Academic Affairs and Dean for Undergraduate Studies. Such recommendations shall include, as the committee deems appropriate, the program's requirements and its vision, especially with regard to evaluating trends, reviewing learning outcomes, and maintaining the balance of courses in the General Education categories.

- 6.8.c The committee may, under the provisions of Section 5.7, establish subcommittees for each major segment of its work. A member of the General Education Committee shall serve as the presiding officer of each subcommittee. The other members may, but need not, be members of the General Education Committee as the General Education Committee and the Senate Executive Committee deem appropriate.
- 6.8.d Relation of the General Education Committee to the Office of the Associate Provost for Academic Affairs and Dean for Undergraduate Studies:
- (1) The Associate Provost for Academic Affairs and Dean for Undergraduate Studies will prepare an annual report on the status of the General Education Program and will send the report to the General Education Committee by September 1.
 - (2) The Associate Provost for Academic Affairs and Dean for Undergraduate Studies will meet with the General Education Committee as needed to discuss or update the report. Topics will include but not be limited to: the membership and ongoing work of the General Education Faculty Boards; the proposal and approval process for General Education courses; the learning outcomes for the different course categories; areas where additional courses or rebalancing may be needed; trends and developments that may impact the General Education Program; and informational resources for students, faculty, and advisors about the General Education Program.
 - (3) The Office of the Associate Provost for Academic Affairs and Dean for Undergraduate Studies shall inform the committee of modifications in the proposal or review process, the disposition of recommendations from the committee, and any other changes regarding the implementation of the General Education Program as specifically delegated to that office.

6.9 Governmental Affairs Committee:

- 6.9.a Membership: The committee shall consist of the Chair-Elect of the Senate; the current Chair of the Senate; the immediate past Chair of the Senate; a federal and a state campus legislative liaison appointed by the President; two (2) faculty members; one (1) undergraduate student; one (1) graduate student; one (1) non-exempt staff member; one (1) exempt staff member; and such additional non-voting, ex officio members as shall be appointed under Section 5.5.c of these *Bylaws*. Committee members shall not be limited to two consecutive terms as specified in Section 5.5.f(1) of these *Bylaws*. To assure continuity, selection of members should be made in a way that will return at least four (4) of the members of the immediate past committee to the newly appointed committee.
- 6.9.b Charge: The committee shall initiate activities to provide contact with and information for executive and legislative bodies; shall serve as an advisory body to the President concerning campus needs requiring legislation; and shall keep the Senate abreast of legislative issues important to the campus.

6.10 Programs, Curricula, and Courses Committee:

- 6.10.a Membership: The committee shall consist of an appointed presiding officer; ten (10) faculty members; two (2) undergraduate students and one (1) graduate student; and the following persons or a representative of each: the ~~Senior Vice President for Academic Affairs and Provost~~ Senior Vice President and Provost, the Associate Provost for Academic Affairs and Dean ~~of for~~ Undergraduate Studies, the Associate Provost for Academic Affairs and Dean of the Graduate School, and the Dean of Libraries.
- 6.10.b Quorum: A quorum of the Programs, Curricula, and Courses Committee shall be nine (9) voting members.
- 6.10.c Charge: The committee shall formulate, review, and make recommendations to the Senate concerning policies related both (1) to the establishment, modification, or discontinuance of academic programs, curricula, and courses; and (2) to the establishment, reorganization, or abolition of

colleges, schools, academic departments, or other units that offer credit-bearing programs of instruction or regularly offer courses for credit.

- 6.10.d Charge: The committee shall review and make recommendations to the Senate in at least the areas designated by (1) through (3) below. Recommendations in these areas are not subject to amendment on the Senate floor unless a detailed objection describing the area of concern has been filed with the Senate Office at least forty-eight (48) hours prior to the meeting at which the recommendations will be introduced. The committee will announce proposed recommendations to the campus community sufficiently in advance of the meeting at which they are to be considered so as to allow time for concerned parties to file their objections.
- (1) All proposals for the establishment of a new academic program, for the discontinuance of an existing academic program, for the merger or splitting of existing academic programs, or for the renaming of an existing academic program;
 - (2) All proposals for the creation, abolition, merger, splitting, or change of name of colleges, schools, departments of instruction, or other units that offer credit-bearing programs of instruction or regularly offer courses for credit; and
 - (3) All proposals to reassign existing units or programs to other units or programs.
- 6.10.e Charge: The committee shall review and shall directly advise the Office of Academic Affairs concerning proposals to modify the curricula of existing academic programs, or to establish citation programs consistent with college rules approved by the Senate. The committee shall inform the Senate of its actions in these cases.
- 6.10.f Charge: The committee shall review, establish, and advise the Vice President's Advisory Committee concerning policies for adding, deleting, or modifying academic courses.
- 6.10.g Charge: The committee shall be especially concerned with the thoroughness and soundness of all proposals, and shall evaluate each according to the mission of the University, the justification for the proposed action, the availability of resources, the appropriateness of the sponsoring group, and the proposal's conformity with existing regulations. The committee shall be informed of any recommendations made by the Academic Planning Advisory Committee concerning resource issues, the consistency of the proposed action with the University's mission and strategic directions, or both.
- 6.10.h The committee shall meet regularly as needed.
- 6.10.i Relation of the Programs, Curricula, and Courses Committee to the Office of the ~~Senior Vice President for Academic Affairs and Provost~~ [Senior Vice President and Provost](#).
- (1) The committee, in consultation with the Office of the ~~Senior Vice President for Academic Affairs and Provost~~ [Senior Vice President and Provost](#), shall determine the requirements for supporting documentation and the procedures for review for all proposals.
 - (2) The committee shall be informed by the Office of the ~~Senior Vice President for Academic Affairs and Provost~~ [Senior Vice President and Provost](#) of all proposed modifications to existing programs and curricula. After consulting with the presiding officer of the committee, the Provost's Office shall act on all minor changes that are not of a policy nature.
 - (3) The committee shall be informed by the Office of the ~~Senior Vice President for Academic Affairs and Provost~~ [Senior Vice President and Provost](#) of all changes made pursuant to 6.10.h(2). The committee shall be informed by the Office of the ~~Senior Vice President for Academic Affairs and Provost~~ [Senior Vice President and Provost](#) of all other changes in academic curricula whose approval has been specifically delegated to that office. In particular, this includes the approval to offer existing academic programs through distance education or at a new off-campus location.

- 6.10.j Relationship of the Programs, Curricula, and Courses Committee to the Graduate School: Proposals concerned with graduate programs and curricula shall receive the review specified by the Graduate School, in addition to the review of the Programs, Curricula, and Courses Committee. Any such proposal whose approval has been denied by the Graduate School shall not be considered by the committee.

6.11 Staff Affairs Committee:

- 6.11.a Membership: The committee shall consist of an appointed presiding officer; ten (10) staff members, including a member, preferably a Senator, from each of the elected staff categories; three (3) faculty members; two (2) students; the Director of ~~Personnel~~ [Human Resources](#); and one (1) representative each from the offices of the ~~Senior Vice President for Academic Affairs and Provost~~ [Senior Vice President and Provost](#), the Vice President for Administrative Affairs, the Vice President for University Relations, and the Vice President for Student Affairs. The elected UMCP representatives to the Council of University System Staff ([CUSS](#)), the two staff representatives on the Executive Committee, and two Category II contingent employees shall also be members of the committee.
- 6.11.b Quorum: A quorum of the Staff Affairs Committee shall be twelve (12) voting members.
- 6.11.c Charge: The committee shall formulate and continually review campus policies affecting staff members, including policies regarding periodic review of campus departments and administrators that employ staff members.
- 6.11.d Charge: The committee shall assist the Office of the University Senate in soliciting nominations and encouraging participation in elections of staff Senators as specified in Article 4.4 of the *Plan*.
- 6.11.e Charge: Staff Affairs shall assist the Committee on Committees and the Senate Executive Committee in identifying and recruiting staff representatives for campus and Senate committees, including system-wide activities involving staff.
- 6.11.f Charge: The committee shall administer the Council of University System Staff (CUSS) nomination and election process. Definitions of eligible staff shall be defined by the Board of Regents and CUSS.
- 6.11.g Charge: The committee shall actively promote and provide orientation and opportunities for staff involvement in shared governance at every administrative level.

6.12 Student Affairs Committee:

- 6.12.a Membership: The committee shall consist of an appointed presiding officer; ten (10) undergraduate students, of whom five (5) must be Senators; four (4) graduate students, of whom two (2) must be Senators; three (3) faculty members; two (2) staff members; the President or a representative of the Student Government Association; the President of the Graduate Student Government or the President's graduate student designee; two representatives of the Office of the Vice President for Student Affairs; and one representative each from the Graduate School and the ~~Offices~~ [Division](#) of Administrative Affairs, ~~Academic Affairs~~ [the Office of the Senior Vice President for Academic Affairs and Provost](#) [Senior Vice President and Provost](#), [the Division of](#) University Relations, and [the Department of](#) Resident Life.
- 6.12.b Quorum: A quorum of the Student Affairs Committee shall be twelve (12) voting members.
- 6.12.c Charge: The committee shall formulate and continually review policies regarding all non-academic matters of student life including, but not limited to, student organizations, resident life, extracurricular activities, and student concerns in the campus community.
- 6.12.d Charge: The committee shall assist the Office of the University Senate and the colleges and schools as appropriate in soliciting nominations and encouraging participation in the election of student Senators.

6.13 Student Conduct Committee:

Amended May 4, 2011

- 6.13.a **Membership:** The committee shall consist of an appointed presiding officer; four (4) faculty members; five (5) students, of whom at least three (3) must be undergraduate students and one (1) must be a graduate student; and the Director of the Office of Student Conduct, or a representative, as a non-voting consulting member.
- 6.13.b **Charge:** The committee shall formulate and continually review recommendations concerning the rules and codes of student conduct, as well as means of enforcing those rules and codes.
- 6.13.c **Charge:** The committee acts as an appellate body for infractions of the approved Codes of Student Conduct and Code of Academic Integrity. Procedures for the committee's operation in this role are to be developed and filed with the Office of Student Conduct and the Executive Secretary and Director of the Senate. The committee shall also confirm members of all judicial boards listed in the Codes of Student Conduct, except conference and ad hoc boards.

ARTICLE 7 UNIVERSITY COUNCILS

- 7.1 **Definition:** University councils are established by Article 8.4 of the *Plan* to exercise an integrated advisory role over specified campus units and their associated activities. University councils are jointly sponsored by the University Senate, the College Park campus administration, and the chief administrative officer(s) of the designated unit(s) (hereafter indicated by "director"). University councils may be assigned reporting responsibilities to any member(s) of the College Park administration at the dean level or above (hereafter referred to as the "designated administrative officer").
- 7.2 **Creation of University Councils:** Proposals to create a University council shall be evaluated by a task force appointed jointly by the University Senate Executive Committee and the designated administrative officer to whom the new council would report. Following its deliberations, this task force shall present a report to the Senate, the designated administrative officer, and the director of the unit whose activities are the focus of the council. That report shall indicate the specifications that define the working relationship among the Senate, the designated administrative officer, and the director. The report shall include at least the following: the scope and purpose of the new council; a review of the current committees and advisory relationships to be superseded by the proposed council; identification of the designated administrative officer and unit director to whom the council reports; the charge to the council; the size, composition, and appointment process of members of the council; the council's relationship to the Senate, the designated administrative officer, and the director including the responsibilities of these three sponsors to the council and the responsibilities of the council to these three sponsors; and principles for operation of the council. The proposal of the task force shall be reviewed by the appropriate Senate committees, approved by the designated administrative officer, and then approved by the Senate. At the same time, the Senate shall approve appropriate revisions in its *Bylaws* to incorporate the council into its committee structure. The report of the task force, as approved, shall be preserved with official Senate documents, serving as a record of the original agreements establishing the council.
- 7.3 **Specifications in Senate Bylaws:** For each council, Senate bylaws shall: state its name; specify its responsibilities to the Senate; define its membership, including any voting privileges of ex officio members; and identify any exceptions or additions to the provisions of Article 7 of these *Bylaws* particular to the council.
- 7.4 **Basic Charge:**
- 7.4.a The council's responsibilities to the University Senate shall include those specified for Senate committees in Article 5.2 of these *Bylaws*. In addition, each council shall:
- (1) Sponsor hearings, as appropriate, on issues within its purview that are of concern to the Senate and the campus community.
 - (2) Provide a mechanism for communication with the campus community on major issues facing the unit and its activities.

- (3) Respond to charges sent to the council by the Senate Executive Committee.
- (4) Provide an annual written report to the Senate on the council's activities including the status of unresolved issues before the committee.

7.4.b Responsibilities to the designated administrative officer shall be specified in the Task Force Report and may include:

- (1) To advise on the unit's budget, space, and other material resources, in addition to personnel, staffing and other human resources.
- (2) To advise on the unit's administrative policies and practices.
- (3) To advise on the charges to be given to periodic internal and external review committees.
- (4) To respond to requests for review, analysis, and advice from the designated administrative officer.
- (5) To meet at least annually with the designated administrative officer to review the major issues facing the unit and its activities on campus.
- (6) To fulfill such other responsibilities as specified in the Task Force Report.

7.4.c Responsibilities to the unit's director shall be specified in the Task Force Report and may include:

- (1) To advise on the needs and concerns of the campus community.
- (2) To advise on opportunities, policies, and practices related to the unit's ongoing operations.
- (3) To review and advise on unit reports, studies, and proposed initiatives.
- (4) To respond to requests for review, analysis, and advice made by the director.
- (5) To meet at least annually with the director to review the major issues facing the unit and its activities on campus.
- (6) To fulfill such other responsibilities as specified in the Task Force Report.

7.5 **Membership and Appointment to University Councils:**

7.5.a **Membership:** Councils shall have nine (nine) (9) to thirteen (13) members as specified in the appropriate subsection of Article 8 of these *Bylaws*. In addition, each council shall include an ex officio member designated by the administrative officer, and such other ex officio members as specified in the appropriate subsection of Article 5 of these *Bylaws*. These ex officio members shall have voice but no vote.

7.5.b **Appointment:** Representatives of the designated administrative officer's office and the Committee on Committees of the University Senate shall agree on nominees for vacancies on the council. These nominations shall be submitted to the designated administrative officer and to the University Senate for approval. In exercising its powers of appointment to the council, the Senate shall follow procedures for review and approval for Senate committee appointments specified in Article 5.5.d and 5.5.g of these *Bylaws*.

7.5.c **Terms:** Rules governing beginning date and length of terms, and restrictions on reappointment shall be those specified for Senate committees, except that the presiding officer shall serve a three (3) year term and cannot be reappointed.

- 7.5.d Appointment of Presiding Officer: The designated administrative officer and the Senate Executive Committee shall reach an agreement on a presiding officer, and the joint choice shall be submitted to the Senate for approval. If the presiding officer is selected from among the membership of the council, a replacement shall be appointed to the vacated seat.

7.6 Operational Relationship of University Councils to Sponsors:

- 7.6.a The University Senate Office shall support activities of the council in a manner similar to all other Senate committees.
- 7.6.b The office of the designated administrative officer, through its ex officio council member, shall provide liaison to other administrative units as required.
- 7.6.c The unit director shall provide the council with internal data, reports, studies, and any other materials required to support the council's work. In addition, the director shall also arrange for unit staff to appear before the committee as requested.
- 7.6.d Control of the University council's agenda shall be the responsibility of the presiding officer of the council and the voting members of the council, subject to the charges provided in Article 7.4 of these *Bylaws*, the appropriate subsection of Article 8 of these *Bylaws*, and the approved Task Force Report governing the council.
- 7.6.e Each University council shall develop its own bylaws which must be approved by the designated administrative officer and by the Senate.
- 7.6.f In addition to the required annual report, the presiding officer shall keep the Chair of the Senate informed of the major issues before the council and shall indicate when action or information items are likely to be forwarded for Senate consideration. In submitting recommendations for Senate action, the council shall inform the unit director and the designated administrative officer in advance of its recommendations. For purposes of conducting Senate business, reports from the University council and floor privileges of the Senate shall be managed in the same manner as general committees of the Senate defined in these *Bylaws* (3.3.c, 4.4.b, 4.7, and 5.3.a). In the case where the presiding officer of the University council is not a member of the Senate, he or she may report to the Senate and participate in the deliberations of the Senate subject to the provisions of Article 3.3.c of these *Bylaws*.

7.7 Review of University Councils:

- 7.7.a Five (5) years after a University council is formed, a review of the council shall be undertaken jointly by the Senate and administration, and a written report issued. The review may recommend continuation of the council in its original form and mode of operation, modification of the council structure and/or operations, or discontinuance of the council.
- 7.7.b Following the initial review, the University council and its operations shall be reviewed in conjunction with the periodic review of the *Plan*.

**ARTICLE 8
UNIVERSITY COUNCIL SPECIFICATIONS**

8.1 University Library Council

- 8.1.a Charge: The University Library Council has the responsibility to provide advice and to report on policy issues concerning the University Libraries to the University Senate, to the ~~Senior Vice President for Academic Affairs and Provost~~ [Senior Vice President and Provost](#), and to the Dean of Libraries. (See Appendix 2 for additional responsibilities and the Council's Bylaws).
- 8.1.b Membership: The Council shall consist of thirteen (13) appointed members and three (3) ex officio members. The appointed members shall be: the Chair, ten (10) other faculty members including at least one (1) member of the library faculty, a graduate student, and an undergraduate student. The

three (3) ex officio members shall be a representative of the office of the ~~Senior Vice President for Academic Affairs and Provost~~Senior Vice President and Provost, a representative of the Office of the Dean of the Libraries-Office, and the Chair-Elect of the Senate.

8.1.c The Chair shall be a tenured faculty member.

8.1.d Reporting Responsibilities: The University Library Council shall report to the University Senate and the ~~Senior Vice President for Academic Affairs and Provost~~Senior Vice President and Provost under the terms of responsibility defined in Article 7.4 of these *Bylaws*.

8.2 University Research Council:

8.2.a Charge: In addition to the charges specified in Articles 5.2 and 7.4 of these *Bylaws*, the Council shall be governed by the following: The Council is charged to formulate and continually review policies regarding research, its funding, its relation to graduate and undergraduate academic degree programs, and its service to the community. Also, the Council is charged to review the research needs of faculty, other researchers and students, and to make recommendations to facilitate the research process and productivity of the University. Further, the Council shall formulate and continually review policies on the establishment, naming, reorganization, or abolition of bureaus, centers, or institutes that do not offer programs of instruction or regularly offer courses for credit, including their relationship to graduate and undergraduate academic programs. Additionally, when it perceives problems, the Council has the power to undertake investigative studies and recommend solutions.

8.2.b Membership: The University Research Council shall consist of thirteen (13) appointed members and ten (10) ex officio members. The appointed members shall be the Chair and eight (8) other faculty members; one (1) staff member; and three (3) students, including at least one (1) graduate and one (1) undergraduate student. The ten (10) ex officio members shall be a representative of the President (non-voting), a representative of the ~~Senior Vice President for Academic Affairs and Provost~~Senior Vice President and Provost (non-voting), a representative of the Vice President for Research, a representative of the Dean of the Graduate School, a representative of the Dean of Undergraduate Studies, the Director of the Office of Research Administration and Advancement, and the Chairs of four (4) subcommittees of the University Research Council as follows: Research Development and Infrastructure Enhancement Subcommittee (RDIES); Research Advancement and Administration Subcommittee (TAAS); Intellectual Property and Economic Development Subcommittee (IPEDS); and Awards and Publicity Subcommittee (APS). The Chair shall be a tenured faculty member.

8.2.c Reporting Responsibilities: The University Research Council shall report to the University Senate and the Vice President for Research under the terms of responsibility defined in Article 7.4 of these *Bylaws* and the report establishing the University Research Council.

ARTICLE 9 DUTIES OF THE EXECUTIVE SECRETARY AND DIRECTOR

9.1 The Executive Secretary and Director of the Senate shall be responsible for the minutes and audio recordings of all Senate meetings.

9.1.a The minutes shall include only actions and business transacted. They shall be submitted to the Senate for approval. Copies of the approved minutes shall be sent to all chief administrative officers of colleges, schools, departments, and other units, and to the campus news media.

9.1.b A complete audio recording shall be made of each meeting. An indexed copy of each audio recording, excluding only those parts recorded during closed sessions, shall be placed with the minutes in the University Archives for open access.

9.2 The Executive Secretary and Director shall also maintain the following kinds of Senate records (see Article 4.8):

- (1) All material distributed to Senate members;
 - (2) All material received by or distributed to members of the Executive Committee;
 - (3) Any minutes of the Senate or the Executive Committee not otherwise included under (1) and (2);
 - (4) Annual reports of all committees of the Senate not otherwise included under (1) and (2);
 - (5) The audio records of Senate meetings;
 - (6) The current and all previous versions of the *Plan* and the *Bylaws*;
 - (7) Articles concerned with Senate structure and operation from campus and University publications as they come to the attention of the Executive Secretary and Director; and
 - (8) Other items deemed appropriate by the Executive Secretary and Director or the Chair of the Senate.
- 9.3 The Executive Secretary and Director shall store inactive records of the Senate in the University Archives.
- 9.4 The Executive Secretary and Director shall be responsible for the preparation of the Senate budget in accordance with Article 4.6.
- 9.5 The Executive Secretary and Director shall prepare as soon as possible after each annual senatorial election, a directory of the membership of the new Senate indicating for each member the constituency, term, office, local address, and telephone number. A copy of this directory shall be distributed to all members of the new Senate.
- 9.6 The Executive Secretary and Director shall furnish all available information concerning the membership of the appropriate categories to each staff candidate nominated for election to the Senate.
- 9.7 The Executive Secretary and Director shall keep a list, with campus addresses and telephone numbers, of all Senate officers and of all presiding officers of all Senate committees. This information shall be available upon request to any member of the campus community.
- 9.8 The Executive Secretary and Director shall send to each Senator, by campus or electronic mail, a copy of the agenda and supporting material for each meeting. The receipt of the agenda and the supporting material then available shall satisfy the notice requirements of the meeting in question (Article 3.1 and 3.2.b).
- 9.9 The Executive Secretary and Director shall prepare for the members of the Senate and its Executive Committee, as appropriate, all agendas, minutes, reports, and other documents, with the exception of proposals relating to the Programs, Curricula, and Courses (PCC) Committee. Nonetheless, the Executive Secretary and Director shall be responsible for the distribution of all items of Senate business, including PCC items to the members of the Senate and its Executive Committee, and to other such committees as necessary.
- 9.10 The Executive Secretary and Director shall inform the Executive Committee of the status of all members of the Senate in accordance with the *Plan* (Article 3.4.a(4-5), 3.4.b(4-5), and 3.7) and these *Bylaws* (Articles 2.2, 4.1, 5.5, and 5.6).
- 9.11 The Executive Secretary and Director shall have the privilege of attending the meetings of all standing committees and ad hoc committees of the Senate to assist in the coordination of Senate business.
- 9.12 The Executive Secretary and Director, as the Senate's representative, shall provide information or assistance as requested to the committee for revision of the undergraduate catalog.

ARTICLE 10
ANNUAL TRANSITION OF THE SENATE

10.1 Preparation for Transition:

10.1.a By no later than the scheduled December meeting of the Senate, the Committee on Committees shall present to the Senate at least eight (8) nominees from among outgoing Senate members to serve on the Nominations Committee. The nominees shall include four (4) faculty members, one (1) exempt staff member, one (1) non-exempt staff member, one (1) graduate student, and one (1) undergraduate student. Further nominations shall be accepted from the floor of the Senate. The Senate, as a body, shall elect four (4) faculty members, one (1) exempt staff member, one (1) non-exempt staff member, one (1) graduate student, and one (1) undergraduate to serve as the Nominations Committee. The Chair-elect of the Senate shall serve as a non-voting, ex officio member of the Nominations Committee. The Nominations Committee shall elect its own Chair. The Nominations Committee shall solicit nominations from the membership of the Senate and shall present to the Chair of the Senate by April 1:

- (1) A slate of at least two (2) candidates per seat from each constituency for elected membership on the Executive Committee, including those incumbent elected members who are eligible and willing to stand for reelection,
- (2) Slates of candidates to replace the outgoing members of the Committee on Committees and such other committees as required by these *Bylaws*, including at least one (1) nominee for each position to be filled, and
- (3) A minimum of two (2) candidates for the office of Chair-Elect.

Before reporting to the Chair of the Senate, the nominating committee shall secure the consent of all nominees in writing.

10.1.b. A brief statement of each candidate's qualifications shall be sent to the voting membership of the incoming Senate a minimum of twenty (20) calendar days before the Transitional Meeting of the Senate. Any further nominations made by members of the Senate and accompanied by a brief supporting statement and the consent of the candidate must be received by the Executive Secretary and Director at least twelve (12) working days before the Transitional Meeting. These additional nominations shall be mailed to the membership of the incoming Senate at least ten (10) working days before the Transitional Meeting.

10.2 Transitional Meeting:

10.2.a The Transitional Meeting will be the last regularly scheduled meeting of the Spring semester, and starts a new Senate session.

10.2.b Terms of office of newly elected Senators will begin, and the terms of the outgoing Senators will end, with the call to order of the transitional meeting by the outgoing Chair.

10.2.c Election of the Chair-Elect, as provided for in section 5.5.a of the *Plan*, shall be the first order of business of the Transitional Meeting, after which the outgoing Chair will pass the gavel to the previous Chair-Elect, who will assume the Chair.

10.2.d The election of the Executive Committee and the election of incoming members of the Committee on Committees, and such other persons elected by the members of the Senate as prescribed in these *Bylaws*, shall be scheduled special orders of the Transitional Meeting. Nominations may be received from the floor by the Chair, in addition to those provided for in Article 10.1. Any such nomination is contingent on the consent of the candidate, which must have been secured beforehand in writing if the nomination is made in the absence of the candidate. In the event of a tie vote in the election for members of the Executive Committee or the Committee on Committees, a ballot will be mailed to each Senator in the appropriate constituency. Ballots are to be returned to the Senate Office within one (1) week from the date mailed.

10.2.e The elected members of the outgoing Executive Committee and the Committee on Committees shall continue to serve until the election of new members is held.

10.2.f After the conclusion of the Transitional Meeting, any remaining vacancies on standing committees will be filled on an acting basis by the new Committee on Committees, subject to the approval of the Executive Committee and pending confirmation by the full Senate at its next regularly scheduled meeting.

APPENDIX 1 COMMITTEE APPOINTMENTS AND TERMS

Implementation Procedures

In the initial year [1994-95] of implementation of Section 5.5, the following provisions shall govern appointment of members eligible for appointment to two-year terms:

- (1) Half of the members shall be appointed to the committee for a one-year term and half for a two-year term.
- (2) When multiple members are selected for a committee from a particular constituency, half shall be appointed for one-year terms and half for two-year terms.
- (3) Incumbent committee members may be re-appointed to their committees for a one-year term, as long as their serving the one-year term does not extend their service beyond the length of service specified in Sections 5.5.e and 5.5.f.
- (4) In preparing their slate for Senate action, the Committee on Committees shall identify one-year nominees and two-year nominees. The Senate may change the length of term of any nominee as long as such changes do not violate provisions of the *Plan* and *Bylaws*.

APPENDIX 2 BYLAWS OF THE UNIVERSITY LIBRARY COUNCIL

1. **Charge to the Council:** The University Library Council has the responsibility to provide advice about policy issues concerning the University Libraries to the University Senate, to the ~~Senior Vice President for Academic Affairs and Provost~~Senior Vice President and Provost, and to the Dean of Libraries.

A. The Council's Responsibilities to the University Senate:

- (1) Make recommendations for major changes and improvements in policies, operations, and services of the Libraries that represent the concerns and interests of Senate constituencies as well as other users of the Libraries. Such recommendations should specify the resource implications. Reports and recommendations to the University Senate shall be submitted to the Senate Executive Committee for placement on the agenda of the University Senate in the same manner as reports from the Senate's general committees. It is expected that the Council will also inform the ~~Senior Vice President for Academic Affairs and Provost~~Senior Vice President and Provost in advance of these legislative recommendations. In addition to the mandatory annual report, the Chair of the Council shall keep the Chair of the Senate informed of the major issues before the Council and shall indicate when action or information items are likely to be forwarded for Senate consideration.
- (2) Respond to charges sent to the Council by the Senate Executive Committee.
- (3) Provide an annual written report of the Council's activities, including the status of recommendations made by the Council each year, and of unresolved issues before the Council.

B. The Council's Responsibilities to the ~~Senior Vice President for Academic Affairs and Provost~~Senior Vice President and Provost:

- (1) Advise on the Libraries' budget, space, personnel and staffing, and other resources. It is expected that the

~~Senior Vice President for Academic Affairs and Provost~~ [Senior Vice President and Provost](#) will consult the Council before undertaking major reviews of the Libraries with APAC and before preparing the annual budget for the Libraries.

- (2) Advise on the Libraries' administrative policies and practices.
- (3) Advise on the charges to be given to the committees to review the Dean of Libraries and to conduct the unit review of the University Libraries based on University policy
- (4) Advise on matters concerning the Libraries in conjunction with accreditation review and strategic planning.
- (5) Respond to requests for review, analysis, and advice made by the ~~Senior Vice President for Academic Affairs and Provost~~ [Senior Vice President and Provost](#).
- (6) Meet at least annually with the ~~Senior Vice President for Academic Affairs and Provost~~ [Senior Vice President and Provost](#) to review the major issues facing the Libraries and its activities on campus.
- (7) The Council is responsible for informing the ~~Senior Vice President for Academic Affairs and Provost~~ [Senior Vice President and Provost](#) of pending reports and recommendations to the University Senate.

C. The Council's Responsibilities to the Dean of Libraries:

- (1) Advise on the needs and concerns of diverse constituencies within the campus community with respect to Library policies, services, and new resources and technology.
- (2) Advise on strategies to involve Library users in the initiation, evaluation, and integration of new Library policies, practices, procedures, and technology. Such strategies might include forums for the discussion of changes, workshops for adjusting to new technologies, and ongoing programs of Library education.
- (3) Advise on operations, policies and new opportunities.
- (4) Advise on Library planning including strategic planning and other major plans for Library operation and development.
- (5) Review and advise on the Libraries' reports, studies, and proposed initiatives that have significant long-term resource implications for the Libraries.
- (6) Hold at least one (1) meeting each year at which the Dean shall review major issues and plans, summarized in a State of the Libraries report distributed in advance to the Council.
- (7) It is expected that the Council will adopt a broad campus perspective and that the Dean of the Libraries will inform the Council of the University Libraries' needs and concerns and seek advice about major modifications of policies and operations affecting the campus community.

D. To Fulfill Its Responsibilities, the Council May:

- (1) Undertake investigative studies in matters concerning the University Libraries and recommend solutions to the University Senate, the ~~Senior Vice President for Academic Affairs and Provost~~ [Senior Vice President and Provost](#), the Dean of Libraries, or the general campus community.
- (2) Conduct open hearings on major issues concerning the University Libraries and their activities.
- (3) Communicate directly with the campus community on concerns related to support for, policies of, and services provided by the University Libraries.

2. **Composition of the Council:** The Council shall consist of thirteen (13) appointed members and three (3) ex officio members. The appointed members shall be: the Chair, ten (10) other faculty members including at least one (1) member of the Library faculty, a graduate student, and an undergraduate student. The three (3) ex officio members shall be a representative of the Office of the ~~Senior Vice President for Academic Affairs and~~

~~Provost~~[Senior Vice President and Provost](#), a representative of the Dean of the Libraries Office, and the Chair-Elect of the Senate.

A. Tenure in Office:

- (1) The Council Chair should be a tenured faculty member appointed for a single three-year term. Normally, the Chair shall have served as a member of the Council. If the Chair is serving as a regular member of the Council at the time of appointment, a new member shall be appointed to serve the remainder of the term the Chair has vacated. The ~~Senior Vice President for Academic Affairs and Provost~~[Senior Vice President and Provost](#) and the Senate Executive Committee shall reach an agreement on the Council Chair, and the joint choice shall be submitted to the University Senate for its approval.
- (2) The remaining ten (10) faculty members shall be appointed for staggered two-year terms. No faculty member shall serve more than two (2) terms consecutively. For this purpose, members who have served more than a year should be considered to have served a full term.
- (3) The two (2) student members shall be appointed for one-year terms. No student member should serve more than two (2) terms consecutively. For this purpose, student members who have served more than half their term should be considered to have served a full term.
- (4) The Office of the ~~Senior Vice President for Academic Affairs and Provost~~[Senior Vice President and Provost](#) will appoint a member of the Provost's staff as an ex officio member of the Council who will have voice but not vote.
- (5) The Dean of Libraries' Office will appoint an upper-level member of the Libraries' administrative staff as an ex officio member of the Council who will have voice but no vote.
- (6) The Chair-Elect of the Senate shall serve as an ex officio member of the Council who will have voice but no vote.

B. Qualifications of Council Members: Successful operation of the Council requires that the members of the Council understand the nature of the Libraries and represent the best interests of the campus as well as the particular interests of their specific constituencies.

1. The Council members should be chosen from people who can bring a campus-wide perspective to their deliberations on Library matters and who have shown interest and willingness to foster a good working relationship between the Libraries and their users.
2. Council members should be selected to represent as broad a range of campus disciplines and interests as possible. Faculty members should include representatives from both the professional and arts and sciences colleges, and within these constituencies, representatives of the arts and humanities, social sciences, and physical and biological sciences.

C. The Appointment Process: In the spring of each year, the Chair of the University Library Council shall notify the representative of the Office of the ~~Senior Vice President for Academic Affairs and Provost~~[Senior Vice President and Provost](#) and the Chair-Elect of the Senate of the appointments required for the following academic year. The representative of the Office of the ~~Senior Vice President for Academic Affairs and Provost~~[Senior Vice President and Provost](#) and the Chair-Elect of the Senate shall draw up a slate of committee members who will agree to serve, and the slate will be submitted to the ~~Senior Vice President for Academic Affairs and Provost~~[Senior Vice President and Provost](#) and the Committee on Committees for approval. The list of nominees for Council membership shall be submitted to the University Senate for approval. Ordinarily, the slate will be presented at the same Senate meeting at which other committee slates are approved. Dates of appointment and beginning of terms shall correspond with those of Senate committees. Replacement of Council members will take place through the same consultative process as the initial appointment, with submission of names to the Senate occurring as needed.

3. Operation of the Council: Effective and efficient Council operation will require adequate support and full cooperation among the Senate, the ~~Senior Vice President for Academic Affairs and Provost~~[Senior Vice President and Provost](#), the Dean, and their offices.

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- A. The University Senate Office or its designee will provide normal committee support to the Council, including maintaining mailing lists, reproducing Council documents, keeping a copy of Council minutes, maintaining files for the Council, and arranging meeting rooms.
- B. The Office of the ~~Senior Vice President for Academic Affairs and Provost~~ Senior Vice President and Provost, through its ex officio Council member, will provide liaison to other administrative units, such as the Office of Institutional Research, Planning and Assessment, for their reports, data, or assistance. The Office of the ~~Senior Vice President for Academic Affairs and Provost~~ Senior Vice President and Provost office will also provide website space for the Council.
- C. The Dean of the Libraries will provide the Council with internal data, reports, studies, etc. as needed to support the Council's work. The Dean will also arrange for unit staff to present testimony concerning such reports as the Council finds useful in carrying out its responsibilities. The Dean's assistance to the committee shall also include providing the Council members with the opportunity to attend an appropriate orientation session dealing with the Libraries.
- D. Control of the Council's agenda will be the responsibility of the Council Chair and the voting members of the Council.
- E. While being responsive to the needs of the ~~Senior Vice President for Academic Affairs and Provost~~ Senior Vice President and Provost and the Senate in a timely manner is necessary, the sponsoring parties and the Dean of the Libraries must not attempt to micro-manage the ongoing operation of the Council. In turn the Council must not attempt to micro manage the Libraries.
- F. The Council shall meet as necessary, but in no case less than once per semester. Meetings may be called by the Chair. In addition, upon receiving a request of any three members of the Council, the Chair shall call a meeting. A majority of the voting members of the Council shall constitute a quorum for the conducting of official business of the Council.
- 4. Operational Relationship of the Council to its Sponsors:**
- A. For purposes of University Senate action, a Council created through Senate action will appear in essentially the same role as a general committee of the University Senate.
- B. The Chair may present reports and recommendations to the Senate but will not have a vote in Senate proceedings, unless he or she is a member of the Senate.
- C. Since the committees of the ~~Senior Vice President for Academic Affairs and Provost~~ Senior Vice President and Provost range widely in form and function, and do not operate under a formal plan of organization and bylaws, there is no need to specify the Council's standing in the same fashion. For other purposes, such as APAC review of the Unit, the Council might be consulted like a College Advisory Council (that colleges will have under the shared governance plan) could be.
- D. The Dean of Libraries will ordinarily meet with the Council and have a voice in its deliberations. Since one of the three main functions of the Council is to advise the Dean, the Dean shall not formally be a member of the Council. On formal reports and recommendations of the Council to the University Senate or to the ~~Senior Vice President for Academic Affairs and Provost~~ Senior Vice President and Provost, the Dean of the Libraries may send a separate memorandum to the Senate or the ~~Senior Vice President for Academic Affairs and Provost~~ Senior Vice President and Provost, as appropriate, supporting or opposing the report or the recommendations, and providing the rationale for the Dean's position.
- 5. Review of the Council:** The Council and its operations will be reviewed in conjunction with the periodic review of the Senate and the *Plan*.

**APPENDIX 3
PROCEDURES FOR ELECTIONS OF UMCP REPRESENTATIVES TO THE
COUNCIL OF UNIVERSITY SYSTEM FACULTY (CUSF)**

The Chair of CUSF is not a member of CUSF. Thus, if the Chair is from College Park, a replacement must be named. At the end of his/her term as Chair, if his/her term on CUSF is not finished, he/she resumes his/her position as a CUSF member.

The normal term for CUSF representatives is three (3) years, with two alternates serving three (3) – year terms; if both
Amended May 4, 2011

alternates are elected at the same time, priority to be a replacement shall be in order of votes received; if a regular representative is unable to serve out his/her term, an alternate replaces him/her for the remainder of the term, and a new alternate is named. The replacement representative shall be chosen in order of number of votes received. The Nominations Committee will select a replacement alternate subject to confirmation by the Senate.


The University Senate, in accordance with its usual procedures, will elect representatives to CUSF in the spring. Faculty members only are entitled to vote. Each faculty Senate member has as many votes as there are open positions. If there are more candidates than positions, the person(s) receiving the most votes, in order, are declared representatives. The person receiving the next most votes is declared alternate. The remaining person, in order of vote tally, will be asked to move into the alternate position if the previous paragraph comes in to play. A record of the outcome of the election will be retained by the Executive Secretary and Director of the University Senate. If there are not sufficient candidates, or the pool of candidates is exhausted, representatives are chosen by the Executive Committee.

Dates of Approval, Updates and Amendments to the Senate Bylaws

(Approved, Campus Senate, October 9, 1986)	(Amended, October 16, 2003)
(Approved, Board of Regents, February 6, 1987)	(Amended, April 19, 2004)
(Updated, July 11, 1988)	(Amended, April 4, 2005)
(Amended, February 13, 1986)	(Amended, May 15, 2007)
(Amended, December 7, 1986)	(Amended, May 8, 2008)
(Amended, May 7, 1990)	(Amended, October 16, 2008)
(Amended, September 13, 1990)	(Amended, February 9, 2009)
(Amended, November 15, 1990)	(Amended, May 4, 2009)
(Amended, October 14, 1993)	(Amended, November 12, 2009)
(Amended, December 6, 1993)	(Amended, March 3, 2010)
(Amended, March 31, 1994)	(Amended, February 9, 2011)
(Amended, April 18, 1994)	(Amended, May 4, 2011)
(Amended, May 5, 1994)	
(Amended, November 10, 1994)	
(Amended, August 28, 1996)	
(Amended, May 15, 1997)	
(Amended, March 5, 1998)	
(Amended, April 2, 1998)	
(Amended, April 6, 2000)	
(Amended, February 12, 2001)	
(Amended, September 19, 2002)	
(Amended, February 3, 2003)	



University Senate CHARGE

Date:	September 27, 2011
To:	Kenneth Fleischmann Chair, Elections, Representation, & Governance Committee
From:	Eric Kasischke Chair, University Senate 
Subject:	Title Updates in the Senate Bylaws
Senate Document #:	11-12-08
Deadline:	October 14, 2011

The Senate Executive Committee (SEC) requests that the Elections, Representation, & Governance (ERG) Committee review the attached proposal, "Bylaws Title Updates," and make recommendations on whether the proposed amendments to the Senate Bylaws are appropriate.

Over the last several years, several administrative offices at the University have been renamed and staff titles have been revised. In addition, the Senate approved the renaming of the Senate CORE Committee to the General Education Committee. These changes have not yet been updated in the Senate Bylaws. The SEC requests that the ERG Committee consider the proposed changes to the Senate Bylaws and recommend whether they are appropriate.

We ask that you submit your report and recommendations to the Senate Office no later than October 14, 2011. If you have questions or need assistance, please contact Reka Montfort in the Senate Office, extension 5-5804.



University Senate TRANSMITTAL FORM

Senate Document #:	09-10-49
Title:	Preservation of Shared Governance During Reorganizations, Consolidations, and Mergers
Presenter:	Kenneth R. Fleischmann, Chair, Elections, Representation & Governance (ERG) Committee
Date of SEC Review:	October 24, 2011
Date of Senate Review:	December 8, 2011
Voting (highlight one):	<ol style="list-style-type: none"> 1. On resolutions or recommendations one by one, or 2. In a single vote 3. To endorse entire report
Statement of Issue:	In recent years several University colleges and departments have undergone mergers or reorganizations. One such recent merger of the Dance and Theatre departments raised concerns about the diminution of Shared Governance during the merger/reorganization process. As the University continues to evolve, additional mergers and reorganizations are inevitable. A review of such processes is necessary to ensure the values of Shared Governance are upheld.
Relevant Policy # & URL:	N/A
Recommendation:	<p>The Elections, Representation, and Governance (ERG) Committee's response to each of the Senate Executive Committee's individual requests in the charge resulted in a number of detailed recommendations. ERG suggests these recommendations be used as a guideline for the University until the Plan of Organization Review Committee can incorporate the recommendations appropriately into the Plan of Organization.</p> <p>The main points of the recommendations are highlighted below and are explained in further detail along with the remainder of recommendations in the attached report.</p> <ul style="list-style-type: none"> • Plan Article 11.1.b be enforced by the Senate Office. • Action should be taken if a school, college, or department/unit does not review its plan every ten years • The Senate office should maintain a review schedule of college plans and the dean's office of each college should

	<p>maintain a review schedule of its departmental plans.</p> <ul style="list-style-type: none"> • Require that regular review of departmental/unit plans be part of each college’s plan. • Mandate that departmental/unit-level review committees of all plans include adequate representation of faculty, staff, and students. • Ensure that all Plans incorporate the ideals of shared governance. • All plans should meet the minimum standards outlined in the University’s Plan of Organization.
<p>Committee Work:</p>	<p>On August 24, 2010, the Senate Executive Committee (SEC) charged the Elections, Representation, and Governance Committee (ERG) with reviewing the proposal and charge “Preservation of Shared Governance During Reorganizations, Consolidations, and Mergers.”</p> <p>ERG began its review at its December 1, 2010, meeting and agreed that significantly different interpretations of Shared Governance exist across the campus.</p> <p>ERG researched mergers, reorganizations, and Senate committee reviews of college Plans of Organization that have taken place during the past five years. ERG used this research to compile a spreadsheet enumerating the existing elements in current college Plans. ERG created a set of guidelines for future revisions of Plans.</p> <p>At their February 2, 2011 meeting, ERG continued discussion of the charge and potential methods for creating Plans that conform to the ideals of Shared Governance. ERG agreed to address each of the SEC’s requests in the charge in order to come to definitive recommendations on the appropriate elements of Shared Governance.</p> <p>On April 27, 2011, after thorough discussions and edits, ERG voted to approve the final report and recommendations. The SEC reviewed the report at its May 12, 2011 meeting and requested ERG to reconsider recommendations with punitive measures.</p> <p>At the October 3, 2011 meeting the members considered alternative language for the recommendations. Members carefully considered the SEC request and attempted to balance avoidance of appearing overly punitive with ensuring that</p>

	colleges and schools will successfully undertake regular plan reviews and approvals every 10 years. After a thorough discussion the committee voted seven to one in favor of revising the report.
Alternatives:	Current practices could continue causing further diminution of Shared Governance during mergers and reorganizations. Additionally, if School and College Plans of Organization are not reviewed regularly, they would not be in compliance with the University's Plan of Organization.
Risks:	Departments and Colleges of the University could become incompliant with the policies and standards of Shared Governance set forth by the Plan of Organization.
Financial Implications:	There are no financial implications.
Further Approvals Required:	Senate and Presidential approval are required.

ERG Report on Shared Governance October 2011

Background

On August 24, 2010, the Senate Executive Committee (SEC) charged the Elections, Representation, and Governance Committee (ERG) with reviewing the proposal “Preservation of Shared Governance During Reorganizations, Consolidations, and Mergers.” The committee began its review at its December 1, 2010, meeting; the members of the committee agreed that significant differences in an understanding of the concept of Shared Governance exist across the campus.

The ERG researched mergers, reorganizations, and Senate committee reviews of college plans during the past five years. Prior to its February 2, 2011, meeting, committee members began compiling a spreadsheet enumerating the elements in the existing college plans. This spreadsheet, when completed, would facilitate the committee’s creation of a “roadmap” for colleges when revising their plans.

At their February 2, 2011 meeting, committee members continued discussion of the charge and methods of creating Plans that conform to the ideals of Shared Governance. ERG strongly believes that if a college Plan encompasses all the appropriate elements that embody shared governance, those of the departments and units within the college will likely do so, as well.

Committee Work

At their December 1, 2011 meeting, ERG members noted that the committee only reviews college plans, not those of *departments* within the colleges as such review is not mandated in the Plan of Organization and Bylaws of the University Senate. The committee noted potential ambiguity in the language of the Plan and Bylaws with respect to plan of organization review. Article 11.1.c of the Plan states that Senate committees will review the plans “of each College, of each School, and of the Library, and any revisions thereto,” (specific committees are not named). Article 6.6.g of the Bylaws states, “The committee [ERG] shall review the Plans of Organization of the colleges, schools, and other units in accordance with the Plan (Article 11).” The word “units” in the Bylaws 6.6.g might suggest that departmental plans shall be reviewed by ERG, but Plan Article 11.1.c seems to exclude them. ERG research found that departmental plans submitted to the Senate for review – for instance, in the case of mergers—historically have *not* been given to ERG to review (Appendix 1: Review of Plans Mergers and Reorganizations). Committee consensus was that any department plan submitted to the Senate needs to be reviewed by ERG regardless of the reason submitted.

It would not be necessary for the ERG to review *all* departmental plans if the colleges in which they reside had plans that conformed to the University Plan. It is essential that college plans be reviewed regularly and that colleges be held accountable if their plans do not meet minimum standards. Although the University Plan mandates review of unit plans every ten years, it does not explicitly state that the plans expire or must be reviewed at a specific time. Currently, there are no consequences if a college does not conduct a review process every ten years.

Research on the procedures, processes, and involvement of Senate committees in reviews of mergers, reorganizations, and organizational plans of the different units on campus revealed that the University Senate’s Plan of Organization and Bylaws provide no definitive statement on the responsibility for such reviews. Committee members agreed that *any* changes related to plans of organization should always

come to the ERG for review. This ERG review would not preclude a review by another Senate committee or committees.

Members of ERG reviewed the plans from CLIS, the Libraries, the School of Engineering, CMNS, AGNR, ARHU, PUAJ, JOUR, and BSOS, and determined that most include the basic elements mandated in Article 11 of the University's Senate Plan of Organization. (Appendix 2: Spreadsheet of Basic Elements) However, the organization of the elements differed, sometimes significantly, from plan to plan. The consensus of ERG members is that the School of Engineering Plan offers the best "model." Members agreed that it may not be ERG's responsibility to mandate a single format for all plans, but that the committee could expand upon the elements enumerated in Article 11. This list would go beyond the mandated elements in Article 11 and include suggestions to improve efficiency and effectiveness, and better embody the principles of shared governance set forth in USM and University policy.

Members turned to the "Policy on Shared Governance in the University System of Maryland" for relevant text on shared governance. Article II.C. of that policy provides definitions of "the subject matter appropriate for faculty, staff, and/or student participation in the shared governance process." Although the language is general, it enumerates the subjects appropriate for each constituency with regard to participation in shared governance. The System policy addresses one of the concerns that provoked the shared governance charge, that students "have a legitimate interest in matters affecting their ability to complete their education, including but not limited to costs, grading, and housing" (Article III.C.4). Members agreed that the System policy could guide the recommendations on the roles of students and staff on certain committees (within colleges and departments).

ERG can create guidelines for college plans, as those must be reviewed by ERG. However, reviewing plans of the individual departments/units within the colleges is beyond the scope of ERG's responsibility. Guidelines established for the plans of colleges and schools could be followed by colleges and schools when reviewing the plans of individual departments.

The ERG Committee worked on creating best practices, guidelines and its recommendations throughout the 2011 Spring semester. On April 27, 2011, after thorough discussions and edits, ERG voted to approve the final report and recommendations. On May 12, 2011, the report and recommendations were reviewed and considered by the SEC. The SEC returned ERG's report requesting that recommendations with punitive measures be reconsidered. As it was the end of the semester and the ERG Committee was no longer in secession the 2011-2012 ERG Committee considered the request to reconsider the recommendations.

At its September 12 meeting the 2011-2012 ERG Committee discussed the reconsideration of the recommendations. The committee agreed it would be best to allow the new committee time to assess the entirety of the report and recommendations before voting to revise any language within the report or recommendations. At the October 3, 2011 meeting the members considered alternative language for the recommendations. The majority of the discussion surrounded the importance of improving college and school compliance with the guidelines outlined in Plan Article 11. Members carefully considered the SEC's request and attempted to balance avoidance of appearing overly punitive with ensuring that colleges and schools will successfully undertake regular plan reviews and approvals every 10 years. After a thorough discussion the committee voted seven to one in favor of revising the report.

Recommendations

ERG's review each of the SEC's individual requests in the charge resulted in the following recommendations; ERG suggests the recommendations be used as a guideline for the University until the Plan of Organization Review Committee can incorporate the recommendations appropriately into the Plan of Organization.

A1. Review whether the Senate's current process of reviewing Plans of Organization conforms to the procedures set forth in the University's Plan of Organization (Article 11).

The Senate's current process of reviewing plans is lacking in two respects. (i) There is no oversight to ensure that unit plans are reviewed every 10 years as specified in Plan Article 11.1.b, nor any sanction established for units that do not conduct such a review every ten years. (ii) As described above, the language of Plan Article 11.1.c and of Bylaws Article 6.6.g has not been interpreted to mean that a single committee is charged with reviewing *all* plans that come before the Senate (as evidenced by the fact that a single committee has not reviewed all plans).

ERG research indicates that not all plans from all the schools and colleges are being reviewed every ten years. It is essential that college and unit plans be reviewed on a uniform schedule and that colleges and their departments/units be held accountable if their plans do not meet the standards. ERG understands the Senate Office has been working in the past year to rectify this and strongly supports this effort.

- ERG recommends that the Senate Office be responsible for enforcing Plan Article 11.1b. This could be accomplished by ensuring that College understand the review process, creating timelines for Plan reviews, and providing sample plans and best practices to each college prior to their review.
- ERG recommends that action should be taken if a school, college, or department/unit does not review its plan every ten years.

If a dean is recalcitrant in initiating a college plan review at the ten-year mark, the Senate Office should contact the Provost' Office to pursue the issue. In the event that the plan is still not reviewed in a timely manner, further action could be taken to ensure that the college initiates and successfully completes a Plan review, such as the action provided in Plan Article 11.1.d: "No faculty members of the Library, a College, or a School without an approved Plan of Organization may be seated in the Senate." Which would be relevant as the college would no longer have a recently reviewed Plan as outlined in Plan Article 11.1.b

Furthermore, we recommend that schools and colleges adopt language in their plans of organization allowing for the representatives of individual departments/units not to be seated on college level shared governance bodies if the department/unit in question does not have an approved plan or has allowed more than ten years to elapse since its plan was reviewed (again following Plan Article 11.1.d: "Colleges and Schools may prohibit representation on the Faculty Advisory Committees of the College or School by department without approved Plans of Organization.").

- The Senate office should maintain a review schedule of college plans, and the Senate should mandate that the dean's office of each college maintain a review schedule of its departmental plans.

A2. Comment on whether the University Plan of Organization should be amended by the next Plan of Organization Review Committee (PORC) to mandate Senate review of departmental/unit Plans in addition to college approval. Please include benefits and drawbacks of such a change.

The ERG concludes that the Plan should not require Senate review of departmental/unit plans. The benefit of such an amendment would be more uniformity among departmental/unit plans, which would likely lead to better plans overall. The drawbacks include the sheer amount of work it would create for the ERG, the Senate staff, and the Senate as a whole, as well as the fact that units/schools could view it as micro-managing. Additionally, there are other ways to achieve similar goals. We recommend the next PORC consider the following:

- Require that regular review of departmental/unit plans be part of each college's plan.
- Revise Plan Article 11.3 to provide that all departmental plans must be reviewed every ten years and that they be submitted for review to the unit/department above them and voted on by a representative body.
- Revise Plan Article 11.3 to allow for ERG to serve in an advisory role to departments, reviewing a plan if a department/unit chair or the Senate representative from the department/unit requested such a review.
- Mandate that departmental/unit-level review committees of all plans include adequate representation of faculty, staff, and students. Article 11.1.b of the University Plan calls for a committee to develop a plan of organization for a unit: "The committee shall consist of members elected by and from the faculty and, where appropriate, members elected by and from the staff, an undergraduate student member elected by and from the undergraduate students, and a graduate student member elected by and from the graduate students." The article further states that "The Plan of Organization shall be reviewed every ten years by a newly elected committee." *The term "appropriate" essentially makes the participation of staff and students optional, which does not seem to be in keeping with the principles of shared governance. As such, ERG recommends revising this article to mandate staff representation and, for degree-granting units, student representation.*

A3. Comment on whether the procedures set forth for the creation or revision of an existing academic unit's Plan should also apply to creation of new units, mergers, consolidations, or reorganizations.

ERG members strongly agree that mergers, consolidations, and reorganizations should require revision/review of plans. These procedures essentially create new units, even if the unit name does not change; thus, a plan review is entirely appropriate. It should be required that a lower level unit plan should always be reviewed by a higher-level unit.

A4. Comment on whether the Plan of Organization should require that the Plan of any College, School, Department, the Library, or other academic unit meet minimum standards. If so, please identify appropriate elements that should be included in each Plan and how shared governance can be incorporated into those Plans.

ERG believes that all plans should meet minimum standards. To that end, a set of guidelines has been created with recommended elements for plans to meet these standards (Appendix 3: Best Practices in Shared Governance for College and Unit Plans). ERG suggests the ENGR Plan as an excellent model for other colleges to follow.

Shared Governance can be incorporated into those plans by:

- Expanding and clarifying the language on minimum standards for shared governance within the University Plan.
- Encouraging the use of language in the University System of Maryland Plan in devising minimum standards (System Policy I-6.00 Article II Sections C & D).
- Addressing the problem that the definition or understanding of Shared Governance varies greatly from Unit to Unit.

We recommend that the best practices as described in Appendix 2 be incorporated as appropriate into the Plan of Organization when the next PORC is convened.

B1. Comment on whether any Plan of Organization that comes to the Senate should be reviewed by the ERG Committee to ensure compliance with University System of Maryland (USM) and Senate principles for shared governance.

We recommend that it be mandated that ERG review all college and school plans for compliance, and, if any revisions of unit plans are referred to the Senate, the ERG should be one of the primary committees designated to review them. This review need not be exclusive: other Senate committees may also review such portions of submitted plans that come under their purview.

B2. Comment on the need for resources (e.g. checklists, procedural roadmaps, etc.) with regard to creating plans of organizations for units considering mergers, consolidations, or reorganizations.

The Senate Office should provide examples of simple resources to help units when writing or revising their plans. These could include:

- Create a list of recommended elements that would strengthen shared governance principles (See Appendix 3: Best Practices in Shared Governance for College and Unit Plans).
- Provide an example of “a good plan” for a college to follow. The ERG suggests the iSchool or School of Engineering Plans as good models.
- Mandate that mergers, reorganizations, and consolidations have the same requirements for plan review as a new Unit.
- Insert language into the University’s Plan *defining* merger, reorganization, and consolidation, and specifying the requirements for plans of any merged, reorganized, or consolidated units.
- Require that plans revised as a result of mergers must come before the ERG for review.

B3. Review and comment on best practices for designing committee structures that balance efficiency and the inclusion of all relevant constituencies.

Best practices include

- Include staff on committees that develop policies and procedures that affect them and the welfare of the University.
- Include students on committees that affect their ability to complete their education, including but not limited to costs, grading, and housing.
- Err on the side of inclusion rather than exclusion.
- Refer committees to language in University System of Maryland policies that require compliance that addresses adequate representation of all stake holders. (System Policy I-6.00, Article II, Section C, “Shared governance requires informed participation and collaboration by

faculty, students, staff, and administrators.”)

- In order to include all relevant constituencies, the size of the committees will naturally be in proportion to the level of unit (departments have smaller committees, colleges larger). While large committees can become unwieldy, it runs counter to the principles of shared governance to exclude stakeholders on the grounds of efficiency.
- Chairs can designate subcommittees to perform tasks and report back to the full committee. This permits work to proceed efficiently, while allowing all stakeholders in the larger committee to review and comment on the subcommittee work. Subcommittees may be formally arranged by the Chair or by having committee members volunteer.

Appendices

Appendix 1: Review of Plans Mergers and Reorganizations

Appendix 2: Spreadsheet of Basic Elements

Appendix 3: Best Practices in Shared Governance for College and Unit Plans

Appendix 4: SEC Response Letter

Appendix 5: Charge and Proposal

Review of Plans, mergers, and reorganizations

Organization	Action	Senate Doc	Committee(s)
2004-2005			
Library	Plan	04-05-10	ERG & FAC
ENGR	Plan (APT only)	04-05-08	ERG
Plan of Organization	Plan	04-05-33	PORC
2005-2006			
AGNR Dept of Plant Science & Landscape Architecture	Reorganize/ rename	05-06-47	PCC
AGNR Dept of Environmental Sciences	Reorganize/ rename	05-06-49	PCC
ENGR	Plan	05-06-24	ERG & FAC
2006-2007			
ARHU Comparative Lit Dept of English	Merge	06-07-50	PCC (reviewed twice)
EDUC Dept of Ed policy studies	Reorganize/ rename	05-06-52	PCC
Library	APPS	06-07-29	FAC
Campus APT	APT	06-07-01	SEC & Campus APT Committee
2007-2008			
AGNR	Plan	07-08-03	ERG & FAC
CLIS	Plan	07-08-35	ERG & FAC
2008-2009			
CLFS Biological Sciences Grad Programs	Reorganize	08-09-23	PCC
2009-2010			
AGNR Dept of Nutrition & Food Science	Merge 3 B.S degrees into 1 program	09-10-44	PCC
AGNR Dept of Nutrition & Food Science	Merge Grad programs into 1 program	09-10-45	PCC
ARHU Dept of Theatre & Dance	Merge Theatre, Dance & Performance Studies	09-10-43	PCC
2010-2011			
CMNS	Plan CLFS adopted CMPS	10-11-14	ERG & FAC
SPHL	Plan	10-11-**	ERG & FAC

Appendix 2: Spreadsheet of Basic Elements

PLANS OF COLLEGES, SCHOOLS, and the LIBRARIES				
University Senate Plan of Organization	Plan of Organization of the College of Information Studies	Plan of Organization for the University of Maryland Libraries	School of Engineering Plan of Organization	Plan of Organization for the College of Computer, Mathematical and Natural Sciences
Preamble	Preamble	Preamble	Preamble	Preamble
Senate and its Functions	Mission	Name and Missions	Mission Statement	Mission
Relation of College Park Senate to Office of the President	Shared Governance	Purpose and Superseding Authority	Units within the School	CMNS Units
Membership and Eligibility	College Administration	Library Administration	Administration	Administration of the College
Senatorial Elections, Expulsion, Recall	Faculty	Library Assembly-- Membership, Officers, Meetings, Advisory Council, Committees	Administrative Council	Administration of the Units
Officers of the Senate, Their Nomination, Election, Appointment, and Impeachment	Staff	University Library Council	Engineering Student Council	College Assembly
Amendments, Review, and Revision	Students	Amendments and Review	Engineering Assembly	College Council
Bylaws	College Assembly		Engineering Council	Campus Senate and Standing Committees of the College
Committees and Councils	College Council		Standing Committees of the Assembly	Ad Hoc Committees of the College
Meetings of the Senate	Standing Committees		Appointment, Promotion and Tenure	Amendments to the Plan and Bylaws
Staff and Facilities	Other Committees		Elections of Faculty Senators to the College Park Senate	Review of the Plan
Plans of Organization of Units	Student Organizations		Amendments and Review	
	Review and Amendment			

AGNR Plan of Organization	Article 11 Mandates	ARHU Plan of Organization	School of Public Policy	Journalism	BSOS	Bylaws of the University Senate
Purpose	Faculty Advisory Committee	Preamble	NAME AND MISSION	Preamble	Preamble	Authorization
Mission	Unit-wide assembly to include faculty, staff, and students	Units and Administrators (UA)	AUTHORIZATION AND PURPOSE	Mission	Academic Units Within the College	Membership
College Units	Elected committee develops plan	UA-Academic and Administrative Units, governance thereof	ACADEMIC PROGRAMS: Composition, Plan of Organization, Administration	Shared Governance	Officers of the College	Meetings
Administration	Embody shared governance principles	UA-College Committees: Admin Council, APAC	ASSEMBLY: Composition, Membership, Duties and Responsibilities, Meetings	College Assembly: Membership, Operations, Organizations, Functions, Meetings	College Assembly and Academic Council	Executive Committee
Governance Structure and Organization-- Administrative Council, Faculty Advisory Council, Agriculture and Natural Resources Student Council, Staff Advisory Council	Embody relevant University policies such as Appointment, Tenure, and Promotion; merit pay; and establishment of Faculty Advisory Councils	UA-Administrative Officers	FACULTY: Membership, Duties and Responsibilities, Senate Representation	College Administration: Office and Duties of the Dean, Appointment of the Dean, Administrative Functions, Academic Administrators, Faculty with Administrative Roles, Review of Administrators	College Academic Council: Membership, Composition of the Academic Council, Officers of the Academic Council, Meetings of the Council, Functions of the Academic Council, Relations of the Collegiate Academic Council to the Plan, Committees, Replacement of Representatives, Recall of Collegiate Academic Council Representatives	Committees of the Senate
College Assembly		Collegiate Representation and Governance (CR)	STUDENTS: Membership, Governance	Graduate Committee, Appointments Committee, Faculty	Chairs and Directors Council	Standing Committee Specifications
College Committees		CR-Collegiate Council, committees therein (Executive, APT, PCC, New Technologies)	STAFF: Membership	Student Governance	Organization of the Faculty, Students and Staff in Units of the College	University Councils
Unit Organizations		Staff and Student Council - OPTIONAL	ADMINISTRATION: The Dean, Associate and Assistant Deans, Duties and Responsibilities, Program Directors	Grievance of Variance from the Plan of Organization		University Councils Specifications
College Senators		Review of Unit Governance	COMMITTEES: Faculty Committee, PCC or Curriculum Committee, APT	Adoption, Amendment, Review and Limits of the Plan of Organization		Duties of the Executive Secretary and Director
By-Laws		Amendments to Plan				Annual Transition of the Senate
Amendments		Plenary Sessions				
Adoption						

Best Practices in Shared Governance for College and Unit Plans

The Plan of Organization mandates that each College, School, department and other academic unit and the Library shall have a Plan of Organization that conforms to the University Plan of Organization, that provides for the establishment of a Faculty Advisory Committee, and that embodies shared governance principles and relevant policies.

Article 11 in the Plan of Organization lists the minimum requirements of these Plans that must be met in order for a Plan of Organization to be compliant with the University Plan of Organization, reproduced below. The following guideline describe best practices that will help units not only fulfill these requirements, but expand beyond the minimums to create a Plan compatible with the shared governance principles of the University.

Article 11 Requirements

1. The Plan of Organization of each unit shall provide for a unit-wide assembly. This assembly shall include faculty, staff, and students.
2. Each unit shall elect a committee to develop a Plan of Organization consistent with the principles of Article 11 that embodies shared governance principles and relevant University policies
 - a. The committee shall consist of members elected by and from the faculty and, where appropriate, members elected by and from the staff, an undergraduate student member elected by and from the undergraduate students, and a graduate student member elected by and from the graduate students.
 - b. The committee shall submit the plan to the faculty of the unit for approval.
3. The Plan of Organization shall be reviewed every ten years by a newly elected committee.
4. The Plan of Organization of each College, or each School, and of the Library, and any revisions thereto, shall be filed with the Senate for approval or disapproval.
 - a. If Senate agrees that the Plan is in compliance, it will be approved. If not, the Plan will be returned for revision. The most recently Senate-approved Plan of Organization remains in effect until the Senate approves a revised Plan.
5. Unit Plans of Organization: Each unit shall have an elected Faculty Advisory Committee. The Faculty Advisory Committee may include staff and students. The Faculty Advisory Committee shall elect its chair.
6. Each unit shall have committees that participate in decisions on strategic planning; curriculum; and appointments, promotion, and tenure. All committees shall include faculty members. Staff and student members shall be included on appropriate committees. Additional governing bodies may be specified by the Plan of Organization of a unit.
7. Deans shall serve for fixed terms of no longer than five years, be reviewed at regularly designated intervals by a committee appointed by the Senior Vice President for Academic Affairs & Provost, and be eligible for reappointment following the review.
8. Chairs and Directors shall serve for fixed terms of no longer than five years, be reviewed at regularly designated intervals by a committee appointed by the Dean, and be eligible for reappointment following the review.
9. Any unit having, at the time of adoption of this document, a Plan of Organization which has been adopted or substantially revised within the past seven years, may submit its existing plan to the next higher unit. The submission shall include a description of the procedure used for the most recent revision. If a submitted plan is rejected by the higher unit, the procedures and criteria of this Article must be followed in the preparation of a revised plan. In the event of a dispute between a Department and the Faculty Advisory Committee of the College of School regarding approval of a Departmental Plan of Organization, appeal may be made to the Senate.

Best Practices in Shared Governance for College and Unit Plans

(Click on [Additional Material](#) to be taken to a portion of the document with expanded detail. Once there, click on [Return to Outline](#) to go back to the main list.)

1. All plans should include a table of contents. [Additional Material](#)
2. Plans should follow a clear structure, which should generally numerate sections and subsections in a consistent fashion that can be easily followed (i.e. II.3.b, etc.). Elements of the plans should also be grouped together in a logical and consistent fashion. [Additional Material](#)
3. Plans should avoid referring to elements or bodies that have not yet been described (i.e. referencing the role of the Dean's Council before the Dean's Council is established and defined in the document). If such references are unavoidable, a parenthetical reference to the succeeding section where the body is addressed should be included (e.g. "The Dean's Council (as described in Article 2.1) shall report...").
4. Clear statements of college administrative and shared governance structure, and the relationship between each, should be articulated:
 - a. Describe and enumerate the responsibilities and authority of the dean, as well as the college's administrative structure and its relationship to units within the college.
 - b. Include a section acknowledging the importance of shared governance at the beginning of all plans. It is also useful to detail the responsibilities of each constituency in the shared governance structure.
 - c. Include language acknowledging that executive authority flows from the provost through the deans, whereas shared governance authority originates in the University Plan of Organization and flows through the Senate to the colleges. As such, efforts should be made to distinguish between bodies whose responsibilities are to support the Dean in carrying out administrative functions versus those which have the mission of shared governance. [Additional Material](#)

Membership

5. Membership categories should reflect those classifications recognized by the Board of Regents, and should be worded in such a way as to accommodate changes in policy without requiring a revision of the plan. [Additional Material](#)
6. Plans should provide for meaningful representation by all constituencies within a college, and at all levels. This should be the rule, rather than the exception, and in any instance that does not directly involve APT or other personnel decisions, the standard should be inclusion of all groups. Within the APT processes, however, some colleges include additional mechanisms for soliciting input from all constituencies which serve as best practices models. [Additional Material](#)
7. Wherever possible, uniform practice across constituencies should be followed in the selection of members of shared governance bodies. For example, if faculty members of a body are elected, then student and staff members should be as well.

8. Plans should avoid the use of “student” as a constituency, and should not only specify “undergraduate” or “graduate,” but should include both groups in any body, given the significantly different experiences and perspectives of each group.
9. If sub-units of an elected body have members that are not representatives of the larger body, the plan should include language describing who is eligible and how they are to be selected. **Additional Material**
10. Plans should provide for student representation (both undergraduate and graduate) on shared governance bodies from all units within a college that have faculty representation. **Additional Material**
11. The length of terms of service, as well as any term limits, should be clearly established, and should be consistent between the various levels of the shared governance structure. Terms should align with the academic year, and should vary between one and three years. **Additional Material**
12. Appointed members of the college administration should be included in the membership section of each plan. Such members should typically be non-voting in shared governance bodies (as distinguished from bodies whose mission is to aid the dean in administrative tasks).
13. Committee membership should be determined by the establishing bodies themselves, subject to any relevant provisions in the college plan. The majority of the membership of any committee should be made up of elected members.

Elections

14. The University Plan of Organization mandates that each college have a unit-wide assembly, the membership of which includes *all* faculty in the college, as well as students and staff (11.1.a).
15. Procedures for electing the student and staff constituencies of the unit-wide assembly (as well as any other constituencies recognized by the college), as well as procedures for electing members of all other bodies described in a plan, should be established for each constituency. For the purposes of apportioning student representatives (or faculty representatives, in cases where membership is not automatic for every member), each academic unit within the college should be treated as its own constituency. **Additional Material**
16. Executive committees, or other bodies carrying out similar functions within larger shared governance bodies, should be composed of members elected by their constituencies, and should select their own chairs. **Additional Material**

Procedures

17. Quorum levels that ensure an appropriate balance between practicality and inclusion should be set for all bodies. **Additional Material**
18. Minutes of meetings of any shared governance body should be kept, and should be made available to the Senate for review at any time.
19. The frequency of meetings of all bodies should be clearly set forth. **Additional Material**

20. Wherever a shared governance body is created, procedures should be established for its operations. Unless otherwise specified a plan should generally defer to the latest edition of *Robert's Rules of Order, Newly Revised*.

Review

21. As required by the University Plan of Organization, college plans must be reviewed, at minimum, every ten years by an elected committee that includes members of each constituency. Language describing the process by which this committee is constituted should be included. **Additional Material**
22. College plans should establish clear timelines and procedures for the review of sub-unit plans. As is required for the review of college plans, these reviews should include elected members from each constituency, and should also be reviewed every ten years. While not all of the specific bodies outlined in the college plan may be appropriate, sub-unit plans should follow the same principles and adopt the same general structure.
23. To the degree possible, plans for all units within a college should also follow these guidelines. The body that fulfills the executive function in a college's shared governance structure should have the explicit authority to decline to seat representatives from any unit that does not have an approved plan, or whose plan is found not to be compliant with the college plan.

Additional Information

1. The table of contents should include all the major areas that the plan covers. The A. James Clark School of Engineering’s plan provides an excellent model of what elements should be included:

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2. An example of a useful hierarchy for numbering and organizing elements may be found below:

Article 2: Standing Committees

2.1 Name of Committee

- 2.1.a Committee Membership
 - 1) Faculty
 - (a) Numbers
 - (b) Procedures for selecting them
 - (2) Students
 - (a) Undergraduate student members
 - (b) Graduate student members
- 2.1.b Committee Charge
- 2.1.c Selection of chair, other officers
- 2.1.d Committee meeting frequency
- 2.1.e Quorum of committee

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- 4.c The Plan of Organization for the College of Library and Information Services includes the following:

ARTICLE II – SHARED GOVERNANCE

Governance of the College is shared among administrators, faculty, staff, and students. Administrators are responsible for seeking advice, initiating action, making decisions, and implementing policy as well as for assuring accountability for their actions. Administrative accountability requires active accounting to other constituencies with whom governance is shared. The faculty is responsible for informed and regular participation in governance activities related to all aspects of the academic mission of the College. Staff members have a vital role in support of the College mission and have the responsibility for regular and informed participation in governance activities. Students have the right to and responsibility for informed and regular participation in governance activities that specifically impact their areas of interest. (1)

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5. USM policies and the Senate Plan of Organization establish the following membership categories:

Faculty: “The only faculty ranks which may involve a tenure commitment are: Professor, Associate Professor, Assistant Professor, Instructor, Distinguished University Professor, Senior Staff Scientist, Associate Staff Scientist, Assistant Staff Scientist, Principal Agent, Senior Agent, Agent, (i.e., II.C. 1a-1d, 2a-2c, 3d-3f) and such other ranks as the Board of Regents may approve. Appointments to all other ranks, including any qualified rank in which an additional adjective is introduced (such as "Clinical Professor" or "Medical School Professor"), are for a definite term and do not involve a tenure commitment (i.e., II.C. 2d-2h, 3a-3c, 4a-4g, 5a-5d, 6a-6g). Notwithstanding anything to the contrary in this policy, faculty in certain ranks may be granted permanent status. The only faculty ranks which may involve a permanent-status commitment are Librarian II, Librarian III, and Librarian IV and such other ranks as the Board of Regents may approve. Permanent status may not be granted to an individual holding the rank of Librarian I.” (USM Policies and Procedures, II - 100.II.A)

Staff: “Staff constituents are defined as those who hold a full-time permanent appointment as defined by the applicable University definitions and classifications” (Senate Plan of Organization, 3.3.a). The Bylaws of the University Senate include the following sub-categories, each of which is entitled to representation:

- (1) Executive, Administrative and Managerial Staff
- (2) Professional Staff
- (3) Secretarial and Clerical Staff
- (4) Technical and Para-Professional Staff
- (5) Skilled Crafts
- (6) Service and Maintenance

Undergraduate Students

Graduate Students

Single Member Constituencies: The following groups are each apportioned a single representative by the Senate: Teaching Faculty, Full-time Lecturers/Instructors, Research Faculty, part-time undergraduate students, part-time graduate students, Contingent 2 Staff, Emeritus Faculty, and Professors of the Practice.

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6. The Plan of the College of Behavioral and Social Sciences, for example, emphasizes the importance of seeking input from all constituencies within the college:

As described in the College APT Policies and Procedures, the committee must assure that an effort is made to facilitate students and nontenured faculty input into the decision making process. (9)

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9. For example, if one of the committees of a college assembly permits non-assembly members to serve on the committee, it should stipulate membership qualifications and selection methods for such members. Plans should also address voting privileges for such members.

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10. For example, if a college has six degree granting programs, all represented by faculty on the college assembly, it is generally insufficient to have only two student representatives in the body. The rationale for such a standard is the same as that which guides apportionment of faculty representatives, and stems from the differing sizes, needs, and objectives of units within the college. If a college cannot meet this standard, then a separate student advisory council (or two, one for each student constituency, whenever feasible) should also be established, and the plan should specify the mechanism(s) by which the council interacts with the college shared governance structure. Such interaction should be regular, formal, and meaningful.

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11. The terms of service on a body such as the college-wide assembly should be compatible with the terms of service on that body's committees. For example, if staff representatives serve one year

terms, committee appointments should not be made for two years. As a reference, the standard terms of service in the University Senate are as follows:

- Faculty Senators: **3 years**
- Staff Senators: **3 years**
- Teaching Faculty, Full-time Lecturers/Instructors, Research Faculty, Undergraduate Students (both full- and part-time), Graduate Students (both full- and part-time), Contingent 2 Staff, Emeritus Faculty, and Professors of the Practice: **1 year**

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- 15.** Plans should, at a minimum, establish the **principles** to be upheld in any elections of members to college shared governance bodies (i.e. direct election of representatives from within their constituencies by secret ballot, etc.). Ideally, **procedures** should also be established for these elections. Some suggestions are provided below.
- i. Elections of the following year’s representatives should take place during the spring semester.
 - ii. To ensure adequate representation, each academic unit should be considered its own sub-constituency for purposes of apportionment. When students are elected to the unit-wide assembly, each academic program should be allowed to send its own representatives (both undergraduate and graduate, as applicable). Barring this, procedures should be established that: (a) ensure an equitable rotation between the various programs on a yearly basis; or (b) treat all students in a given constituency (undergraduate or graduate) as a single electorate, whereby candidates for the representative positions are drawn from and elected by the entire unit (in such cases, a stipulation restricting the number of representatives that can come from any one program should be established; the Senate uses a similar model to elect graduate Senators).
 - iii. For any elections of faculty to shared governance bodies other than the mandatory unit-wide Assembly, each academic unit should be considered its own sub-constituency. Barring this, procedures should be established that ensure an equitable rotation between the various programs on an annual basis.
 - iv. All elections should be preceded by a notification to every member of each constituency that announces the upcoming elections and any relevant dates and specifies a nominations period that permits candidates to nominate themselves electronically. Services such as the OIT survey system or free alternatives (such as Survey Monkey) are user-friendly options for collecting both nominations and votes.
 - v. Procedures for filling vacancies in any position should be addressed.
 - vi. To the degree feasible, plans should also include minimum standards for elections within the various sub-units.

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- 16.** As a general rule, the membership of such committees should be composed primarily of – and presided over by – elected members of the primary shared governance body in the college. Furthermore, elected members of the larger body should select who serves on any executive committees, rather than, for example, permitting representatives to be appointed by the dean. Plans should include descriptions of election procedures for any elected positions within the college shared governance structure.

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17. The standard approach to calculating quorum sets the number at 50% + 1 of *voting members*. In some cases, it is useful to set that threshold higher. For meetings of the unit-wide assembly or bodies of a similar size, quorum should be a majority of the elected members who have not notified the appropriate individual (generally the chair of the body or its secretary) they will be absent. For meetings of committees of the unit-wide assembly or similar bodies, quorum should be set at a number that ensures that no business may be conducted at a meeting at which a majority of the members are not Faculty. Administrative appointments generally do not count towards quorum.

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19. The unit-wide assembly should meet as often as is necessary, but no less than twice per year. The majority of the work in the shared governance structure should take place in smaller bodies, such as committees. These should meet more frequently, and should report their activities to the unit-wide assembly, and any executive committee(s) of the college.

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21. This review committee must be comprised of members from each constituency who are selected by their constituencies. These members may be elected from the unit-wide assembly or other elected bodies within the college, or may be elected specifically for the purpose of service on the review committee. In the absence of specific procedures, plans should specifically reference and follow the language articulated in the University Plan of Organization (11.1.B).

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UNIVERSITY OF
MARYLAND
UNIVERSITY SENATE

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<http://www.senate.umd.edu>

May 16, 2011

Marc Pound
Chair
Elections, Representation & Governance (ERG) Committee

Dear Marc,

The Senate Executive Committee (SEC) reviewed the Elections, Representation & Governance (ERG) Committee's report on "Preservation of Shared Governance During Reorganizations, Consolidations, and Mergers" (Senate Document #: 09-10-49) at its meeting on May 12, 2011. On behalf of the SEC, I would like to commend your committee on its thoughtful review of this issue. We recognize that shared governance is a key element of our campus structure and should be incorporated into college and unit plans of organization. However, the SEC feels that the ERG recommendation for punitive measures, if a college/school does not comply with requests to revise its plan of organization, is not appropriate. Several members suggested that if an initial request from the Senate Office were disregarded, a request from the Provost's Office would be sufficient. Therefore, the SEC suggests that the ERG Committee reconsider the following language (**in bold**), in your report:

- *ERG recommends that action should be taken if a school, college, or department/unit does not review its plan every ten years. **This action should initially be administrative, but there should be flexibility to take further action if administrative measures are unsuccessful.***

*If a dean is recalcitrant in initiating a college plan review at the ten-year mark, the Senate Office should contact the Provost to pursue the issue. **In the event that the plan is still not reviewed in a timely manner, punitive action could be taken. Plan Article 11.1.d suggests an appropriate sanction: "No faculty members of the Library, a College, or a School without an approved Plan of Organization may be seated in the Senate."** We recommend consideration be given to allow the SEC to levy the same penalty on colleges who fail to review their plan every ten years (if this requires a change to the Plan, please consider this a recommendation to the next PORC).*

We hope to reconsider the ERG recommendations in the fall. Please let me know if you have any questions or concerns.

Sincerely,

A handwritten signature in blue ink that reads "Eric Kasischke".

Eric Kasischke
Chair

EK/rm



University Senate CHARGE

Date:	August 24, 2010
To:	Marc Pound Chair, Elections, Representation & Governance Committee
From:	Linda Mabbs Chair, University Senate
Subject:	Preservation of Shared Governance During Reorganizations, Consolidations, and Mergers
Senate Document #:	09-10-49
Deadline:	December 1, 2010

The Senate Executive Committee (SEC) requests that the Elections, Representation, and Governance (ERG) Committee review the attached proposal and report on whether changes should be made to the current process for reorganizations, mergers, and consolidations of units/colleges at the University of Maryland.

As you know, the University has been in the midst of several mergers or reorganizations this past year. The most recent of these was the successful merger of the Dance and Theatre departments. Several SEC members and Senators raised concerns about the diminution of shared governance during that process and within the School of Theatre and Dance's newly proposed Plan of Organization. This merger passed the Senate but raised concerns about this process in the future.

The attached proposal requests that the Senate review current practices and make recommendations for improvement if necessary. Specifically, we ask that you review the following with regard to Plans of Organization:

1. Review whether the Senate's current process of reviewing Plans of Organization conforms to the procedures set forth in the University's Plan of Organization (Article 11).
2. Comment on whether the University Plan of Organization should be amended by the next Plan of Organization Review Committee (PORC) to mandate Senate review of departmental/unit Plans in addition to college approval. Please include benefits and drawbacks of such a change.
3. Comment on whether the procedures set forth for the creation or revision of an existing academic unit's Plan should also apply to creation of new units, mergers, consolidations, or reorganizations.

4. Comment on whether the Plan of Organization should require that the Plan of any College, School, Department, the Library, or other academic unit meet minimum standards. If so, please identify appropriate elements that should be included in each Plan and how shared governance can be incorporated into those Plans.

Please also review the following with regard to ensuring the incorporation of shared governance:

1. Comment on whether any Plan of Organization that comes to the Senate should be reviewed by the ERG Committee to ensure compliance with University System of Maryland (USM) and Senate principles for shared governance.
2. Comment on the need for resources (e.g. checklists, procedural roadmaps, etc.) with regard to creating plans of organizations for units considering mergers, consolidations, or reorganizations.
3. Review and comment on best practices for designing committee structures that balance efficiency and the inclusion of all relevant constituencies.

We ask that you submit your report and recommendations to the Senate Office no later than December 1, 2010. If you have questions or need assistance, please contact Reka Montfort in the Senate Office, extension 5-5804.

May 13, 2010

Dr. Linda Mabbs
Chair, University Senate
1100 Marie Mount Hall
University of Maryland
College Park, MD 20742

Dear Dr. Mabbs:

I am writing on behalf of my colleague on the Senate Executive Committee, Jonathan Sachs, and the Graduate Student Government Executive Committee to ask for your assistance with a set of related issues that are of the utmost importance to the Senate, and affect the health and strength of the entire University community. These concerns relate to University procedures regarding the creation, merger, consolidation, or reorganization of colleges, schools, departments, and other academic units (hereafter “units”).

As you know, the Senate recently approved the merger of the Department of Theatre and Performance Studies and the Department of Dance. Both the process and product of this merger reveal deficiencies and lacunae in current University procedures, and have resulted in an unfortunate diminution of shared governance in the new school’s plan of organization.¹ In regard to the process, we are concerned that:

- The individuals who drafted the structure and plan of organization were not elected, and represented a single constituency (faculty);
- Students in the affected programs were not informed of the merger or shown a draft of the new structure until approximately one week before an APAC forum where feedback on the merger was to be accepted;
- When student concerns were expressed to the Chair of Theatre (Dan Wagner, now Director of the School of Theatre, Dance, and Performance Studies), he responded that the plan would not be modified, given such a process would require a re-vote by the faculty of each department;
- It was only after a concerted effort directed at the Dean of the Graduate School, the Dean of the College of Arts and Humanities, and the SEC, that Wagner agreed to create an ad hoc committee to re-consider graduate student representation on the new school’s committee structure;

¹ While both Dean Harris and Dan Wagner have characterized it as a preservation of the degree of involvement mandated by the previous structure, their assessment is based not on the most recent, faculty-approved version of Theatre’s Plan of Organization (dated 5/12/2008), but on changes in practice that have taken place in the last two years, changes that have led to a reduction of student involvement. For example, the previous plan of organization of Theatre included elected student membership on the Season Selection Committee (the committee selects which plays or performances will take place in a given academic year). The new plan excludes students from the committee entirely, and any proposals from students must be channeled through a faculty committee member. Additionally, a committee in the former Department of Theatre (Off Center Selection Committee) with elected undergraduate student membership and a graduate student chair, has been eliminated in the new plan, and there is no indication where those functions fall in the new committee structure.

- In speaking before the SEC, Wagner refused to ask the ad hoc committee to consider undergraduate or staff representation on the committee structure.²

In regard to the Plan of Organization that was ultimately approved by the Senate, we are concerned that:

- The committee structure includes only four students – one graduate and one undergraduate from each of the former departments – on a single committee (the Committee of the Whole);
- Those student serve in a non-voting capacity, and are not elected by their respective constituencies, as is recommended by University System of Maryland policy;
- None of the remaining 16 committees permit student membership;
- Staff are not permitted to vote on the Committee of the Whole;
- Of the 15 committees (the APT committee has 4 subcommittees, though it is generally treated as one committee) proposed in the new structure, only 2 of them have a membership that is directly elected, while membership on the other 13 committees is either ex officio, or appointed by the Director of the new school (in consultation with various entities).

Both the shortcomings in the process and the lack of effective shared governance in the product of this merger could easily have been avoided by relying a more transparent, inclusive approach that involved (or at least consulted with) all the constituencies in the new school.

The Theatre/Dance merger is only the most recent manifestation of what we see as an unfortunate trend that requires prompt attention by the Senate. Earlier this year, a reorganization of the College of Education was under consideration (it is our understanding that those plans are currently on hold, though we understand the reorganization will proceed in the future). At the request of the Provost, members of the GSG and SGA agreed to serve as liaisons to APAC, and were tasked with gathering student feedback on the proposed reorganization.³ We found that a similar, and similarly disheartening, disregard for student input characterized the process by which the plan was drafted and considered. Not only had students not been involved in the planning, those in all but one of the affected programs had not even seen a draft of the proposal. While the process seems to have been far more inclusive of faculty, a recent Diamondback article suggests that there are still significant concerns with how the reorganization was considered and pursued.

Conversations with the Provost and Associate Provost for Academic Planning and Programs have confirmed that there is no standard template for programs interested in merging/consolidating/reorganizing, and no clear set of procedures for them to follow, given the rarity and specificity of such substantial changes. While the Senate's Plan of Organization establishes a process whereby either the creation or revision of a unit plan of organization is to be reviewed by appropriate Senate committees, there is ambiguity in interpreting precisely which

² Dean Harris indicated at the 29 April Senate meeting that the ad hoc committee would, indeed, investigate graduate, undergraduate, and staff representation on the school's committee structure.

³ As the GSG's Vice President for Academic Affairs, I participated in this process. The report we produced is available upon request.

committees that entails (in the case of the Theatre/Dance merger, for example, only the Senate PCC Committee approved the merger; the ERG Committee, which is charged with reviewing plans of organization, was not involved). We feel this is untenable, and – particularly given the imminent changes to CMPS and CLFS, and the likelihood of additional mergers as the goals of the Strategic Plan are pursued – that it warrants investigation by the Senate. As the formal organ of shared governance at this University, the Senate is uniquely situated and empowered to ensure that best practices in shared governance are followed, and that the traditions of shared governance that are such an important part of this institution’s success are not only maintained, but strengthened.

As such, we respectfully request that the SEC consider charging the 2010-2011 ERG Committee with the following tasks:

- Investigate current practices and procedures related to the consideration, planning, and execution of mergers, consolidations, and reorganizations of existing units; should those practices or procedures be found deficient, specific recommendations regarding the creation or revision of Senate or Academic Affairs policies should be made.
- Investigate current and historical Senate practice regarding the creation or review of unit plans of organization, and report on whether that practice accords with current policy, and whether revisions to Senate procedures are necessary to ensure adequate oversight.
- Assess the resources (both formal and informal) available to units considering mergers, consolidations, or reorganizations, and recommend whether the Senate can and/or should play a role in assisting units in creating plans of organization that respect and strengthen shared governance.
- Create a list of best practices for designing committee structures that balance efficiency with respect for the opinions and participation of all constituencies, and that ensure USM policies on shared governance are followed.

Thank you very much for your time and consideration of this important issue.

Sincerely,



Aaron Tobiason
University Senator, College of ARHU, 2008-2010
Vice President for Academic Affairs, GSG



University Senate TRANSMITTAL FORM

Senate Document #:	10-11-49
Title:	Revisions to the School of Public Health Plan of Organization
Presenter:	Kenneth Fleischmann, Chair, Elections, Representation, & Governance (ERG) Committee
Date of SEC Review:	November 29, 2011
Date of Senate Review:	December 8, 2011
Voting (highlight one):	<ol style="list-style-type: none"> 1. On resolutions or recommendations one by one, or 2. In a single vote 3. To endorse entire report
Statement of Issue:	<p>The University of Maryland Plan of Organization mandates that all Colleges and Schools be governed by a Plan of Organization that conforms to the stipulations set forth in the University of Maryland Plan of Organization, Article 11. College and School Plans of Organization must be reviewed and approved by the University Senate for compliance. The Senate Elections, Representation, and Governance (ERG) Committee is the standing committee responsible for conducting these reviews. The Senate Faculty Affairs Committee is responsible for reviewing the Appointment, Promotion, and Tenure (APT) Committee section of the Plan and submitting an approved version to the ERG Committee. Any Plan of Organization under review that is determined not to be in compliance with the University of Maryland Plan of Organization, Article 11 is returned to the College or School for revision. The School of Public Health (SPHL) submitted its Plan of Organization to the Senate for review on November 12, 2010.</p>
Relevant Policy # & URL:	https://www.senate.umd.edu/governingdocs/Plan_of_Organization.pdf
Recommendation:	The ERG Committee recommends the Senate approve the revised School of Public Health Plan of Organization.
Committee Work:	The ERG Committee reviewed the School of Public Health (SPHL) Plan of Organization at its December 2010, March, April, and September 2011 meetings. The Plan was found to be out of compliance with the University Plan of Organization and Article 11 at each of these meetings. Subsequent to each meeting the ERG Committee sent comments and suggestions for revision to the SPHL.

	<p>On September 30, 2011 the SPHL submitted a final version of the SPHL Plan of Organization to the ERG Committee. The Committee discussed the revised Plan prior to their November Committee meeting and identified a few remaining areas of concern. The Committee agreed to invite representatives from the SPHL to attend the November 7th ERG meeting to address these remaining issues. On November 7, 2011 Mary Kivlighan, Assistant Dean of the SPHL, Cheryl Holt, SPHL Senate Chair, and Brad Hatfield, SPHL past SPHL Senate Chair, joined the ERG Committee at their meeting. The ERG Committee and the SPHL representatives resolved all remaining concerns at this time and the ERG Committee voted to approve the Plan.</p>
Alternatives:	The updated SPHL could not be approved and the SPHL would be bound by their existing Plan of Organization.
Risks:	If not approved, there is a risk that the SPHL would become out of compliance with the University of Maryland Plan of Organization requirement that the SPHL Plan of Organization be reviewed and approved by the University Senate every ten years.
Financial Implications:	There are no financial implications.
Further Approvals Required:	Senate and Presidential approvals are required.

Elections, Representation, & Governance (ERG) Committee
Report on the Revisions to the School of Public Health Plan of Organization
Senate Doc #10-11-49
November 2011

Background

The University of Maryland Plan of Organization mandates that all Colleges and Schools be governed by a Plan of Organization that conforms to the stipulations set forth in the University of Maryland Plan of Organization, Article 11. College and School Plans of Organization must be reviewed and approved by the University Senate for compliance. The Senate Elections, Representation, and Governance (ERG) Committee is the standing committee responsible for conducting these reviews. The Senate Faculty Affairs Committee is responsible for reviewing the Appointment, Promotion, and Tenure (APT) Committee section of the Plan and submitting an approved version to the ERG Committee. Any Plan of Organization under review that is determined not to be in compliance with the University of Maryland Plan of Organization, Article 11 is returned to the College or School for revision. The School of Public Health (SPHL) submitted its revised Plan of Organization to the Senate for review on November 12, 2010.

Committee Work

The ERG Committee began review of the SPHL Plan at its December 1, 2010 meeting. The Committee identified four overarching areas of concern:

1. Organization of content
2. Inconsistency in terms used to describe faculty
3. APT section
4. Underrepresentation of students and staff on the School Senate

The ERG Committee agreed that the SPHL Plan was not in compliance with the University's Plan of Organization and returned the Plan to the SPHL with comments and suggestions for revisions.

At the March 9, 2011 ERG Committee meeting the Committee reviewed the SPHL's submitted revisions to the Plan. The Committee determined that their not all of their original concerns had been addressed and that the SPHL Plan was still not in compliance with the University Plan of Organization. The Committee voted to return the Plan to the SPHL. Additionally, the Committee voted to send a letter to the SPHL detailing the Committee's specific concerns. The Committee also invited representatives from the SPHL to meet and discuss suggested revisions to the Plan. The invitation for this meeting was declined by the SPHL.

In April 2011 the SPHL resubmitted a revised Plan to the ERG Committee. The Committee met on April 27th to review these revisions and determined that the Plan was still not in full compliance with the University Plan of Organization. The Committee voted to return the Plan to

the SPHL with further comments and suggestions.

On September 30, 2011 the SPHL submitted a newly revised version of the SPHL Plan to the ERG Committee. The Committee discussed the revised Plan at its October 3, 2011 meeting and agreed to invite representatives from the SPHL to attend the November 7th ERG Committee meeting in order to address the final remaining concerns and to complete the review process. On November 7, 2011 Mary Kivlighan, Assistant Dean of the SPHL, Cheryl Holt, SPHL Senate Chair, and Brad Hatfield, SPHL past SPHL Senate Chair, joined the ERG Committee at their meeting. All remaining concerns with the Plan were resolved at this time and the ERG Committee voted to approve the Plan.

Recommendation

The ERG Committee recommends the Senate approve the revised School of Public Health Plan of Organization.

Appendices:

Appendix 1: February 2008 School of Public Health Plan of Organization (with track changes)

Appendix 2: Revised 2011 School of Public Health Plan or Organization

Appendix 1

School of Public Health ([SPH](#))

Preamble PREAMBLE

The purpose of this Plan of Organization is to provide a framework within which the School of Public Health ([SPH](#)) can fulfill its mission in a manner that respects and accommodates the interests, rights, and responsibilities of all [its](#) faculty, staff, and students in the School. This Plan of Organization is aligned with the University Plan of Organization.

Mission Statement [ARTICLE I – MISSION](#)

The mission of the School of Public Health is to promote and protect the health and well-being of the citizens of Maryland, the nation, and the world through interdisciplinary education, research, public policy, and practice. [The mission of the School is implemented through the six academic units and the Office of the Dean as listed below.](#)

~~I. Units Within the School~~

~~The mission of the School is implemented through the operating units of the School. These include the:~~

- ~~A. Department of Epidemiology and Biostatistics~~
- ~~B. Department of Family Science~~
- ~~C. Department of Health Services Administration~~
- ~~D. Department of Kinesiology~~
- ~~E. Department of Public and Community Health.~~
- ~~F. Maryland Institute for Applied Environmental Health~~
- ~~G. Office of the Dean~~

- [Department of Behavioral and Community Health](#)
- [Department of Epidemiology and Biostatistics](#)
- [Department of Family Science](#)
- [Department of Health Services Administration](#)
- [Department of Kinesiology](#)
- [Maryland Institute for Applied Environmental Health](#)
- [Office of the Dean](#)

Each academic unit within the School shall have a plan of organization that is aligned with the School and University plans of organization and that embodies shared governance principles and relevant University policies such as the policies on Appointment, Promotion, and Tenure.

[ARTICLE II – SHARED GOVERNANCE](#)

[The School is dedicated to the principles of shared governance through the active participation of faculty, staff, and students in establishing the goals, policies, and programs which are a part of the University and the School of Public Health. Shared governance is an essential component in the development and maintenance of an educational environment which promotes the highest standards of excellence in teaching, learning, research, and service.](#)

[The School of Public Health is allotted three University Senate seats to represent the six academic units. Accordingly, an equitable rotational plan as described below has been designed](#)

to ensure balanced representation to the University Senate in that all faculty have an opportunity to serve as University Senators.

One faculty member from three of the six academic units will represent the School for a three-year term. The order of representation will be: Epidemiology and Biostatistics (EPIB), Family Science (FMSC), Behavioral and Community Health (BCH), Health Services Administration (HLSA), Maryland Institute for Applied Environmental Health (MIAEH), and Kinesiology (KNES). At the end of an elected Senator's term the next unit in line will elect a new University Senator to represent the school.

The responsibility for identification of a faculty member, as described in Article IV, to fill the seat is left to the individual academic unit to determine how best to elect the University Senator. If a unit encounters problems in electing a representative, the unit shall notify the Senate Executive Committee of the issue.

~~H. Administration~~ ARTICLE III – SCHOOL ADMINISTRATION

The administration of the School is overseen by the Dean, ~~associate~~Associate and ~~assistant deans~~Assistant Deans, and ~~unit chairpersons~~Unit Chairpersons and ~~directors~~Directors; facilitated by the School Administrative Council; advised by the ~~School Board of Visitors; and constituent groups as identified below; and is~~ responsive to the School Senate.

A. Administration

1. Dean

~~The~~As the chief ~~administrator~~administrative and academic officer of the School ~~is,~~ the ~~Dean.~~ The Dean is responsible for ~~exercising professional and academic leadership. In addition, the Dean must exercise~~ all functions delegated to him ~~or~~/her by the Senior Vice President for Academic Affairs and Provost, including ~~the budget and fiscal oversight;~~ recommendations for appointments, tenure, and ~~promotion;~~ curriculum and research development; strategic planning; development; and outreach.

~~B.2.~~ Associate and Assistant Deans

~~The Dean may appoint Associate and Assistant Deans to oversee specific functions 19 which include including, but not limited to,~~ academic ~~affairs,~~ student ~~affairs,~~ faculty ~~affairs,~~ research, and administrative affairs; diversity; development; and strategic initiatives ~~and others as identified.~~

~~C.3.~~ Unit Chairpersons and Directors

Each Chairperson and Director serves as the chief administrative officer of his/her unit, exercising all functions delegated ~~to him/her~~ by the Dean. These responsibilities include ~~the oversight of a~~ unit budget ~~and;~~ recommendations for appointments, promotions, and tenure; ~~promotion;~~ curriculum; and research development and implementation; and outreach and development.

~~D.B.~~ Standing Committees and Councils in the Dean's Office

1. School Administrative Council

a. Membership

The School Administrative Council is comprised of the Dean (who serves as Chairperson), Associate/Assistant ~~Dean(s), Deans,~~ Unit Chairpersons and Directors, the School Equity Officer, ~~a representative of the and one~~ undergraduate and one graduate student ~~bodies, and other School administrative staff as needed-~~appointed from the Dean's Student Advisory Committee.

2b. Function

~~The Council, which meets monthly during the academic year, serves as a forum for the exchange of ideas and the sharing of information regarding the administration and operation of the School. This is not a decision making body. All items identified for Senate action by the School Administrative Council must be forwarded to the Senate Executive Committee.~~

The Council serves as a forum for the exchange of ideas and the sharing of information regarding the administration and operation of the School. This is an advisory body. Any items identified for Senate action by the School Administrative Council must be forwarded to the Senate Executive Committee.

c. Meetings

The School's Administrative Council meets monthly during the academic year.

2. Chairs and Directors Council

a. Membership

The Chairs and Directors Council is comprised of the Dean (who serves as Chairperson) and all Unit Chairpersons and Directors.

b. Function

The Council serves as a forum for academic unit heads to meet with the Dean to exchange ideas and share information relevant to academic units. It is not a decision making body. This is an advisory body. Any items identified for Senate action by the School Administrative Council must be forwarded to the Senate Executive Committee.

c. Meetings

The Dean convenes and chairs this Council monthly. Meetings can be called more often as need by the Dean, Unit Chairperson or Director.

3. Board of Visitors (~~BOV~~)

1a. Membership

The Board of Visitors is comprised of between eight and fifteen members, appointed through ~~the~~ nominations and elections process approved by the Board. ~~As specified by the Board's Bylaws: "Members must demonstrate a commitment and Dean. The membership is committed to the wellbeing and advancement of the School and University; represents the leadership among of key constituencies in the public, private, and nonprofit sectors; financial support; perspective and expertise on substantive related to public health issues, government and public relations,~~

~~leadership, management and related issues; and representation of the multiplicity of racial and ethnic groups in the region, gender, knowledge, skills and perspectives.”~~

2b. Function

The Board of Visitors provides advice and guidance to the Dean, faculty, and staff to enhance the School’s educational mission; ~~to~~ establish working relationships with leaders in the ~~public,~~ private, ~~public~~ and nonprofit sectors; and to strengthen the School’s financial position.

c. Meetings

The Board of Visitors ~~exists under~~is an advisory group that serves at the ~~purview~~pleasure of the Dean ~~and meets on an as needed basis.~~

4. Community Advisory Council (CAC)

a. Membership

The Community Advisory Council is comprised of between eight and fifteen public health practitioners from local and state health and policy organizations. These members represent leaders from key constituencies in the public, private, and nonprofit sectors with expertise in the public health forum. Members are appointed by the Dean.

b. Function

The CAC provides advice and guidance to the Dean, faculty, and staff to enhance the School’s community engagement and program development. The Council members serve as advisors to the Dean and the School, with emphasis on advice to the School. As public health practitioners, they advise the Dean concerning needs and directions for community-based research, service, and partnerships.

c. Meetings

The CAC meets at a minimum twice a year and is convened and chaired by the Dean or the Dean’s Designee.

5. Student Advisory Committee

a. Membership

The Student Advisory Committee (SAC) shall be comprised of student members from each academic unit within the School, to include student members from each degree-level a unit offers (minimum of one undergraduate, one master’s, and one doctoral student per unit), and the undergraduate SPH representative to the University Student Government Association. The students shall be nominated by the heads of each academic unit with support from his/her faculty advisor. The chief criterion for selection to serve on the SAC is the student’s engagement with the departmental student community and ability to collect and represent a wide variety of student input on any issues. Student members may serve up to two years. The names of the members shall be forwarded to the Dean prior to the beginning of each academic year.

b. Function

This SAC shall be responsible for engaging with the broader SPH student community and providing the Dean with student perspectives on School-wide needs, problems, concerns, issues, and general input on future plans. To support this effort an undergraduate and graduate student from this committee will be appointed to the School's Administrative Council.

c. Meetings

The SAC will meet monthly during the academic year. The Dean or the Dean's Designee convenes and chairs this committee. Each year, the initial meeting shall be called by the Dean's designee to elect a Chair of the Committee from among the current SAC membership.

C. Ad Hoc Committees

Additional committees shall be appointed by the Dean as necessary.

III. The School Senate ARTICLE IV – THE SCHOOL SENATE

The School Senate provides the means for the School to fulfill its responsibilities for is the School's primary organ of shared governance, providing a forum for the faculty, students, and staff to participate in the governance of the school. The Senate meets, at a minimum, biannually to vote on or be informed learn of major initiatives of the campus and School.

A. Functions of the Senate

- To approve plans establish and modify educational and other policies within relevant to the general framework functions of University policies for the governance School and within its purview.
- To advise the Dean of the School. To advise the Dean of the School of Public Health on any matter of concern to the School. To and act as a referendum body on questions referred to it by the Dean, faculty, staff, and students of the School.

To establish and modify educational and other policies relevant to the functions of the School, and within its purview, as some policies are campus driven and cannot be modified.

To adopt the plan of organization for the School and amendments thereto. 89

- To provide a means forum for the exchange of information concerning the various activities and programs in the School.
- To regularly inform constituencies of School Senate actions.

B. Membership

The Senate membership shall include all School employees holding academic with faculty appointments, as well as representatives from the School's staff and students. Voting members of the Senate include:

1. Faculty

All faculty members of the School. A faculty member is defined as one who holds the academic rank of lecturer, instructor, assistant professor, associate professor, professor, 23 assistant research scientist/scholar/professor, associate research scientist/scholar/professor, and research scientist/scholar/professor or scientist and others who are greater than Lecturer,

Instructor, Assistant Professor, Associate Professor, Professor, Professor of the Practice, Assistant Research Scientist/Scholar/Professor, Associate Research Scientist/Scholar/Professor, Research Scientist/Scholar/Professor, Faculty Research Assistant, Research Associate, and Adjunct Faculty. Furthermore, faculty members of the School Senate must hold appointments of at least 50% time-members of in the faculty, ~~and who are administratively responsible, directly or indirectly, to the Office of the President of the College Park Campus of the University of Maryland. Where~~ School. If a faculty member has a joint appointment in two or more units, he/she shall be counted with ~~that~~the unit in which ~~his/her~~the tenure resides.

2. Staff

There shall be one elected ~~representative~~Senator from the full-time exempt staff and one from the full-time non-exempt staff, elected by ~~and from~~ their respective groups within the School: on an alternating schedule. For purposes of representation in the Senate, staff constituents are defined as those who hold ~~a~~ full-time, permanent ~~appointment~~appointments as defined by the applicable University definitions and classifications. ~~The term of the elected staff members shall be for two years that are staggered.~~ The names of the newly elected ~~representatives~~Senators shall be given to the Chair of the Senate Executive Committee prior to the first Assembly Senate meeting of the academic year. The terms of the elected staff members shall be two years.

3. Students

The student constituency is divided into two independent categories (undergraduate and graduate) from which Senators are elected. These terms are for one year. ~~(undergraduate and graduate) from which representatives are elected.~~

a. Undergraduate Student Members

There shall be three undergraduate student ~~representatives.~~ Senators. These ~~representatives~~Senators must have declared a major in one of the undergraduate programs offered in the School of Public Health and shall be elected each year from and by each unit's undergraduate student body. Names of the newly elected ~~representatives~~ Student Senators shall be given to the Chair of the Senate Executive Committee prior to the first Senate meeting ~~for~~of the academic year.

b. Graduate Student Members

There shall be three graduate student ~~representatives~~Senators, one each from the professional master's programs (collectively), the academic master's ~~program~~programs (collectively), and the doctoral programs (collectively). ~~Representatives~~Student Senators shall be elected each year ~~from and~~ by the School's full graduate student body. Names of the newly elected ~~representatives~~ Senators shall be given to the Chair of the Senate prior to the first Assembly Senate meeting of the academic year.

4. Ex-officio ~~members~~Members of the School Senate:

Unless otherwise elected as a voting member of the Senate by an appropriate constituency, the following shall be ex-officio, non-voting ~~ex-officio,~~ members of the Senate: Senate:

~~a. the~~ The Dean

~~b.~~ Assistant and Associate Deans

~~c. Chairs of academic units~~

~~4. • Unit Chairpersons and Directors of centers and institutes~~

C. Meetings

The School Senate shall meet ~~twice each year, at minimum, biannually,~~ with additional meetings scheduled as needed. ~~These Biannual meetings, referred to as the School Assembly, will shall~~ convene once a semester and are open to all ~~faculty, staff, and students.~~ The first ~~meetings~~ ~~will meeting shall~~ be for the purpose of receiving a state of the campus and School report by the School's Dean. ~~The and other items as proposed by the Dean and the Senate Executive Committee. The~~ second meeting ~~will shall~~ convene at the end of the academic year ~~and, when~~ all committees ~~will described in Article V shall~~ provide a verbal ~~and/or~~ written report to the full Senate. ~~The Chair-Elect of the Senate for the coming year will be elected at this meeting.~~ Special meetings may be called by the Chair of the Senate Executive Committee (~~see (as defined in Article IV.E~~ below), by a unit ~~via the unit head,~~ or by a petition signed by a minimum of 25 percent of the ~~members of the School Senate. members of the School Senate. In order to hold a meeting, a quorum~~ Quorum of the Senate membership ~~must shall~~ be ~~present. a simple majority.~~ ~~However, a two-thirds approval majority~~ of those voting shall be required for all items requiring Senate action. ~~Senate ratification.~~

D. ~~Elections~~ Election

1. Elections of the Senate Chair and Chair-Elect

~~The~~ Chair-Elect of the Senate shall be a tenure-track faculty ~~who shall be member~~ elected by a majority vote of the Senate ~~and will serve a two-year term, the first year as at the second regularly scheduled meeting of the School Senate. The term of office of~~ the Chair-Elect ~~and the second shall be one year followed by a one-year term~~ as Chair. The Chair of the Senate ~~will shall~~ also serve as Chair of the Senate Executive Committee.

2. General Elections

The Chair of the School Senate ~~serves as a coordinator for~~ ~~oversees the~~ elections for the ~~University and School. All unit and school Senators. These~~ elections ~~will be conducted according to the~~ are handled as described above, but the Senate Chair has final oversight authority to ensure that the School is represented fairly and equitably. ~~guidelines of the University Senate. Elections are held in the units at their discretion.~~

~~E. Committees of the Senate~~ E. Senate Executive Committee

The School Senate is supported by the Senate Executive Committee, ~~standing committees of the Senate,~~ and ~~other any ad hoc~~ committees deemed necessary to fulfill the functions of the School. ~~There are six academic units in the School represented on the SPH Senate Executive Committee. The Senate Executive Committee has sixteen voting members--six faculty Senators, two staff Senators, six student Senators, the Senate Chair, and the Senate Chair-Elect. The Dean or his/her designee is an ex-officio member with no voting rights. Each member, with the exception of student Senators and Dean's designee shall serve for a period of two years. The terms are staggered such that only one-half of the Senators will terminate their membership at the end of a given year. This will ensure reasonable continuity of the membership serving on the Senate Executive Committee and provide for an evenly distributed overlap of new and continuing~~

members each year. The Student Senators will serve for a one year term and the dean's designee is ongoing.

1. Membership

~~a-~~ Membership shall include: ~~One one~~ faculty ~~representativesenator~~ per unit. ~~The~~ To serve on the Senate Executive Committee, a faculty member must ~~hold a full-time tenure track/tenure appointment. A faculty member is defined as be~~ a full-time appointee who holds the academic rank of ~~assistant professor, associate professor, or professor.~~ Assistant Professor, Associate Professor, or Professor. Faculty members will serve a two-year term. The terms of the members ~~will~~shall be staggered ~~so that half of the faculty leave and half stay each year. Units. Each unit shall determine how they will elect their representativesit elects its representative.~~ The name of the newly elected departmental representative shall be given to the Chair of the Senate Executive Committee prior to the first Senate meeting of the academic year. ~~Chair of the Senate Executive Committee prior to the first Assembly meeting of the academic year. The two elected~~ Elected staff ~~representatives~~ Senators and student Senators shall also serve as ~~the staff representatives~~ on the Senate Executive Committee. ~~Ex-officio members~~ The Dean of the School will ~~The Dean's designee shall~~ serve as an ex-officio member of the Committee. ~~and does not have voting rights but provides administrative support to the Senate Executive Committee.~~

b2. Quorum

To hold a meeting there must be 2/3 membership present.

3. Functions

The Senate Executive Committee ~~will consider, make recommendations, and shall~~ develop proposals and recommend actions to be taken on any matter of ~~collegiate, campus and~~ School or university concern. The functions of the Committee ~~will~~shall include, but not be limited to, the following:

~~To develop~~ Develop and recommend to the Senate at large plans and policies within the general framework of University policies for the governance of the School.

~~To set dates and to prepare the agendas~~ Assist in preparing the agenda for the School Assembly Meetings.

~~To establish~~ Establish special or ad hoc committees for the School and ~~to~~ appoint the membership of those committees ~~not subject to the elective processwhose members are not elected.~~

~~To~~ Identify and refer to the full Senate ~~all~~ those matters ~~deemed to require~~ requiring Senate ratification and/or input. ~~To refer any item of unusual circumstances to the 30 School Senate for a vote deemed necessary.~~

Advise ~~requirements and quorum practices of the School Senate will be followed. To inform constituencies regularly of School Senate actions. To initiate action on any matter of concern to the School. To advise~~ the Dean on matters of concern to the administration and development of the School.

Document the actions and proceedings of the School Senate.

2. Ad Hoc Committees

~~Appropriate committees shall be appointed by the Senate Executive Committee as needed to carry out the functions of the Senate.~~

IV. Standing and Ad Hoc Committees of the School ARTICLE V – STANDING COMMITTEES OF THE SCHOOL

~~The School is supported by three standing committees: the Programs, Curricula, and Courses Committee, Appointment, Promotion and Tenure Committee, and the Graduate Public Health Programs Committee, and other ad hoc committees deemed necessary to fulfill the functions of the School.~~ The School is supported by six standing committees and any ad hoc committees deemed necessary to fulfill the functions of the School. The standing committees include: the Appointment, Promotion, and Tenure Committee (APT); the Diversity Council; the Graduate Public Health Programs Committee (GPH); the Planning and Evaluation Process for Strategic Implementation Committee (PEPSI); the Programs, Curricula, and Courses Committee (PCC); and the Undergraduate Academic Programs Committee (UAPC).

AB. Appointment, Promotion, and Tenure Committee (APT)

The rules for promotion and tenure are set forth in the UMCP and USM policies and are reflected in the Appointment, Promotion, and Tenure Manual published annually by the Office of Faculty Affairs. The policies and manual can be found on the faculty affairs website at <http://www.faculty.umd.edu>.

1. Membership

The School APT Committee must have a minimum of ~~seven~~⁷ full professors as professor members, though it may be expanded to include research faculty when a promotion case for research faculty is being considered. All members are appointed by the Dean from a slate of candidates provided by each ~~Unit Chairperson~~ Department Chair or Director. The ~~Committee committee of seven~~ shall elect its own chairperson and an alternate chairperson. The Dean ~~shall also appoint~~ appoints an ~~Associate/Assistant Dean~~ associate/assistant dean or other designee as an ex-officio, non-voting member of the committee.

2. Voting and Report of Vote

The Chair of the School APT Committee shall will provide written notification as relative to the date, time, and place of the formal ~~meetings~~ meeting of the Committee.- The Chair of the Committee shall will conduct the meetings and provide an opportunity for a full discussion of any candidate's ~~the Candidate's~~ complete application packet, including external letters of evaluation. Following the discussion, a vote shall will be taken by secret ballot. When a decision contrary to either ~~In timely fashion,~~ the recommendation of the first-level administrator or the first-level faculty review committee (the academic unit) is anticipated, the second-level review committee (the School) shall provide an opportunity for the chair of the first-level academic unit and the designated chair of the first-level unit review committee to meet with the second-level committee to discuss their recommendations with the members of the second-level committee.

3. Reporting of Votes

The Chair of the Committee ~~shall will~~ prepare a written letter that represents the sentiments of the Committee. This report should summarize, discuss, and evaluate the faculty member's contributions in the areas of (1) research, scholarly, and creative activities; (2) teaching and advising; and (3) service. In addition, a brief summary statement emphasizing the most significant contributions of the faculty member in these three areas should be presented. Particularly ~~in cases of~~ promotion to Associate Professor, the statement should include an evaluation of the faculty member's potential for continued contributions to the national and international recognition of the program. The report ~~shall will~~ also include the ~~following items:~~

~~a. The recording of a positive or negative recommendation of the committee (subject to based on the requirement that all eligible a simple majority (one more than one half of those present and voting) constitutes a positive recommendation.~~

~~b. When a decision contrary to either the recommendation of the first-level administrator or the first-level faculty review committee (the department) — or both — is anticipated, the second-level review committee (the School) shall provide an opportunity for the chair of the first-level academic unit and the designated chair of the first-level unit review committee to meet with the second-level committee to discuss their recommendations with the members are present. of the second-level committee.~~

~~e. Whether its recommendation is favorable or unfavorable, the Committee committee shall, as soon as possible but and no later than ten ~~(10)~~ days after the decision, transmit through the Dean its decision, its vote, and a written justification to the Provost.~~

University procedures for appointment, promotion, and tenure are then applied. The Dean of the School shall also promptly transmit his or her recommendation, with a written justification, to the Provost and to the members of the second-level review committee. A report of the decisions of the Dean and second level committee shall be provided to the administrator of the first-level unit, to the faculty spokesperson for the faculty review committee, and to the candidate.

43. Appeals Procedure

All appeals shall follow the "Guidelines and Appeals Process" as set forth in the UMCP: "University of Maryland at College Park Policy on Appointments, Promotion, and Tenure. II-1.00(A).

B. Diversity Council

1. Membership

The SPH Diversity Council shall report directly to the Dean. The Dean or his designee will chair the Committee. Other members of the Committee shall include the School's Equity Administrator, representatives from undergraduate education, graduate education, the Chair of the School Senate, one faculty representative from each department, two undergraduate student representatives, and two graduate student representatives. Students shall be nominated by faculty in their departments and will be selected based on their commitment to improving the academic and support climate for all students, especially students from diverse populations, as evidenced by their participation in other curricular activities.

2. Function

The Diversity Committee's responsibilities shall be to (a) generate and stimulate activities and initiatives described in, or consistent with, the School's diversity plan and School goals as established in the School's strategic plan; (b) facilitate the implementation of activities designed to meet the School's diversity goals; and (c) monitor and evaluate progress in meeting the diversity goals described in the diversity plan.

3. Meetings

The Diversity Committee shall meet monthly. Action items shall be developed at each meeting. The action items will allow the work of the Committee to be carried out during the intervening weeks between committee meetings. The Committee's first order of business each academic year shall be to review the Diversity Plan and align it with outcome measures stated in the strategic plan.

C. Graduate Public Health Programs Committee (GPH)

1. Membership

The ~~GPH Graduate Public Health Programs Committee~~ is comprised of the Graduate Program Chairs and Directors (or their designees/representatives) of all graduate degree-granting units in the SPH. The Dean shall designate dean designates ex-officio members as appropriate and shall appoint/appoints the Chair of the Committee.

2. Function

The GPH shall facilitate, ~~which meets every two weeks throughout the academic year, addresses the need for coordination between all graduate degree-granting units among Departments/Institutes~~ regarding public health curricula at the graduate level. Specifically, the GPH:

- ~~•a.~~ Coordinates ~~MPH/MHA program admissions~~, new graduate student orientation/orientation, public health core course scheduling/sequencing, and MPH/MHA course registration.
- ~~•b.~~ Develops and manages policies, procedures, and forms common across MPH/MHA programs and across all graduate programs where possible and appropriate.~~program administration~~
- ~~•c.~~ Coordinates ~~components of the MPH/MHA Capstone Experience common across programs, and~~ the collection/maintenance of data on the graduate public health program/curriculum relevant to the School of Public Health's/Health accreditation requirements.
- ~~•~~ Ensures alignment of graduate programs with Council on Education for Public Health (CEPH) accreditation criteria.
- ~~d.~~ Maintains and disseminates the MPH/MHA faculty/student handbook

3. Meetings

The GPH shall meet twice a month throughout the academic year.

D. Planning and Evaluation Process for Strategic Implementation Committee (PEPSI)

1. Membership

The membership of PEPSI shall represent the areas of Graduate Education, Administrative Affairs, Strategic Initiatives, Undergraduate Education, Public Health Practice, and Research and include the School Senate Chair; the Dean's Chief of Staff, one undergraduate and one graduate student appointed by the Senate Executive Committee from among the student Senators.

2. Function

PEPSI shall:

- Aggregate data from all sources listed in the Outcome Measurement Table.
- Provide an annual report of aggregate data and actions recommended or taken as a result of the PEPSI review to the School Senate, the Chairs and Directors Council, and the Administrative Council.
- Review all aggregated data used to track progress on the School's strategic plan for the purpose of making evaluation and planning recommendations to the Dean and administrative bodies of the School.
- Use data to create required CEPH reports to be forwarded to the Dean before submission to the accrediting body.
- Contribute to other campus reporting that requires these data and assessments.
- Track and document changes that have resulted from these processes.

3. Meetings

The Committee shall convene, at minimum, three times per year to review aggregated data, with additional meetings as needed for report planning and production.

EA. Programs, Curricula, and Courses Committee (PCC)

1. Membership

The ~~PCC~~~~Programs, Curricula, and Courses Committee~~ shall be comprised of six faculty members, one elected from and by each unit;; one member elected from the Centers not housed in an academic unit;~~a department,~~ one undergraduate and one graduate student appointed by the Senate Executive Committee from among the student Senators; ~~and representatives to the Senate,~~ ~~and an associate/assistant dean or~~ the Dean's designee, who shall serve as an ex-officio member. Faculty representatives shall serve ~~a two-year~~ term. Their terms shall be staggered, ~~and in the first year, one representative from each department shall serve only a one-year term.~~ Student representatives shall serve ~~a one-year~~ term.

The names of ~~faculty members~~ all official unit representatives shall be forwarded to the Chair of the Senate Executive Committee prior to the beginning of the academic year.

2. Function

The ~~Committee~~ ~~This committee~~ shall review and recommend policies regarding the establishment, modification, or ~~abolishment~~ abolition of programs (i.e., areas of academic specialty within units), ~~courses and~~ curricula, and courses -within the ~~School.~~ school. ~~The PCC is an advisory committee.~~ The ~~Committee~~ committee shall forward to the Dean all changes to programs, ~~courses, and~~ curricula, and courses that ~~which~~ were approved by the ~~Committee~~ committee and shall notify the appropriate ~~departments~~ department of the ~~approvals~~ approval and any subsequent action. The ~~Committee~~ committee shall return to the

appropriate department those programs, ~~courses,~~ curricula, and courses not receiving approval and include notations as ~~are~~ necessary.

3. Meetings

~~Each year, the~~The initial ~~PCC Programs, Curricula, and Courses Committee~~ meeting shall be called by the Dean's designee, at which time the Committee shall ~~to~~ elect its Chair, ~~of the Committee~~. Meetings ~~shall~~will then be called by the Chair as needed.

F. Undergraduate Academic Programs Committee (UAPC)

1. Membership

The UAPC shall include one tenured faculty member appointed by his or her Chair from each of the undergraduate degree-granting academic departments, the Assistant/Associate Chair or Undergraduate Coordinator(s) from each of those academic departments, a professional advisor from Student Services, and the Assistant Dean of Undergraduate Education, who shall serve as an ex-officio member. Faculty representatives shall serve two-year terms. Their terms shall be staggered.

2. Function

This committee shall review and recommend policies and best practices regarding excellence in undergraduate academic programs. The committee shall also pro-actively seek to foster cooperative and collaborative relationships and programs between departments.

3. Meetings

The UAPC shall meet three times each semester.

D. Ad Hoc Committees

~~Appropriate committees shall be appointed by the Dean as needed.~~

V. Amendments ARTICLE VI- REVIEW AND AMENDMENT

This Plan of Organization shall be subject to a review every five years by a committee established specifically for this purpose in accordance with the University Senate Plan of Organization. Proposed amendments to the plan of organization shall be presented in writing to the members of the School Senate ~~30~~at least thirty days prior to ~~the Senate meeting at which any~~ action ~~is to be~~ taken. A two-thirds approval of those eligible to vote shall be required for the adoption of any amendment.

Ratified on ~~February 15, 2008~~August 30, 2011

Plan of Organization for the School of Public Health

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School of Public Health (SPH)

PREAMBLE

The purpose of this Plan of Organization is to provide a framework within which the School of Public Health (SPH) can fulfill its mission in a manner that respects and accommodates the interests, rights, and responsibilities of all its faculty, staff, and students in the School. This Plan of Organization is aligned with the University Plan of Organization.

ARTICLE I – MISSION

The mission of the School of Public Health is to promote and protect the health and well-being of the citizens of Maryland, the nation, and the world through interdisciplinary education, research, public policy, and practice. The mission of the School is implemented through the six academic units and the Office of the Dean as listed below.

- Department of Behavioral and Community Health
- Department of Epidemiology and Biostatistics
- Department of Family Science
- Department of Health Services Administration
- Department of Kinesiology
- Maryland Institute for Applied Environmental Health
- Office of the Dean

Each academic unit within the School shall have a plan of organization that is aligned with the School and University plans of organization and that embodies shared governance principles and relevant University policies such as the policies on Appointment, Promotion, and Tenure.

ARTICLE II – SHARED GOVERNANCE

The School is dedicated to the principles of shared governance through the active participation of faculty, staff, and students in establishing the goals, policies, and programs which are a part of the University and the School of Public Health. Shared governance is an essential component in the development and maintenance of an educational environment which promotes the highest standards of excellence in teaching, learning, research, and service.

The School of Public Health is allotted three University Senate seats to represent the six academic units. Accordingly, an equitable rotational plan as described below has been designed to ensure balanced representation to the University Senate in that all faculty have an opportunity to serve as University Senators.

One faculty member from three of the six academic units will represent the School for a three-year term. The order of representation will be: Epidemiology and Biostatistics (EPIB), Family Science (FMSC), Behavioral and Community Health (BCH), Health Services Administration (HLSA), Maryland Institute for Applied Environmental Health (MIAEH), and Kinesiology (KNES). At the end of an elected Senator's term the next unit in line will elect a new University Senator to represent the school.

The responsibility for identification of a faculty member, as described in Article IV, to fill the seat is left to the individual academic unit to determine how best to elect the University Senator. If a unit encounters problems in electing a representative, the unit shall notify the Senate Executive Committee of the issue.

ARTICLE III – SCHOOL ADMINISTRATION

The administration of the School is overseen by the Dean, Associate and Assistant Deans, and Unit Chairpersons and Directors; facilitated by the School Administrative Council; advised by the constituent groups as identified below; and is responsive to the School Senate.

A. Administration

1. Dean

As the chief administrative and academic officer of the School, the Dean is responsible for professional and academic leadership. In addition, the Dean must exercise all functions delegated to him/her by the Senior Vice President for Academic Affairs and Provost, including fiscal oversight; recommendations for appointments, tenure, and

promotion; curriculum and research development; strategic planning; development; and outreach.

2. Associate and Assistant Deans

The Dean may appoint Associate and Assistant Deans to oversee specific functions including, but not limited to, academic, student, faculty, research, and administrative affairs; diversity; development; and strategic initiatives.

3. Unit Chairpersons and Directors

Each Chairperson and Director serves as the chief administrative officer of his/her unit, exercising all functions delegated by the Dean. These responsibilities include oversight of a unit budget; recommendations for appointments, promotions, and tenure; curriculum and research development and implementation; and outreach and development.

B. Standing Committees and Councils in the Dean's Office

1. School Administrative Council

a. Membership

The School Administrative Council is comprised of the Dean (who serves as Chairperson), Associate/Assistant Deans, Unit Chairpersons and Directors, the School Equity Officer, and one undergraduate and one graduate student appointed from the Dean's Student Advisory Committee.

b. Function

The Council serves as a forum for the exchange of ideas and the sharing of information regarding the administration and operation of the School. This is an advisory body. Any items identified for Senate action by the School Administrative Council must be forwarded to the Senate Executive Committee.

c. Meetings

The School's Administrative Council meets monthly during the academic year.

2. Chairs and Directors Council

a. Membership

The Chairs and Directors Council is comprised of the Dean (who serves as Chairperson) and all Unit Chairpersons and Directors.

b. Function

The Council serves as a forum for academic unit heads to meet with the Dean to exchange ideas and share information relevant to academic units. It is not a decision-making body. This is an advisory body. Any items identified for Senate action by the School Administrative Council must be forwarded to the Senate Executive Committee.

c. Meetings

The Dean convenes and chairs this Council monthly. Meetings can be called more often as need by the Dean, Unit Chairperson or Director.

3. Board of Visitors

a. Membership

The Board of Visitors is comprised of between eight and fifteen members, appointed through a nominations and elections process approved by the Board and Dean. The membership is committed to the advancement of the School and represents the leadership of key constituencies in the public, private, and nonprofit sectors related to public health.

b. Function

The Board of Visitors provides advice and guidance to the Dean, faculty, and staff to enhance the School's educational mission; to establish working relationships with leaders in the public, private, and nonprofit sectors; and to strengthen the School's financial position.

c. Meetings

The Board of Visitors is an advisory group that serves at the pleasure of the Dean and meets on an as needed basis.

4. Community Advisory Council (CAC)

a. Membership

The Community Advisory Council is comprised of between eight and fifteen public health practitioners from local and state health and policy organizations. These members represent leaders from key constituencies in the public, private, and nonprofit sectors with expertise in the public health forum. Members are appointed by the Dean.

b. Function

The CAC provides advice and guidance to the Dean, faculty, and staff to enhance the School's community engagement and program development. The Council members serve as advisors to the Dean and the School, with emphasis on advice to the School. As public health practitioners, they advise the Dean concerning needs and directions for community-based research, service, and partnerships.

c. Meetings

The CAC meets at a minimum twice a year and is convened and chaired by the Dean or the Dean's Designee.

5. Student Advisory Committee

a. Membership

The Student Advisory Committee (SAC) shall be comprised of student members from each academic unit within the School, to include student members from each degree-level a unit offers (minimum of one undergraduate, one master's, and one doctoral student per unit), and the undergraduate SPH representative to the University Student Government Association. The students shall be nominated by the heads of each academic unit with support from his/her faculty advisor. The chief criterion for selection to serve on the SAC is the student's engagement with the departmental student community and ability to collect and represent a wide variety of student input on any issues. Student members may serve up to two years. The names of the members shall be forwarded to the Dean prior to the beginning of each academic year.

b. Function

This SAC shall be responsible for engaging with the broader SPH student community and providing the Dean with student perspectives on School-wide needs, problems, concerns, issues, and general input on future plans. To support this effort an undergraduate and graduate student from this committee will be appointed to the School's Administrative Council.

c. Meetings

The SAC will meet monthly during the academic year. The Dean or the Dean's Designee convenes and chairs this committee. Each year, the initial meeting shall be called by the Dean's designee to elect a Chair of the Committee from among the current SAC membership.

C. Ad Hoc Committees

Additional committees shall be appointed by the Dean as necessary.

ARTICLE IV – THE SCHOOL SENATE

The School Senate is the School's primary organ of shared governance, providing a forum for the faculty, students, and staff to participate in the governance of the school. The Senate meets at minimum biannually to vote on or learn of major initiatives of the campus and School.

A. Functions of the Senate

- To establish and modify educational and other policies relevant to the functions of the School and within its purview.
- To advise the Dean of the School on any matter of concern to the School and act as a referendum body on questions referred to it by the Dean, faculty, staff, and students of the School.
- To provide a forum for the exchange of information concerning the various activities and programs in the School.
- To regularly inform constituencies of School Senate actions.

B. Membership

The Senate membership shall include all School employees with faculty appointments as well as representatives from the School's staff and students. Voting members of the Senate include:

1. Faculty

All faculty members of the School. A faculty member is defined as one who holds the academic rank of Lecturer, Instructor, Assistant Professor, Associate Professor, Professor, Professor of the Practice, Assistant Research Scientist/Scholar/Professor, Associate Research Scientist/Scholar/Professor, Research Scientist/Scholar/Professor, Faculty Research Assistant, Research Associate, and Adjunct Faculty. Furthermore, faculty members of the School Senate must hold appointments of at least 50% in the School. If a faculty member has a joint appointment in two or more units, he/she shall be counted with the unit in which the tenure resides.

2. Staff

There shall be one elected Senator from the full-time exempt staff and one from the full-time non-exempt staff, elected by their respective groups within the School on an alternating schedule. For purposes of representation in the Senate, staff constituents are defined as those who hold full-time, permanent appointments as defined by the applicable University definitions and classifications.

The names of the newly elected Senators shall be given to the Chair of the Senate Executive Committee prior to the first Senate meeting of the academic year.

The terms of the elected staff members shall be two years.

3. Students

The student constituency is divided into two independent categories (undergraduate and graduate) from which Senators are elected. These terms are for one year.

a. Undergraduate Student Members

There shall be three undergraduate student Senators. These Senators must have declared a major in one of the undergraduate programs offered in the School of Public Health and shall be elected each year from and by each unit's undergraduate student body. Names of the newly elected Student Senators shall be given to the Chair of the Senate Executive Committee prior to the first Senate meeting of the academic year.

b. Graduate Student Members

There shall be three graduate student Senators, one each from the professional master's programs (collectively), the academic master's programs (collectively), and the doctoral programs (collectively). Student Senators shall be elected each year by the School's full graduate student body. Names of the newly elected Senators shall be given to the Chair of the Senate prior to the first Senate meeting of the academic year.

4. Ex-officio Members of the School Senate

Unless otherwise elected as a voting member of the Senate by an appropriate constituency, the following shall be ex-officio, non-voting, members of the Senate:

- The Dean
- Assistant and Associate Deans
- Unit Chairpersons and Directors

C. Meetings

The School Senate shall meet, at minimum, biannually, with additional meetings scheduled as needed. Biannual meetings shall convene once a semester and are open to all faculty, staff, and students. The first meeting shall be for the purpose of receiving a state of the campus and School report by the School's Dean and other items as proposed by the Dean and the Senate Executive Committee. The second meeting shall convene at the end of the academic year, when all committees described in Article V shall provide a verbal or written report to the full Senate.

Special meetings may be called by the Chair of the Senate Executive Committee (as defined in Article IV.E below), by a unit via the unit head, or by a petition signed by a minimum of 25 percent of the members of the School Senate.

Quorum of the Senate membership shall be a simple majority. However, a two-thirds majority of those voting shall be required for all items requiring Senate action.

D. Election

1. Elections of the Senate Chair and Chair-Elect

The Chair-Elect of the Senate shall be a tenure-track faculty member elected by a majority vote of the Senate at the second regularly scheduled meeting of the School Senate. The term of office of the Chair-Elect shall be one year followed by a one-year term as Chair. The Chair of the Senate shall also serve as Chair of the Senate Executive Committee.

2. General Elections

The Chair of the School Senate oversees the elections for the University and School Senators. These elections are handled as described above, but the Senate Chair has final oversight authority to ensure that the School is represented fairly and equitably.

E. Senate Executive Committee

The School Senate is supported by the Senate Executive Committee, standing committees of the Senate, and any ad hoc committees deemed necessary to fulfill the functions of the School.

There are six academic units in the School represented on the SPH Senate Executive Committee. The Senate Executive Committee has sixteen voting members--six faculty Senators, two staff Senators, six student Senators, the Senate Chair, and the Senate Chair-Elect. The Dean or his/her designee is an ex-officio member with no voting rights. Each member, with the exception of student Senators and Dean's designee shall serve for a period of two years. The terms are staggered such that only one-half of the Senators will terminate their membership at the end of a given year. This will ensure reasonable continuity of the membership serving on the Senate Executive Committee and provide for an evenly distributed overlap of new and continuing members each year. The Student Senators will serve for a one year term and the dean's designee is ongoing.

1. Membership

Membership shall include one faculty senator per unit. To serve on the Senate Executive Committee, a faculty member must be a full-time appointee who holds the academic rank of Assistant Professor, Associate Professor, or Professor. Faculty members will serve a two-year term. The terms of the members shall be staggered. Each unit shall determine how it elects its representative. The name of the newly elected departmental representative shall be given to the Chair of the Senate Executive Committee prior to the first Senate meeting of the academic year.

Elected staff Senators and student Senators shall also serve on the Senate Executive Committee.

The Dean's designee shall serve as an ex-officio member of the Committee and does not have voting rights but provides administrative support to the Senate Executive Committee.

2. Quorum

To hold a meeting there must be 2/3 membership present.

3. Functions

The Senate Executive Committee shall develop proposals and recommend actions to be taken on any matter of School or university concern. The functions of the Committee shall include, but not be limited to, the following:

- Develop and recommend to the Senate at large plans and policies within the general framework of University policies for the governance of the School.
- Assist in preparing the agenda for the School Assembly Meetings.
- Establish special or ad hoc committees for the School and appoint the membership of those committees whose members are not elected.
- Identify and refer to the full Senate those matters requiring Senate ratification and/or input.
- Advise the Dean on matters of concern to the administration and development of the School.
- Document the actions and proceedings of the School Senate.

ARTICLE V – STANDING COMMITTEES OF THE SCHOOL

The School is supported by six standing committees and any ad hoc committees deemed necessary to fulfill the functions of the School. The standing committees include: the Appointment, Promotion, and Tenure Committee (APT); the Diversity Council; the Graduate Public Health Programs Committee (GPH); the Planning and Evaluation Process for Strategic Implementation Committee (PEPSI); the Programs, Curricula, and Courses Committee (PCC); and the Undergraduate Academic Programs Committee (UAPC).

A. Appointment, Promotion, and Tenure Committee (APT)

The rules for promotion and tenure are set forth in the UMCP and USM policies and are reflected in the Appointment, Promotion, and Tenure Manual published annually by the Office of Faculty Affairs. The policies and manual can be found on the faculty affairs website at <http://www.faculty.umd.edu>.

1. Membership

The School APT Committee must have a minimum of seven full professors as members, though it may be expanded to include research faculty when a promotion case for research faculty is being considered. All members are appointed by the Dean from a slate of candidates provided by each Unit Chairperson or Director. The Committee shall elect its own chairperson and an alternate chairperson. The Dean shall also appoint an Associate/Assistant Dean or other designee as an ex-officio, non-voting member of the committee.

2. Voting

The Chair of the School APT Committee shall provide written notification as to the date, time, and place of the formal meetings of the Committee. The Chair of the Committee shall conduct the meetings and provide an opportunity for a full discussion of any candidate's complete application packet, including external letters of evaluation. Following the discussion, a vote shall be taken by secret ballot.

When a decision contrary to either the recommendation of the first-level administrator or the first-level faculty review committee (the academic unit) is anticipated, the second-level review committee (the School) shall provide an opportunity for the chair of the first-level academic unit and the designated chair of the first-level unit review committee to meet with the second-level committee to discuss their recommendations with the members of the second-level committee.

3. Reporting of Votes

The Chair of the Committee shall prepare a written letter that represents the sentiments of the Committee. This report should summarize, discuss, and evaluate the faculty member's contributions in the areas of (1) research, scholarly, and creative activities; (2) teaching and advising; and (3) service. In addition, a brief summary statement emphasizing the most significant contributions of the faculty member in these three areas should be presented. Particularly in cases of promotion to Associate Professor, the statement should include an evaluation of the faculty member's potential for continued contributions to the national and international recognition of the program. The report

shall also include the recording of a positive or negative recommendation of the committee (subject to the requirement that all eligible voting members are present).

Whether its recommendation is favorable or unfavorable, the Committee shall, as soon as possible but no later than ten days after the decision, transmit through the Dean its decision, its vote, and a written justification to the Provost. University procedures for appointment, promotion, and tenure are then applied. The Dean of the School shall also promptly transmit his or her recommendation, with a written justification, to the Provost and to the members of the second-level review committee. A report of the decisions of the Dean and second level committee shall be provided to the administrator of the first-level unit, to the faculty spokesperson for the faculty review committee, and to the candidate.

4. Appeals Procedure

All appeals shall follow the Appeals Process as set forth in the UMCP Policy on Appointments, Promotion, and Tenure. II-1.00(A).

B. Diversity Council

1. Membership

The SPH Diversity Council shall report directly to the Dean. The Dean or his designee will chair the Committee. Other members of the Committee shall include the School's Equity Administrator, representatives from undergraduate education, graduate education, the Chair of the School Senate, one faculty representative from each department, two undergraduate student representatives, and two graduate student representatives.

Students shall be nominated by faculty in their departments and will be selected based on their commitment to improving the academic and support climate for all students, especially students from diverse populations, as evidenced by their participation in other curricular activities.

2. Function

The Diversity Committee's responsibilities shall be to (a) generate and stimulate activities and initiatives described in, or consistent with, the School's diversity plan and School goals as established in the School's strategic plan; (b) facilitate the implementation of activities designed to meet the School's diversity goals; and (c) monitor and evaluate progress in meeting the diversity goals described in the diversity plan.

3. Meetings

The Diversity Committee shall meet monthly. Action items shall be developed at each meeting. The action items will allow the work of the Committee to be carried out during the intervening weeks between committee meetings. The Committee's first order of business each academic year shall be to review the Diversity Plan and align it with outcome measures stated in the strategic plan.

C. Graduate Public Health Programs Committee (GPH)

1. Membership

The GPH is comprised of the Graduate Program Directors (or their designees) of all graduate degree-granting units in the SPH. The Dean shall designate ex-officio members as appropriate and shall appoint the Chair of the Committee.

2. Function

The GPH shall facilitate coordination between all graduate degree-granting units regarding public health curricula at the graduate level. Specifically, the GPH:

- Coordinates new graduate student orientations, public health core course scheduling, and MPH/MHA course registration.
- Develops and manages policies, procedures, and forms common across MPH/MHA programs and across all graduate programs where possible and appropriate.
- Coordinates the collection/maintenance of data on the graduate public health programs relevant to the School of Public Health's accreditation requirements.
- Ensures alignment of graduate programs with Council on Education for Public Health (CEPH) accreditation criteria.

3. Meetings

The GPH shall meet twice a month throughout the academic year.

D. Planning and Evaluation Process for Strategic Implementation Committee (PEPSI)

1. Membership

The membership of PEPSI shall represent the areas of Graduate Education, Administrative Affairs, Strategic Initiatives, Undergraduate Education, Public Health Practice, and Research and include the School Senate Chair; the Dean's Chief of Staff, one undergraduate and one graduate student appointed by the Senate Executive Committee from among the student Senators.

2. Function

PEPSI shall:

- Aggregate data from all sources listed in the Outcome Measurement Table.
- Provide an annual report of aggregate data and actions recommended or taken as a result of the PEPSI review to the School Senate, the Chairs and Directors Council, and the Administrative Council.
- Review all aggregated data used to track progress on the School's strategic plan for the purpose of making evaluation and planning recommendations to the Dean and administrative bodies of the School.
- Use data to create required CEPH reports to be forwarded to the Dean before submission to the accrediting body.
- Contribute to other campus reporting that requires these data and assessments.
- Track and document changes that have resulted from these processes.

3. Meetings

The Committee shall convene, at minimum, three times per year to review aggregated data, with additional meetings as needed for report planning and production.

E. Programs, Curricula, and Courses Committee (PCC)

1. Membership

The PCC shall be comprised of six faculty members, one elected from and by each unit; one member elected from the Centers not housed in an academic unit; one undergraduate and one graduate student appointed by the Senate Executive Committee from among the student Senators; and the Dean's designee, who shall serve as an ex-officio member. Faculty representatives shall serve two-year terms. Their terms shall be staggered. Student representatives shall serve one-year terms.

The names of faculty members shall be forwarded to the Chair of the Senate Executive Committee prior to the beginning of the academic year.

2. Function

The Committee shall review and recommend policies regarding the establishment, modification, or abolishment of programs (i.e., areas of academic specialty within units), curricula, and courses within the School. The Committee shall forward to the Dean all

changes to programs, curricula, and courses that were approved by the Committee and shall notify the appropriate departments of the approvals and any subsequent action. The Committee shall return to the appropriate department those programs, curricula, and courses not receiving approval and include notations as necessary.

3. Meetings

Each year, the initial PCC meeting shall be called by the Dean's designee, at which time the Committee shall elect its Chair. Meetings shall then be called by the Chair as needed.

F. Undergraduate Academic Programs Committee (UAPC)

1. Membership

The UAPC shall include one tenured faculty member appointed by his or her Chair from each of the undergraduate degree-granting academic departments, the Assistant/Associate Chair or Undergraduate Coordinator(s) from each of those academic departments, a professional advisor from Student Services, and the Assistant Dean of Undergraduate Education, who shall serve as an ex-officio member. Faculty representatives shall serve two-year terms. Their terms shall be staggered.

2. Function

This committee shall review and recommend policies and best practices regarding excellence in undergraduate academic programs. The committee shall also pro-actively seek to foster cooperative and collaborative relationships and programs between departments.

3. Meetings

The UAPC shall meet three times each semester.

ARTICLE VI- REVIEW AND AMENDMENT

This Plan of Organization shall be subject to a review every five years by a committee established specifically for this purpose in accordance with the University Senate Plan of Organization. Proposed amendments to the plan of organization shall be presented in writing to the members of the School Senate at least thirty days prior to any action taken. A two-thirds approval of those eligible to vote shall be required for the adoption of any amendment.

Ratified on August 30, 2011



**University Senate
TRANSMITTAL FORM**

Senate Document #:	11-12-21
PCC ID #:	N/A
Title:	Nominations Committee Slate 2011-2012
Presenter:	Martha Nell Smith, Chair of the 2011-2012 Committee on Committees
Date of SEC Review:	November 29, 2011
Date of Senate Review:	December 8, 2011
Voting (highlight one):	<ol style="list-style-type: none"> 1. On resolutions or recommendations one by one, or 2. In a single vote 3. To endorse entire report
Statement of Issue:	<p>The University Senate Bylaws state, "By no later than the scheduled December meeting of the Senate, the Committee on Committees shall present to the Senate at least eight (8) nominees from among outgoing Senate members to serve on the Nominations Committee. The nominees shall include four (4) faculty members, one (1) exempt staff member, one (1) non-exempt staff member, one (1) graduate student, and one (1) undergraduate student. Further nominations shall be accepted from the floor of the Senate. The Senate, as a body, shall elect four (4) faculty members, one (1) exempt staff member, one (1) nonexempt staff member, one (1) graduate student, and one (1) undergraduate to serve as the Nominations Committee."</p>
Relevant Policy # & URL:	N/A
Recommendation:	To approve the slate as presented.
Committee Work:	<p>The Committee on Committees met on October 24, 2011, to discuss a process for collecting nominations for the Senate Nominations Committee. The Senate Office had previously emailed the Outgoing Senators regarding the opportunity to serve on the Nominations Committee and received volunteers. The Committee on Committees discussed the volunteers at the meeting. Members were assigned recruitment tasks as needed. As required by the Senate Bylaws, the Committee on Committees assembled at least eight nominees from among the Outgoing Senators to present to the Senate. The Committee on Committees voted via email to approve the attached slate on November 21, 2011.</p>

Alternatives:	To not approve the slate or to hold an election following any additional nominations received from the floor of the Senate.
Risks:	There are no related risks.
Financial Implications:	There are no financial implications.
Further Approvals Required:	Senate Approval, Presidential Approval.

2011-2012 Senate Nominations Committee Slate

<u>Name/Constituency</u>	<u>Department/Unit</u>	<u>College</u>	<u>Term</u>
Non-Voting Ex-Officio			
Martha Nell Smith	Dept. of English/Senate Chair-Elect	ARHU	2012
Faculty			
Mark Leone	Dept. of Anthropology	BSOS	2012
Carol Rogers	Dept. of Journalism	JOUR	2012
Laura Rosenthal	Dept. of English	ARHU	2012
Andre Tits	Dept. of Electrical & Computer Engineering	ENGR	2012
Exempt Staff			
Larry Lauer	Institute for Physical Science & Technology	CMNS	2012
Non-Exempt Staff			
Cliffornia Royals Howard	Dept. of Women's Studies	ARHU	2012
Graduate Student			
Brian Coyle	Dept. of Chemical & Life Sciences	CMNS	2012
Undergraduate Student			
Benjamin Block	Letters & Sciences	LTSC	2012



University Senate TRANSMITTAL FORM

Senate Document #:	10-11-34
PCC ID #:	N/A
Title:	Request to Review Domestic Partner Benefits
Presenter:	Vincent Novara, Chair of the Senate Committee on Equity, Diversity, and Inclusion (EDI Committee)
Date of SEC Review:	11/29/2011
Date of Senate Review:	12/08/2011
Voting (highlight one):	<ol style="list-style-type: none"> 1. On resolutions or recommendations one by one, or 2. In a single vote 3. To endorse entire report
Statement of Issue:	<p>On November 23, 2010, the Senate Executive Committee (SEC) charged the Equity, Diversity & Inclusion (EDI) Committee with reviewing the issue of domestic partner benefits at the University. The SEC asked EDI to make recommendations on whether the level of benefits currently provided at the University of Maryland is appropriate. Since, for the purposes of benefits, the State defines a “domestic partner” as an individual in a relationship with an employee who is the same-sex as the employee, the committee only reviewed the issue of extending benefits to same-sex domestic partners. The EDI Committee recognizes that access to benefits for same-sex domestic partners is an issue of equity and fairness, as same-sex domestic partners are not legally eligible to marry within the State of Maryland, while opposite-sex couples are able to marry and access spousal benefits.</p>
Relevant Policy # & URL:	<p>EXAMPLES OF RELATED POLICIES (with definitions/mentions of “spouse” or “immediate family” coverage) include, but are not limited to:</p> <p>BOR VII- 7.45 - POLICY ON SICK LEAVE http://www.usmh.usmd.edu/regents/bylaws/SectionVII/VII745.html</p> <p>BOR VII - 7.50 - USM POLICY ON FAMILY AND MEDICAL LEAVE FOR EXEMPT AND NONEXEMPT STAFF EMPLOYEES http://www.uhr.umd.edu/documents/BOR_VII750_FMLA.pdf</p> <p>BOR VII - 2.10 - POLICY ON EMPLOYMENT OF MEMBERS OF THE SAME FAMILY http://www.president.umd.edu/policies/vii-210.html</p>

	<p>BOR VII-4.20 - USM POLICY ON TUITION REMISSION FOR SPOUSES AND DEPENDENT CHILDREN OF REGULAR AND RETIRED FACULTY AND STAFF EMPLOYEES OF THE UNIVERSITY SYSTEM OF MARYLAND http://www.usmh.usmd.edu/regents/bylaws/SectionVII/VII420.html</p> <p>UMCP II-2.31 - POLICY ON FAMILY AND MEDICAL LEAVE FOR FACULTY http://www.president.umd.edu/policies/docs/II231a.pdf</p> <p>UMCP VII-4.20(A) UMCP PROCEDURES CONCERNING TUITION REMISSION FOR SPOUSES AND DEPENDENT CHILDREN OF FACULTY AND STAFF http://www.president.umd.edu/policies/vii420a.html</p>
<p>Recommendation:</p>	<p>The EDI Committee recommends that coverage of system benefits including sick leave, family and medical leave, bereavement leave, and tuition remission, along with policies on nepotism, should be expanded to include same-sex domestic partners. The definition of “immediate family” should, in all related policies, include the phrase “or same-sex domestic partner” wherever the word “spouse” is found.</p> <ol style="list-style-type: none"> 1) USM Institutions should be authorized to offer the same tuition remission benefits for same-sex domestic partners enrolled at USM institutions that are available to spouses. 2) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use sick leave for illness or injury in the employee’s immediate family and medical appointments, examinations, or treatments for the immediate family member with an accredited, licensed, or certified medical provider. 3) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use paid bereavement leave on account of the death of any member of the employee’s immediate family. 4) The inclusion of same-sex domestic partners in policies regarding Family and Medical Leave should be executed, paralleling policies mandated by Federal Law. 5) University policies related to nepotism should be extended to include same-sex domestic partners. 6) The expansion of system benefits to same-sex domestic partners may be considered a priority in the next go around of negotiations that will replace the Collective Bargaining Agreements set to expire on June 30, 2013. No changes to policies or benefits, such as those listed herein, for employees covered by collective bargaining may occur until after such negotiations take place, as appropriate.

<p>Committee Work:</p>	<p>The EDI Committee was asked to investigate whether University of Maryland System-wide benefits and policies should be extended to same-sex domestic partners. The EDI Committee reviewed, researched, and discussed the issue of offering USM benefits to same-sex domestic partners at the University over a two-year period. EDI reviewed policies at peer institutions, met with members of the President’s Legal Office, researched related legislative actions in the Maryland General Assembly, and gauged the level of support from internal University organizations, as well as from peer groups at other USM institutions. The committee determined that employees of the University of Maryland typically have access to State benefits (such as health benefits including medical, prescription, dental, term life insurance, long-term care insurance, vision coverage, mental health & substance abuse, personal accident & dismemberment), System-wide benefits (such as tuition remission, sick leave, bereavement leave, and Family & Medical Leave), and Campus-based benefits (such as the use of gyms, libraries, and other campus facilities). While most employees can usually extend State benefits coverage and Campus-based benefits coverage to their same-sex domestic partners, it was determined that employees cannot currently access System-wide benefits for same-sex domestic partners.</p>
<p>Alternatives:</p>	<p>The University could continue to provide its current level of coverage, allowing only legally recognized opposite-sex spouses and same-sex spouses from marriages performed in other jurisdictions access to certain system benefits and policy coverage.</p>
<p>Risks:</p>	<p>There are no associated risks.</p>
<p>Financial Implications:</p>	<p>The University does not hire employees based on relationship status; any associated financial costs would fall within in the budget(s) already allocated for USM employee benefits.</p>
<p>Further Approvals Required: (<i>*Important for PCC Items</i>)</p>	<p>Senate Approval, Presidential Approval, Chancellor and Board of Regents Approval.</p>

Senate Equity, Diversity, & Inclusion (EDI) Committee
Senate Document 10-11-34
Report on the Request to Review Domestic Partner Benefits
November 2011

BACKGROUND

Extending employee benefits to domestic partners at the University of Maryland is an issue that has been discussed on various levels over the past twenty years. A history of the issue is provided in Appendix One.

On November 23, 2010, the Senate Executive Committee (SEC) charged the Equity, Diversity & Inclusion (EDI) Committee with reviewing the issue of domestic partner benefits and asked EDI to make recommendations on whether the level of benefits currently provided at the University of Maryland is appropriate. Since, for the purposes of benefits, the State defines a “domestic partner” as an individual in a relationship with an employee who is the same-sex as the employee, the committee only reviewed the issue of extending benefits to same-sex domestic partners. This definition was also verified with the Senate Office and the Chair of the Council of University System Staff (CUSS). The EDI Committee recognizes that access to benefits for same-sex domestic partners is an issue of equity and fairness, as same-sex domestic partners are not legally eligible to marry within the State of Maryland, while opposite-sex couples are able to marry and access spousal benefits.

The 2011 Maryland State Employees and Retirees health benefits guide states that same-sex domestic partners are eligible for health benefits at the University of Maryland if they meet the following requirements: “Domestic Partner” means an individual in a relationship with an Employee or Retiree who is the same sex as the Employee or Retiree, if both individuals:

- are at least 18 years old;
- are not related to each other by blood or marriage within four degrees of consanguinity under civil law rule;
- are not married, in a civil union, or in a domestic partnership with another individual;
- have been in a committed relationship of mutual interdependence for at least 12 consecutive months in which each individual contributes to some extent to the other individual’s maintenance and support with the intention of remaining in the relationship indefinitely; and
- share a common primary residence.

Additionally, the dependent children of an employee’s same-sex domestic partner are also eligible for health benefits, if the dependent child meets certain criteria (the same criteria for dependent children). Thus, this is the definition that the EDI Committee has identified for determination of who should be eligible for benefits at the University.

Previously, the SEC charged the 2010-2011 Senate Staff Affairs Committee to work with CUSS on recommending expansion of system-wide benefits to same-sex domestic partners. On September 17, 2010, the Board of Regents (BOR) adopted a resolution to comply with the recent Attorney General’s opinion regarding the recognition of same-sex marriages performed in other jurisdictions. The resolution allows same-sex *spouses*, retroactive to July 1, 2010, to be eligible for all spousal University System of Maryland (USM) benefits, notably tuition remission, sick leave, family and medical leave, and bereavement leave. The resolution also applies to

USM's nepotism policy. The Staff Affairs Committee recognized that this resolution applies only to same-sex marriages, and not to other domestic partnerships. The committee concurred that the Attorney General was courageous in his opinion of recognizing same-sex marriages valid in other states, because it does allow for the expansion of benefits to some employees on campus. However, the committee determined that the BOR's resolution did not comprehensively address the issue that CUSS and the Staff Affairs Committee were pursuing. Thus, the Staff Affairs Committee asked for this issue to continue to be reviewed by the Senate.

The EDI Committee was therefore asked to investigate whether these benefits should also be extended to same-sex domestic partners. Specifically, the SEC asked the committee to:

- Consult with the President's Legal Office on the legal aspects of this issue, and why the Board of Regents chose the specific coverage for its resolution.
- Consult with the Office of Human Resources and the Office of LGBT Equity on the scope of this issue at the University.
- Review the current and past recommendations on the expansion of benefits to domestic partners.
- Compare our existing benefits to those at our peer institutions.
- Research and review the practice known as "Grossing Up," which has been used by some businesses to make up for the income tax burden of domestic partner benefits and to determine whether it might be a viable option for the University.
- Work with the President's Commission on Lesbian, Gay, Bisexual, and Transgender Issues, Chaired by Tanner Wray, to potentially develop a resolution for University of Maryland College Park that would more fully address the needs of domestic partners (sick leave, tuition remission, family medical leave, and nepotism).

CURRENT SITUATION

As of January 2007, University of Maryland College Park employees may choose to designate a domestic partner as a person eligible to receive campus-based privileges.

As of July 1, 2009, same-sex domestic partners are eligible for health benefits offered by the State of Maryland Employee Benefit Program. "Domestic Partner" is defined in the Maryland State Employees and Retirees Health Benefits Guide as "an individual in a relationship with an Employee or Retiree who is the same sex as the Employee or Retiree, if both individuals are at least 18 years old; are not related to each other by blood or marriage within four degrees of consanguinity under civil law rule; are not married, in a civil union, or in a domestic partnership with another individual; have been in a committed relationship of mutual interdependence for at least 12 consecutive months in which each individual contributes to some extent to the other individual's maintenance and support with the intention of remaining in the relationship indefinitely; and share a common primary residence."

As of February 23, 2010, same-sex marriages performed in other jurisdictions are recognized in the State of Maryland. As of July 1, 2010, spouses of same-sex marriages performed outside of Maryland are eligible for USM benefits.

However, system-wide benefits, such as sick leave, bereavement leave, tuition remission, and family and medical leave, continue to be unaddressed for same-sex domestic partners.

COMMITTEE WORK

The 2010-2011 EDI Committee met on five separate occasions to review, research, and discuss the issue of offering USM benefits to same-sex domestic partners at University of Maryland. The following documents, provided by the SEC, were reviewed and discussed (combined as Appendix Two):

- Charge of the SEC to the EDI Committee
- Original letter of request from the Staff Affairs Committee
- Draft of proposal from the Office of Lesbian, Gay, Bisexual, and Transgender Equity
- Charge of the SEC to the Staff Affairs Committee
- Response from the Staff Affairs Committee to the SEC
- Human Rights Campaign (HRC) document entitled "Domestic Partner Benefits: Grossing Up to Offset Imputed Income Tax"

In addition, the committee researched and reviewed the following documents:

- An American Association of State Colleges and Universities 2007 policy brief on domestic partner benefits (http://www.aascu.org/policy_matters/pdf/domestic_partners07.pdf)
- An updated list of U.S. colleges and universities offering domestic partner health benefits compiled by the Human Rights Campaign (Appendix Three)
- The 2001 report of the LGBT Issues Task Force of the USM Diversity Network (<http://www.president.umd.edu/PCLGBT/aboutus/archive/DPBenefits.html>)
- The 2010 Attorney General's Opinion (<http://www.oag.state.md.us/Opinions/2010/95oag3.pdf>)

The Chair of the 2010-2011 EDI Committee also met with the Chair of the President's Commission on LGBT Issues, as well as with General Counsel in the President's Legal Office. The director of the LGBT Equity Office also met with the committee to provide a history of the issue and an overview of existing policies at our peer institutions. The committee conducted further research about what benefits have been extended to same-sex domestic partners at our peer institutions (Appendix Four).

The committee also discussed and reviewed documents related to the practice of "grossing up," which some companies have implemented to account for the income tax burden of domestic partner benefits. For federal tax purposes, the employer's contribution towards health insurance coverage for same-sex partners must be reported as taxable wages earned. Some employers have increased or "grossed up" employee's wages to compensate for the additional taxes.

During the 2010-2011 EDI Committee's review of this issue, legislation that would allow same-sex marriage advanced in the Maryland General Assembly. If passed, same-sex domestic partners would have been given the option to marry in the State of Maryland and, as a result, receive USM benefits. This would have negated the need for the EDI Committee to recommend expansion of USM benefits to same-sex domestic partners.

The bill cleared the Senate, but unfortunately stalled in the House of Delegates. The House voted on Friday, March 11, 2011, to send the bill back to the Judiciary Committee. While the issue could potentially be reintroduced during the 2011-2012 legislative session, there is no guarantee that this bill will re-surface. Therefore, the 2010-2011 EDI Committee voted in favor

of moving forward with drafting a resolution expanding system benefits and policy coverage (including sick leave, bereavement leave, family and medical leave, tuition remission, and nepotism) to same-sex domestic partners. As a result of the stalled legislation in the Maryland General Assembly, the 2010-2011 EDI Committee requested and received more time from the SEC to continue investigating this issue and to develop the resolution (Appendix Five). This issue carried-over to the 2011-2012 academic year.

The EDI Committee decided that an essential aspect of this process is the recognition of support and endorsement from other entities that have been integrally involved in the effort to secure expansion of benefits and relevant policy coverage to same-sex domestic partners over the years. Thus, the committee drafted a letter of support to be endorsed by many interested entities on campus and throughout USM.

Upon dissemination of this letter, the 2011-2012 EDI Committee received a number of supportive responses and endorsements from the following groups (Appendix Six):

- The Lesbian, Gay, Bisexual, and Transgender Equity Center
- The Office of Diversity Education and Compliance
- The Office of the Associate Provost for Equity and Diversity
- The Equity Council
- The Consortium on Race, Gender, and Ethnicity
- The Lesbian, Gay, Bisexual, and Transgender Studies Program
- The President's Commission on Women's Issues
- The President's Commission on Lesbian, Gay, Bisexual, & Transgender Issues
- The President's Commission on Ethnic Minority Issues
- The Senate Staff Affairs Committee
- The Senate Student Affairs Committee
- The Senate Faculty Affairs Committee
- The Office of Multicultural Involvement and Community Advocacy; LGBT Student Involvement and Advocacy
- The LGBT Faculty and Staff Association
- The Graduate Student Government (GSG)
- The Student Government Association (SGA)
- Peer Pride; a mentoring program for freshmen LGBTQ students
- The ONE Project; a First-Year Experience Program for LGBTQ and ally students
- HAMSA; a Jewish LGBTQQA Student Organization
- Out in Science, Technology, Engineering, and Math at Maryland (oSTEM)
- The Council of University System Staff (CUSS)
- Frostburg State Faculty Senate
- Salisbury University Faculty Senate

On November 14, 2011, the 2011-2012 EDI Committee voted to forward this report and its recommendations to the Senate Executive Committee (SEC) for consideration of Senate action.

RECOMMENDATIONS

The EDI Committee upholds that the level of benefits currently provided to employees at the University of Maryland is not appropriate.

At the present time, in order for the University of Maryland to support equity and fairness in the workplace, keep up with our peers, and remain competitive in attracting a diverse workforce, the EDI Committee recommends that the following be presented to the President in the form of a resolution from the University Senate. If appropriate, the President could consider forwarding the recommendations to the Chancellor and the Board of Regents:

Coverage of system benefits including sick leave, family and medical leave, bereavement leave, and tuition remission, along with policies on nepotism, should be expanded to include same-sex domestic partners. The definition of "immediate family" should, in all related policies, include the phrase "or same-sex domestic partner" wherever the word "spouse" is found.

- 1) USM Institutions should be authorized to offer the same tuition remission benefits for same-sex domestic partners enrolled at USM institutions that are available to spouses.
- 2) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use sick leave for illness or injury in the employee's immediate family and medical appointments, examinations, or treatments for the immediate family member with an accredited, licensed, or certified medical provider.
- 3) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use paid bereavement leave on account of the death of any member of the employee's immediate family.
- 4) The inclusion of same-sex domestic partners in policies regarding Family and Medical Leave should be executed, paralleling policies mandated by Federal Law.
- 5) University policies related to nepotism should be extended to include same-sex domestic partners.
- 6) The expansion of system benefits to same-sex domestic partners may be considered a priority in the next go around of negotiations that will replace the Collective Bargaining Agreements set to expire on June 30, 2013. No changes to policies or benefits, such as those listed herein, for employees covered by collective bargaining may occur until after such negotiations take place, as appropriate.

With the current State budget deficit, coupled with no salary increases for three years and mandatory furlough days, the EDI Committee recommends that the University not adopt the practice of "Grossing Up" for same-sex domestic partners at this time. If the University extends system benefits to all domestic partners, then perhaps this might be a more equitable option at that time and should be revisited.

EXAMPLES OF RELATED POLICIES (with definitions/mentions of "spouse" or "immediate family" coverage) include, but are not limited to:

❖ **Board of Regents Policies**

VII- 7.45 - POLICY ON SICK LEAVE

(Approved by the Board of Regents December 5, 1997)

<http://www.usmh.usmd.edu/regents/bylaws/SectionVII/VII745.html>

VII - 7.50 - USM POLICY ON FAMILY AND MEDICAL LEAVE FOR EXEMPT AND NONEXEMPT STAFF EMPLOYEES

(Approved by the Board of Regents, August 27, 1993; Amended April 16, 2004; Amended October 22, 2004, Amended June 18, 2010)

http://www.uhr.umd.edu/documents/BOR_VII750_FMLA.pdf

VII - 2.10 - POLICY ON EMPLOYMENT OF MEMBERS OF THE SAME FAMILY

(Approved by the Board of Regents, February 28, 1992; Amended December 12, 2008)

<http://www.president.umd.edu/policies/vii-210.html>

VII-4.20 - USM POLICY ON TUITION REMISSION FOR SPOUSES AND DEPENDENT CHILDREN OF REGULAR AND RETIRED FACULTY AND STAFF EMPLOYEES OF THE UNIVERSITY SYSTEM OF MARYLAND

(Approved by the Board of Regents on January 11, 1990; Amended by the Board on May 31, 1990; Amended February 28, 1992, Amended by the Board on August 24, 2001; Amended by the Board on December 7, 2001; Amended by the Board on August 23, 2002; Amended by the Board on December 6, 2002; Amended by the Board on June 27, 2003)

<http://www.usmh.usmd.edu/regents/bylaws/SectionVII/VII420.html>

❖ **University of Maryland College Park Policies**

II-2.31 - POLICY ON FAMILY AND MEDICAL LEAVE FOR FACULTY

(Approved by the Board of Regents, October 6, 1995)

<http://www.president.umd.edu/policies/docs/II231a.pdf>

VII-4.20(A) UMCP PROCEDURES CONCERNING TUITION REMISSION FOR SPOUSES AND DEPENDENT CHILDREN OF FACULTY AND STAFF

(Approved by the President August 1, 1991)

<http://www.president.umd.edu/policies/vii420a.html>

- ❖ **Exempt Memorandum of Understanding** (entered into by the University of Maryland, College Park and the American Federation of State, County and Municipal Employees, Council 92, AFL-CIO for all regular full-time and part-time employees in the Exempt bargaining unit)

http://www.uhr.umd.edu/documents/2010_Exempt_Memorandum_of_Understanding.pdf

Article 7. Tuition Remission

Section 9. Sick Leave

Section 11. Leave Usage Priority

Section 14. Critical Care Leave

Section 21. Bereavement Leave

Section 25. Family and Medical Leave (FMLA)

- ❖ **Nonexempt Memorandum of Understanding** (entered into by the University of Maryland, College Park and the American Federation of State, County and Municipal Employees, AFL-CIO, and has as its purpose the promotion of harmonious relations between the University and the employees in the Nonexempt bargaining unit and its representatives)

http://www.uhr.umd.edu/documents/2010_Nonexempt_Memorandum_of_Understanding.pdf

Article 7. Tuition Remission
Section 9. Sick Leave
Section 14. Critical Care Leave
Section 22. Bereavement Leave
Section 26. Family and Medical Leave (FMLA)

APPENDICES

Appendix One: History of Domestic Partner Benefits Issue at University of Maryland

Appendix Two: Charge from the SEC and Related Documents

Appendix Three: A list of U.S. colleges and universities offering domestic partner health benefits compiled by the Human Rights Campaign (HRC)

Appendix Four: Peer Institution Review of Relevant Benefit Coverage

Appendix Five: Extension Request from EDI and Extension Approval from the SEC

Appendix Six: Endorsements

Appendix One

History of the Issue

1994

The 1993-1994 Senate Human Relations Committee (renamed the Senate Committee on Equity, Diversity, & Inclusion in 2010) submitted a report to the College Park Senate in 1994 regarding the extension of University benefits to domestic partners (Senate Document 93-94-35z). The report and its recommendations were approved by the Senate on May 9, 1994. The committee's report contained three separate resolutions:

- 1) The College Park Senate resolves to uphold the University's fundamental belief in equity for all employees and to adhere to the provisions in the Human Relations Code. The policy of the University will be to extend the family benefits that it controls, including library borrowing, the use of recreation and child care facilities, and athletic season ticket discounts to domestic partners. The implementation plan for domestic partner benefits will be determined by the President's Legal Staff, the Office of Human Relations Programs, the Office of Personnel Services, and the Senate Human Relations Committee.
- 2) The College Park Senate resolves to request the Board of Regents (BOR) of the University of Maryland System to undertake a review of the benefits that it controls with an aim toward extending such benefits to university employees in domestic partnerships. (e.g., tuition remission and family-related leave benefits)
- 3) The College Park Senate resolves to request the State of Maryland to undertake a review of the benefits it controls with an aim toward extending such benefits to university employees in domestic partnerships. (e.g., health and pension benefits)

The Senate Human Relations Committee defined "domestic partners" as two individuals who live together, as a couple, in a long-term relationship of indefinite duration with an exclusive mutual commitment in which the partners agree to be jointly responsible for each other's common welfare and share financial obligations. Each partner would sign an affidavit. The committee believed that the passage of this report and its recommendations would help to create a more equitable, positive, and welcoming work and learning environment on the College Park campus.

Upon approval of William Kirwan, President of the University, the resolutions were forwarded to the BOR and appropriate officials of the State of Maryland. The State of Maryland Department of Personnel responded that the Senate's proposal required further study and should be placed on hold. The BOR accepted the direction advocated by the Secretary of the State of Maryland Department of Personnel and decided not to take any action on the matter at that time. The Chancellor agreed that it would be inappropriate for it, or any of the USM Institutions, to take unilateral action, especially with the pending change in the State's political leadership. The BOR did not take a position on the general issue or on the specific proposal put forward by the College Park Senate. Since the Schaefer Administration indicated that action by the BOR regarding extension of benefits to domestic partners would be inappropriate at that time, the BOR instructed USM Presidents not to implement Resolution 1. The Schaefer Administration also viewed any action by the BOR as unilateral, setting precedent for other State agencies and, as such, inappropriate. It was also noted by the Secretary of the Department of Budget and

Fiscal Planning that the State was too far into the bidding and evaluation process for a new State Employee Health Benefits contract to begin formulating provisions for domestic partners at that time. The BOR stated that it would not take action on Resolutions 1 and 2 until the State provides an indication of its disposition of Resolution 3.

1995

In February, Governor Glendening responded to a letter from the Chair of the University of Maryland College Park Lesbian and Gay Staff and Faculty Association, stating that the new executive administration and legislators deserved an opportunity to study the issue carefully before it could provide an indication of its disposition on Resolution 3, and before the BOR could possibly take any action on Resolutions 1 and 2.

In response to the 1994 Senate resolutions, a Board of Regents Ad Hoc Committee on Domestic Partner Benefits was convened. During the review process, the ad hoc committee held two public hearings on the issue.

1996

In April the ad hoc committee released a report entitled, "The Value and Values of Domestic Partner Benefits for UMS (University of Maryland System) Employees." The report stated, "Following careful deliberations, the Committee concluded—on a five to two vote—that extending benefits to domestic partners (both same-sex and opposite-sex) would have significant value for the UMS that far outweighs the negligible costs." The ad hoc committee thus recommended that the BOR call upon the USM institutions to extend to domestic partners those campus-controlled amenities and benefits currently enjoyed by legal spouses of employees. It also asked the BOR to have the system-wide Human Resources Council draft revisions to USM policies with the goal of extending to domestic partners those System-controlled benefits currently enjoyed by legal spouses of employees. Additionally, the report asked the BOR to encourage officials of the State of Maryland to consider extending state-controlled spousal benefits to domestic partners of all state employees and to review the potential of "cafeteria" benefit plans to help address this and other pay equity issues. The report also recommended that a statement of non-discrimination with regard to sexual orientation be developed for inclusion in USM policies. This report was forwarded to officials of the State of Maryland General Assembly.

The BOR received letters of response from both the President of the Senate of Maryland and the Speaker of the House of Delegates. Both letters encouraged the BOR to defer actions on the recommendations of the Ad Hoc Committee on Domestic Partner Benefits until the appropriate Committees of the Legislature could consider the issue and its broader implications. The BOR ultimately did not act on the first three recommendations of its Ad Hoc Committee on Domestic Partner Benefits, but it did accept the last recommendation and adopted a non-discrimination statement for USM policies in July of the following year.

A memo from the Office of the Chancellor was sent to the USM Institution Presidents on August 23, 1996, with guidance concerning the provision of campus-controlled benefits to persons who may be domestic partners. The memo stated that "Presidents may not award campus-controlled benefits to individuals solely because they are members of the class of individuals called 'domestic partners.' However, individuals who are domestic partners may receive any benefits for which they would be eligible if they were not domestic partners. To put it another way, no individual should lose or gain benefits because of his/her status as a domestic partner."

2000

The 2000-2001 General Assembly voted in favor of, and the Governor signed legislation, making discrimination on the basis of sexual orientation illegal. The legislation went into effect in 2001.

2001

In February, the Council of University System Faculty (CUSF) passed a motion asking the BOR to revisit the issue and to adopt a policy in favor of non-discrimination on the basis of the gender of the employee or marital status or the gender of the employee's domestic partner in all matters of compensation and benefits. The BOR agreed to revisit this issue. The Domestic Partner Benefits Task Force was appointed to investigate and report on the issue; it was charged with determining what should be the BOR's disposition on the extension of benefits to individuals in domestic partner relationships at the campus, system, and State level.

Additionally, the Lesbian, Gay, Bisexual, and Transgender Issues Task Force of the USM Diversity Network issued a report in June 2001 that updated much of the research gathered in 1996. The Senate Executive Committee (SEC) asked the Senate Human Relations Committee to review the report. The Human Relations Committee found that four of the University of Maryland's five academic peer institutions—UCLA, Michigan, Illinois, and Berkeley—all provided domestic partner benefits, with the exception of health benefits. The Human Relations Committee reported that it still supported the 1994 Senate decision, and recommended that the SEC reaffirm its position and communicate the reaffirmation to the BOR. The Human Relations Committee's report was endorsed by the SEC and forwarded to President C.D. Mote, Jr.

2002

The SEC expressed its unanimous support of the initiative to secure domestic partnership benefits for employees in the USM. However, the BOR's Domestic Partner Benefits Task Force subsequently stopped reviewing the issue. The chair of the task force, Admiral Larson, resigned because he was running for Lieutenant Governor, and the task force decided not to resume the study at that time. As a result, further review of this issue was put on hold.

2004

President Mote asked the President's Commission on LGBT Issues to determine which University privileges might be able to be extended to domestic partners. In the course of review, the President's Cabinet instead suggested that the privileges not only be extended to domestic partners, but also to others who might live with members of the University faculty and staff. The idea of "Plus One" emerged. President Mote asked the SEC to review a drafted policy and provide advice. The SEC sent the draft policy to the Senate Human Relations Committee for review.

2006

Following a two-year review, the Senate Human Relations Committee submitted a report recommending that a policy on Access to Campus-based Privileges be enacted. It was approved by the Senate in December 2006. Subsequently, the President approved VI-27.00(A) University of Maryland Policy on Access to Campus-Based Privileges. The policy stated that

effective January 1, 2007, each University of Maryland College Park employee may designate one qualified person in addition to himself or herself who shall be eligible for campus-based privileges in accordance with the rules outlined in the policy. To be qualified for designation as a person eligible to receive campus-based privileges, an individual must be at least 18 years old, reside continuously with the employee, and not be in a landlord-tenant relationship with the employee. A person is qualified only so long as he or she continues to reside with the employee. Examples of such individuals include spouses, domestic partners, and adult children of employees. The campus-based privileges for which a qualified designated person may currently be granted access are: use of University libraries, access to University Health Center Services (not health care plans), access to the Counseling Center, access to the Campus Recreation Center at the sponsored membership rate, access to services of the Center for Young Children for children of the employee and the designated individual, and access to the University Golf Course at the faculty/staff membership rate. The President sent a memo to the Vice Presidents about this new policy, and the Director of University Human Resources sent a memo to all Deans, Directors, and Department Chairs.

President Mote appointed a Human Resources Working Group to examine how the University could offer the full range of benefits to domestic partners.

2007

The Human Resources Working Group forwarded three recommendations to President Mote, including that the University be authorized by the BOR to offer health insurance and tuition remission benefits for domestic partners (additional costs to be borne by the institution), as well as the same survivor benefits that are currently available to spouses of employees. President Mote forwarded these recommendations to Chancellor William Kirwan. The Chancellor determined that all USM institutions should move forward as one entity and deferred further consideration to the State on the issue of health benefits.

2009

Access to health care insurance for same-sex domestic partners of all State employees is provided by the administration of Governor Martin O'Malley, and the Maryland Health Care Commission issues an official definition of domestic partner.

2010

An opinion of the Attorney General was issued on February 23 that recognizes same-sex marriages performed in other jurisdictions. To comply with the opinion, the Board of Regents adopted a resolution on September 17 that allows same-sex spouses to be eligible for all spousal USM benefits.

2011

Legislation was introduced in the Maryland General Assembly to allow same-sex marriages in the State of Maryland. The Civil Marriage Protection Act (Senate Bill 116) was introduced during the 2010-2011 session (proposed and sponsored by Senator Rob Garagiola, Delegate Kumar Barve, and Delegate Ben Barnes). The bill would establish law that "only marriage between two individuals who are not otherwise prohibited from marrying is valid in this State," rather than only allowing marriage between "a man and a woman," as currently written in law. If passed, Maryland would have joined five other states and Washington, D.C. in allowing same-

sex couples to marry. The bill passed the Maryland Senate in a 25 to 21 vote. Once in the House of Delegates, Del. Aisha N. Braveboy (D-Prince George's) presented an amendment that would guarantee that voters would get a say on the issue by mandating that the law could not go into effect unless voters rejected a separate 2012 ballot question on whether a ban on same-sex marriage should be written into the Maryland State Constitution; the amendment failed. The Maryland State Constitution also has a provision which allows citizens to mandate public votes on newly passed legislation if enough signatures in favor are collected; this action, if successful, would have also put the law on hold pending the outcome of a statewide vote in November 2012. However, the bill was not voted upon in the House of Delegates; rather, it was sent back to the Judiciary Committee without a record vote. Governor Martin O'Malley (D) was reported to be "disappointed" by the vote. The *Washington Post* reported that Gov. O'Malley stated, "I would have hoped that we could have resolved this issue and then let the people decide" (Wagner, 2011)*.

*Wagner, J. (2011, March 11). Maryland House turns back bill that would legalize same-sex marriage. *The Washington Post*. Retrieved from <http://www.washingtonpost.com/>

On July 22, 2011, Governor Martin O'Malley (D) reconfirmed his commitment to making marriage equality a top legislative and administration priority for the 2012 Maryland General Assembly. At a news conference in Annapolis, MD, on July 22, 2011, O'Malley stated that he is very optimistic that his administration can pull together the necessary votes for passage of a law. During the press conference, O'Malley stated, "Marylanders of all walks of life want their children to live in a loving, stable, committed home – protected under the law. As a free and diverse people of many faiths, we choose to be governed under the law by certain fundamental principles or beliefs, among them 'equal protection of the law' for every individual and the 'free exercise' of religion without government intervention. Other states have found a way to protect both these rights. So should Maryland. The legislation we plan to introduce in the 2012 legislative session will protect religious freedom and equality of marital rights under the law."* O'Malley continued to agree that a referendum or appeal effort regarding a 2012 marriage equality bill is certainly possible, as it is the people's right under Maryland law.

*<http://www.governor.maryland.gov/pressreleases/110722.asp>



University Senate CHARGE

Date:	November 23, 2010
To:	Terry Owen Chair, Equity, Diversity, and Inclusion (EDI) Committee
From:	Linda Mabbs Chair, University Senate 
Subject:	Request to Review Domestic Partner Benefits
Senate Document #:	10-11-34
Deadline:	March 28, 2011

The Senate Executive Committee (SEC) requests that the Equity, Diversity, and Inclusion (EDI) Committee review the issue of domestic partner benefits and make recommendations on whether the level of benefits that we are currently providing is appropriate.

The SEC charged the 2010-2011 Staff Affairs Committee to work with the Council of University System Staff (CUSS) on recommending expansion to domestic partners of system-wide benefits and other related policies, including policies on sick leave, tuition remission, family medical leave, and nepotism. The committee worked with Luke Jensen, Director of the Office of Lesbian, Gay, Bisexual, and Transgender Equity during fall semester and reported back to the SEC on November 10, 2010.

The Staff Affairs Committee reported that it had received notification that on September 17, 2010, the Board of Regents adopted a resolution to comply with the recent Attorney General's opinion regarding the recognition of same sex marriages validly made in other states. The resolution will allow same sex spouses, retroactive to July 1, 2010, to be eligible for all spousal University System of Maryland (USM) benefits, notably tuition remission and various types of leave. The resolution will also apply to the USM's nepotism policy. The Board of Regents resolved to work with Unum (a USM benefits provider) to align any appropriate spousal benefits provided under their USM plans with the resolution. However, the resolution applies only to same sex marriages, and not to other domestic partnerships.

Because this is more than an issue for staff members, the SEC approved charging the EDI Committee with continuing work on whether these benefits should also be extended to domestic partners. Specifically, we ask that you:

1. Consult with the President's Legal Office on the legal aspects of this issue, and why the Board of Regents chose the specific coverage for its resolution.
2. Consult with the Office of Human Resources and the Office of LGBT Equity on the scope of this issue at the University.

3. Review the current and past recommendations on the expansion of benefits to domestic partners.
4. Compare our existing benefits to those at our peer institutions.
5. Research and review the practice known as “Grossing Up,” which has been used by some businesses to make up for the income tax burden of domestic partner benefits and to determine whether it might be a viable option for the University.
6. Work with the President’s Commission on Lesbian, Gay, Bisexual, and Transgender Issues, Chaired by Tanner Wray, to potentially develop a resolution for UMCP that would more fully address the needs of domestic partners (sick leave, tuition remission, family medical leave, and nepotism).

We ask that you submit your report and recommendations to the Senate Office no later than March 28, 2011. If you have questions or need assistance, please contact Reka Montfort in the Senate Office, extension 5-5804.

Attachments:

Original letter of request from the Staff Affairs Committee

Draft of proposal from the Office of Lesbian, Gay, Bisexual, and Transgender Equity

Charge to the Staff Affairs Committee

Response from the Staff Affairs Committee to the SEC

Human Rights Campaign document entitled, “Domestic Partner Benefits: Grossing Up to Offset Imputed Income Tax”



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May 7, 2010

Professor Linda Mabbs
Chair, University Senate
1100 Marie Mount Hall
University of Maryland
College Park, MD 20742-7541

Dear Professor Mabbs:

Early in the Spring 2010 semester, the Senate Staff Affairs Committee invited Luke Jensen, Director of the Office of Lesbian, Gay, Bisexual, and Transgender Equity, to speak at a committee meeting. It had been brought to the attention of the committee by a committee member that Jensen was currently working on an effort to recommend expansion of campus-based benefits to same-sex domestic partners. Jensen had expressed interest in working with the committee on this effort, and the committee welcomed his presentation.

At the meeting, Jensen explained possibilities for how to extend benefits such as bereavement leave, Family and Medical Leave, sick leave, and tuition remission to domestic partners. Jensen explained that he has been working on this issue since 1992, and that domestic partners recently received health care benefits when the State of Maryland instituted a statewide policy. Jensen provided an overview of what types of benefits are offered at our peer institutions. He explained that his office would like the support of the University Senate through the passage of a resolution recommending that bereavement leave, Family and Medical Leave, sick leave, and tuition remission benefits be extended to domestic partners at the University of Maryland College Park. The committee requested that his office draft a document that contains specific information about what he wants the committee to support. This document was subsequently forwarded to the committee for its review (it is enclosed for your reference).

Willie Brown, Chair of the Council of University System Staff (CUSS), serves as a voting ex-officio member of the Staff Affairs Committee. At a recent meeting, he reported that CUSS is currently in discussions regarding the expansion of system-wide domestic partner related policies (sick leave, tuition remission, family medical leave, and nepotism) with the Chancellor's Office. He explained that the Chancellor is willing to review these policies with CUSS leadership. Because CUSS will be in conversation with the Chancellor regarding this topic on a system-wide manner over the coming months, the committee would like to support CUSS's efforts.

Thus, the Staff Affairs Committee asks that the Executive Committee charge the 2010-2011 Staff Affairs Committee with reviewing the status of CUSS's work on this topic throughout the academic year. Additionally, the committee would like to be charged with crafting a letter of endorsement and support of CUSS's final recommendation, if appropriate for the University. At our meeting on May 3, 2010, the committee voted unanimously in favor of supporting this request.

Thank you for your consideration of this matter.

Sincerely,

Cynthia Shaw
Chair, University Senate Staff Affairs Committee

Enclosure: Draft of proposal from the Office of Lesbian, Gay, Bisexual, and Transgender Equity

CS/cb

Cc: Reka Montfort, Executive Secretary and Director, University Senate
Willie Brown, Chair of the Council of University System Staff (CUSS)
Luke Jensen, Director of the Office of Lesbian, Gay, Bisexual, and Transgender Equity

DRAFT Proposal from Luke Jensen, Director of the Office of LGBT Equity

Domestic Partner Benefits – Completing the Task

Beginning in the early 1990s, discussions about Domestic Partner Benefits at the University of Maryland recognized three levels of benefits: campus benefits, system benefits, and state benefits. In 2006, the campus moved forward in offering campus benefits and President C. D. Mote, Jr. appointed a Human Resources Working Group to examine how we could offer the full range of benefits to domestic partners. The committee was chaired first by John Porcari and later by Ann Wylie. On April 11, 2007, the HR Working Group submitted its recommendations to President Mote. They included the following.

The Working Group recommends that the University of Maryland, College Park, be authorized by the Board of Regents and the State of Maryland to offer the same health insurance benefits for domestic partners that are currently available to spouses of employees. Any additional costs for this benefit would be borne by the institution.

The Working Group recommends that UMCP be authorized by the Board of Regents to offer the same tuition remission benefits for domestic partners enrolled at UMCP that are currently available to spouses. Any additional costs for this benefit would be borne by the institution.

The Working Group recommends that on behalf of the University of Maryland the Board of Regents work with the State to allow domestic partners the same survivor benefits that are currently available to spouses of UMCP employees.

On April 16, 2007, President Mote sent these recommendations to Chancellor William E. Kirwan. The Chancellor determined that the complete University System of Maryland should move forward as one entity on the issue of health care for domestic partners and deferred further consideration to the State. Following legislation passed by the Maryland General Assembly and an official definition of Domestic Partner issued by the Maryland Health Care Commission, both in 2008, and additional legislation passed in 2009, the administration of Governor Martin O'Malley provided access to health care insurance for the domestic partners of all state employees including the University System of Maryland.

Tuition remission and other system-level benefits have gone unaddressed.

This proposal moves that

- a) "UMCP be authorized by the Board of Regents to offer the same tuition remission benefits for domestic partners enrolled at UMCP that are currently available to spouses" as proposed most recently in 2007.

We also propose that domestic partners be included for the following "soft" benefits.

b) Use of sick leave for “illness or injury in the employee’s immediate family and medical appointments, examinations or treatments for the immediate family member with an accredited, licensed, or certified medical provider.”

c) Paid “Bereavement Leave, not to exceed three (3) work days, of five (5) days if overnight travel is required, on account of the death of any member of the employee’s immediate family.”

d) The inclusion of domestic partners in policies regarding Family and Medical Leave. This would simply parallel policies mandated by Federal Law.

Domestic partners should also be included in all other relevant policies of the University System of Maryland.

Because there is an established affidavit employees must submit to access health insurance coverage for Domestic Partners, it is understood that the same form would be used for Tuition Remission. (http://www.uhr.umd.edu/benefits/benefits_forms.cfm)



University Senate CHARGE

Date:	August 24, 2010
To:	Cynthia Shaw Chair, Staff Affairs Committee
From:	Linda Mabbs Chair, University Senate
Subject:	Request to Endorse CUSS Review of Domestic Partner Benefits
Senate Document #:	09-10-48
Deadline:	November 10, 2010

The Senate Executive Committee (SEC) met on May 14, 2010 to review the letter submitted by the 2009-2010 Staff Affairs Committee, regarding the efforts of the committee and the Council of University System Staff (CUSS) to recommend expansion of benefits to same-sex domestic partners. The letter outlined the committee's strong support for charging the 2010-2011 Staff Affairs Committee with reviewing the status of CUSS's work on this topic throughout the 2010-2011 academic year. Specifically, they suggested that the incoming committee craft a letter of endorsement and support of CUSS's recommendation, if appropriate for the University.

The SEC voted to grant this request, and would like the 2010-2011 Staff Affairs Committee to work with CUSS on the issue of recommending expansion of system-wide domestic partner related policies (including sick leave, tuition remission, family medical leave, and nepotism). If the committee supports CUSS's recommendation regarding this topic, the SEC would also like the Staff Affairs Committee to craft a letter of endorsement and support of CUSS's recommendation, if appropriate for the University. The committee should draft a letter outlining its endorsement of any recommended expansion of benefits. The committee is advised to work with Luke Jensen, Director of the Office of Lesbian, Gay, Bisexual, and Transgender Equity, with the crafting of this letter. Specifically, the committee should include past research and/or recommendations in this area, as well as any pertinent information that explains why such expansion would benefit the University of Maryland College Park. This letter could be put forward in the form of a resolution to the Senate.

The SEC requests that the Staff Affairs Committee assist CUSS in its work on this topic as needed. The SEC also requests that the Staff Affairs Committee provide a status report and/or submit a letter as described above no later than November 10, 2010.

If you have questions or need assistance, please contact Reka Montfort in the Senate Office, extension 5-5804.



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November 10, 2010

Professor Linda Mabbs
Chair, University Senate
1100 Marie Mount Hall
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College Park, MD 20742-7541

Dear Chair Mabbs:

The Staff Affairs Committee received a charge at the beginning of the Fall 2010 Semester asking the committee to work with the Council of University System Staff (CUSS) on the issue of recommending expansion of system-wide domestic partner related policies (including sick leave, tuition remission, family medical leave, and nepotism). The SEC asked the Staff Affairs Committee to craft a letter outlining its endorsement of any final recommendations, or provide a status report to the SEC by November 10, 2010.

I am writing on behalf of the Staff Affairs Committee to update the SEC on the recent actions regarding this topic. Early in the Spring 2010 semester, the Senate Staff Affairs Committee spoke with Luke Jensen, Director of the Office of Lesbian, Gay, Bisexual, and Transgender Equity, about efforts to recommend expansion of campus-based benefits to same-sex domestic partners. Over the course of the Spring and Summer months, CUSS discussed the expansion of system-wide domestic partner related policies with the Chancellor.

The committee received notification that on September 17, 2010, the Board of Regents adopted a resolution to comply with the recent Attorney General's Opinion regarding the recognition of same sex marriages validly made in other states. We understand that this resolution will allow same sex spouses, retroactive to July 1, 2010, to be eligible for all spousal USM benefits, notably tuition remission and various types of leave. The resolution will also apply to the USM's nepotism policy. The Board of Regents resolved to work with UNUM to align any appropriate spousal benefits provided under their USM plans with the resolution. Pending or denied applications for tuition remission for the current semester will be notified of the Board's decision. However, because the resolution applies only to same sex marriages, and not to other domestic partnerships, I contacted Luke Jensen to find out whether he felt that a majority of constituents on campus will be served by this resolution.

I met with Luke Jensen on Tuesday, October 26, 2010. It was made clear that the sentiment on campus is that the piece-meal approach to providing benefits for domestic partners has frustrated and exhausted those who have been championing these efforts for over twenty years. We concur that the Attorney General was courageous in his option of recognizing same sex marriages validly made in other states, because it does expand access to benefits for some employees on campus. However, the resolution passed by the Board of Regents does not comprehensively address the issue that CUSS and the Staff Affairs Committee were interested in pursuing. Additionally, the resolution puts the University in the awkward position of having to ask state employees with same sex domestic partners to go out of state to obtain a legal document that will allow them to access state benefits in the State of Maryland.

Because we do not wish to see this issue be removed entirely from the table, and because this is

more than just an issue for staff members, the Staff Affairs Committee would like to recommend that the Senate Committee on Equity, Diversity, and Inclusion (EDI) be charged with continuing work on this subject. If this is granted, we would also encourage the EDI Committee to partner with the President's Commission on Lesbian, Gay, Bisexual, and Transgender Issues, Chaired by Tanner Wray, to potentially develop a resolution for UMCP that would more fully address the needs of domestic partners (sick leave, tuition remission, family medical leave, and nepotism). A major first task for the EDI Committee should be to determine the scope of the issue at the University. Additionally, the Staff Affairs Committee recommends that EDI consult the Legal Office to find out about the legal aspects of this issue, including why the Board of Regents chose the specific coverage of its most recent resolution.

Luke Jensen also mentioned a practice known as "Grossing Up," which has been instated at some institutions to make up for the income tax burden of domestic partner benefits. The Staff Affairs Committee suggests that EDI be asked to research this practice and evaluate whether it should be recommended for consideration at the University. We have attached a document with more information from the Human Rights Campaign website called "Domestic Partner Benefits: Grossing Up to Offset Imputed Income Tax."

Also attached to this letter is the original proposal from Luke Jensen.

Thank you for your consideration of this matter.

Sincerely,

Cynthia Shaw
Chair, University Senate Staff Affairs Committee

Enclosure(s):
HRC document, "Domestic Partner Benefits: Grossing Up to Offset Imputed Income Tax"
Draft of proposal from the Office of Lesbian, Gay, Bisexual, and Transgender Equity

CS/cb

Cc: Reka Montfort, Executive Secretary and Director, University Senate
Luke Jensen, Director of the Office of Lesbian, Gay, Bisexual, and Transgender Equity

Information Retrieved from Human Rights Campaign Website on October 29, 2010

http://www.hrc.org/issues/workplace/benefits/grossing_up.htm

Domestic Partner Benefits: Grossing Up to Offset Imputed Income Tax

The information in this document does not constitute legal advice. For assistance with legal questions specific to your situation, please consult an attorney.

A number of employers have looked to account for the income tax burden of domestic partner benefits by "grossing up" an employee's salary, similar to grossing up award or bonus payments to an employee. This benefit is also sometimes referred to as a "true-up" of the employee's salary. For example, a holiday bonus of \$500 would be reported for tax purposes at a greater value so that the employee actually receives \$500 after taxes. Employees that are taxed on the imputed value of domestic partner benefits generally must pay those taxes each payroll period.

- [Taxation of Domestic Partner Benefits](#)
- [Business Coalition for Benefits Tax Equity](#) - a group of more than 70 major U.S. employers that support legislation to end the federal tax disparity

Who Grosses Up

Although employers have been interested in implementing a gross up benefit for employees receiving partner benefits since as early as 2001, the HRC Foundation was unable to find a particular employer that had implemented the benefit until 2009.

As of July 2010, the HRC Foundation is aware of four for-profit employers -- including **Cisco Systems**, **Google Inc.** and **Kimpton Hotels & Restaurants**. Furthermore, several large businesses and law firms have indicated they will implement the benefit in 2010. More information will be available after the Corporate Equality Index 2011 Report is released in Fall 2010.

- [Kimpton Hotels & Restaurants](#) - video and presentation about their HRC Award for Workplace Equality Innovation in 2010

How "Grossing Up" Works: An Example

Consider an employer that wants to gross up an employee in the 20-percent tax bracket. The fair market value of the employee's non-dependent domestic partner coverage is determined to be \$200 per pay period.

The employee will incur \$40 of tax ($\200×20 percent) for that pay period. To gross up the employee, the employer would need to make an additional payment of \$48 to this employee - \$40 would serve as reimbursement for the tax incurred on the benefits coverage and the other \$8 ($\40×20 percent) would serve as an approximate reimbursement of the tax paid on the gross-up

payment itself. Note that this example does not include state tax, Social Security (FICA) and Medicare taxes.

This example appears in "[Domestic Partner Benefits: An Employer's Guide, 5th Edition.](#)" Copyright 2009 Thompson Publishing Group, Inc.

Notifying Employees

Employers can notify employees of the gross-up benefit through general benefits eligibility documentation available to all employees.

EXAMPLE: Who is eligible for benefits?

All employees regularly scheduled to work 20 or more hours each week are eligible for all benefits. Employees working less than 20 hours per week are eligible to participate in the Retirement Plans and Employee Matching Gifts Program. Coverage will begin on your date of hire. You may enroll your eligible dependents for medical, dental and vision benefits. Dependents are eligible to receive Employee Assistance Program (EAP) services, regardless of enrollment in other benefit plans. Your eligible dependents include:

- Your legal spouse
- Your same- or different-sex partner. To be eligible to enroll in the plans, your partner must meet the criteria outlined under Domestic Partner Eligibility. **Any premium contributions made by [EMPLOYER NAME] on behalf of a non-dependent partner are considered taxable income. However, [EMPLOYER NAME] pays for the tax impact on your behalf; therefore, there is no impact to your net pay. Payroll will gross-up your salary for the value of the insurance provided to your domestic partner. As a result, your gross wages reported on your regular pay stub and in Box 1 of your W-2 will be higher by the amount of the insurance (including the gross-up).**
- Your unmarried children (or step children in your custody) up to the age of 25 who depend on you for support (this includes your partner's children)
- Any dependent child who is incapable of self-support because of a physical or mental disability

Sample Proposal for Grossing Up

Use this sample proposal as a guide when advocating for your own employer to implement grossing up as a standard for employees enrolled in domestic partner benefits that pay an additional imputed income tax.

- [Proposal for Grossing Up to Offset Imputed Income Tax](#)



Human Rights Campaign
 1640 Rhode Island Avenue NW
 Washington, DC 20036
 phone (202) 628-4160
 fax (202) 347-5323

1/10/2011

Employers that offer domestic partner health benefits
 For: US News Top 120 Colleges & Universities

EMPLOYER NAME	CITY	STATE
American University	Washington	DC
Brandeis University	Waltham	MA
Brown University	Providence	RI
California Institute of Technology	Pasadena	CA
Carnegie Mellon University	Pittsburgh	PA
Case Western Reserve University	Cleveland	OH
Columbia University	New York	NY
Cornell University	Ithaca	NY
Dartmouth College	Hanover	NH
Drexel University	Philadelphia	PA
Duke University	Durham	NC
Emory University	Atlanta	GA
George Washington University	Washington	DC
Georgetown University	Washington	DC
Harvard University	Cambridge	MA
Illinois Institute of Technology	Chicago	IL
Indiana University Bloomington	Bloomington	IN
Iowa State University	Ames	IA
Johns Hopkins University	Baltimore	MD
Lehigh University	Bethlehem	PA
Massachusetts Institute of Technology	Cambridge	MA
Miami University	Oxford	OH
Michigan State University	East Lansing	MI
New York University	New York	NY
Northeastern University	Boston	MA
Northwestern University	Evanston	IL
Ohio University	Athens	OH

EMPLOYER NAME	CITY	STATE
Pennsylvania State University	University Park	PA
Pepperdine University	Malibu	CA
Princeton University	Princeton	NJ
Purdue University	West Lafayette	IN
Rice University	Houston	TX
Rutgers University	Piscataway	NJ
Southern Methodist University	Dallas	TX
Stanford University	Stanford	CA
SUNY - Binghamton	Binghamton	NY
SUNY - Stony Brook	Syracuse	NY
Syracuse University	Syracuse	NY
Tufts University	Medford	MA
Tulane University	New Orleans	LA
University Of California Davis	Davis	CA
University Of California Irvine	Irvine	CA
University Of California Los Angeles	Los Angeles	CA
University Of California Riverside	Riverside	CA
University Of California San Diego	La Jolla	CA
University Of California Santa Barbara	Santa Barbara	CA
University Of California Santa Cruz	Santa Cruz	CA
University of California, Berkeley	Berkeley	CA
University of Chicago	Chicago	IL
University of Colorado Boulder	Boulder	CO
University of Connecticut	Storrs	CT
University of Denver	Denver	CO
University of Florida	Gainesville	FL
University of Illinois Urbana-Champaign	Champaign	IL
University of Iowa	Iowa City	IA
University of Miami	Coral Gables	FL
University of Michigan Health System	Ann Arbor	MI
University of New Hampshire Durham	Durham	NH
University of Oregon	Eugene	OR
University of Pennsylvania	Philadelphia	PA
University of Pittsburgh	Pittsburgh	PA
University of Rochester	Rochester	NY

EMPLOYER NAME	CITY	STATE
University of San Francisco	San Francisco	CA
University of Southern California	Los Angeles	CA
University of the Pacific	Stockton	CA
University of Vermont	Burlington	VT
University of Washington	Seattle	WA
Vanderbilt University	Nashville	TN
Wake Forest University	Winston-Salem	NC
Washington State University	Pullman	WA
Washington University in St. Louis	St. Louis	MO
Worcester Polytechnic Institute	Worcester	MA
Yale University	New Haven	CT

Domestic Partner Benefits at University of Maryland Peer Institutions

9/7/2011

BENEFIT	University of California, Berkeley	University of California, Los Angeles	University of Michigan	University of Illinois, Urbana-Champaign	University of North Carolina, Chapel Hill
Sick Leave	yes	yes	yes	yes	no
Bereavement Leave	yes	yes	yes	yes	no
Family & Medical Leave	yes	yes	yes	yes	no
Tuition Remission	not offered to anyone	not offered to anyone	only offered to employees	only offered to retirees, employees, and children	no

University of California System

Domestic partner benefits for UC employees are available at http://atyourservice.ucop.edu/forms_pubs/misc/benefits_domestic_partners.pdf.

Even though full tuition waivers are not offered, under certain circumstances employees, or the child, spouse, or registered domestic partner of a University employee, may qualify for a waiver of the nonresident supplemental tuition (basically pay resident tuition). Details are available at <http://www.registrar.ucla.edu/residence/exempt.htm>.

University of Michigan

The University of Michigan offers benefits for adult dependents who meet the requirements of the [Other Qualified Adult \(OQA\)](#) category. Although U-M does not offer benefits based on a domestic partnership, coverage for an adult who shares a primary residence with the U-M employee can be elected when all OQA requirements are met:

- The employee is eligible for U-M benefits; and
- The employee does not already enroll a spouse in health or other benefits; and
- The Other Qualified Adult, at the time of proposed enrollment, shares a primary residence with the employee and has done so for the previous 6 continuous months, other than as an employee or tenant.

Specific policies for sick leave and funeral time are available at <http://spg.umich.edu/section/201/>. FMLA policy is available at <http://hr.umich.edu/tutorials/FMLA/toc.html>. For FMLA purposes, the U-M definition of a family member is located at <http://hr.umich.edu/tutorials/FMLA/fammemdef.html>.

It appears that full tuition waivers are only offered as part of the Graduate Student Research Assistantship Program.

Tuition support requests are available only to employees (not to spouses or children): <http://hr.umich.edu/hrris/forms/pdfs/tuitionsupportrequest.pdf>

University of Illinois

The University of Illinois defines domestic partners as two persons of the same gender, age 18 or older, who have been residing together for at least 6 months and are jointly responsible for each other's common welfare and shared financial obligations. (see

https://nessie.uihr.uillinois.edu/cf/benefits/index.cfm?item_id=3754&mlink=1)

Note: *The State Domestic Partner category (same-sex only) ceases to be available on 6/1/2011. Individuals covered under this category as of 5/31/2011 will be grandfathered and their coverage will continue. Effective 6/1/2011, in accordance with Public Act 96-1513, a new State Civil Union Partner category is available for same-sex and opposite sex partners.*

Tuition waivers appear to be offered only to retirees, employees, and children of employees:

https://nessie.uihr.uillinois.edu/cf/events/index.cfm?Item_ID=1121&mlink=1116

University of North Carolina, Chapel Hill

A domestic partner is defined as follows: a person who is neither married nor related by blood or marriage to the employee; it is the employee's sole spousal equivalent; lives together with the employee in the same residence and intends to do so indefinitely; and is responsible with the employee for each other's welfare. Domestic Partner benefits are limited to the University Benefit Programs (Assurant Dental, MetLife, Reliance Standard AD&D) and requires completion of an Affidavit of Domestic Partnership. (<http://hr.unc.edu/benefits/benefits-eligibility/index.htm>)



UNIVERSITY OF
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March 16, 2011

Professor Linda Mabbs
Chair, University Senate
1100 Marie Mount Hall
University of Maryland
College Park, MD 20742-7541

Dear Chair Mabbs:

In November 2010, the Equity, Diversity & Inclusion (EDI) Committee received a charge from the Senate Executive Committee (SEC) asking the committee to review the issue of domestic partner benefits and make recommendations on whether the level of benefits that we are currently providing is appropriate. Last fall, the Board of Regents extended benefits to same-sex couples married in other jurisdictions, but did not act on extending system benefits to same-sex domestic partners.

I am writing on behalf of the EDI Committee to update the SEC on recent actions regarding this topic. The committee met on five separate occasions to review, research, and discuss the issue of offering system benefits to same-sex domestic partners at the University of Maryland. After the committee began working on this issue, legislation that would have allowed same-sex marriage was introduced in the Maryland General Assembly. The bill cleared the Senate a few weeks ago, and Governor Martin O'Malley had pledged to sign it. Unfortunately, the bill stalled in the House of Delegates and was recently referred back to the Judiciary Committee. If the bill had passed, same-sex domestic partners would have had the option to marry in Maryland and, as a result, receive system benefits. This would have negated the need for the EDI Committee to draft a proposal for the expansion of system benefits to same-sex domestic partners.

Even if this bill is reintroduced in the next legislative session of the Maryland General Assembly, there is no guarantee that it will be signed into law. Therefore, the EDI Committee would like to continue to investigate this issue and work to develop a resolution that can be endorsed by other interested parties, including the President's Commission on LGBT Issues, Council on University System Staff (CUSS), Council on University System Faculty (CUSF), and other institutions in the University System of Maryland (USM). Continued work on this issue will allow the committee to formalize recommendations and coordinate efforts in persuading the Board of Regents to extend system benefits to same-sex domestic partners. The current deadline for the charge is March 28, 2011, but we hope that the SEC will allow the committee to continue to work on this resolution for the remainder of this year. Our goal would be to present a resolution, possibly with supporting documentation from other USM institutions and various groups, to the SEC and the Senate in the fall of 2011.

Thank you for your consideration of this matter.

Sincerely,

Terry Owen
Chair, Senate Equity, Diversity & Inclusion Committee

TO/cb

Cc: Reka Montfort, Executive Secretary and Director, University Senate



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April 12, 2011

Terry Owen
Chair
Equity, Diversity & Inclusion (EDI) Committee

Dear Terry,

The Senate Executive Committee (SEC) reviewed the EDI Committee's request for a deadline extension on its report regarding the "Request to Review Domestic Partner Benefits 10-11-34". We would like to commend your committee for its careful review of the issue and your willingness to work with all interested parties while crafting a report that will best represent the needs of the University. The SEC recognizes that this level of engagement requires additional time to appropriately prepare a report. We are happy to extend the deadline for your report to December 1, 2011. Please let me know if you have any questions or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "Linda Mabbs".

Linda Mabbs
Chair

LM/rm



UNIVERSITY OF
MARYLAND

LESBIAN, GAY, BISEXUAL, AND TRANSGENDER EQUITY CENTER

2218 Marie Mount Hall
College Park, Maryland 20742
301.405.8720 TEL
Email: lgbt@umd.edu
www: <http://lgbt.umd.edu>

Statement of Support

Date: November 3, 2011

Dear University Senate Officers,

As Director of the Lesbian, Gay, Bisexual, and Transgender (LGBT) Equity Center, I strongly endorse the recommendation of the Senate EDI Committee to include "or same-sex domestic partner" wherever the term "spouse" is used in all policies of the University System of Maryland. This recommendation addresses pay and other inequities for LGBT employees that are both obvious and longstanding. Such action should also insure that same-sex domestic partners are included in any future policies enacted by the Board of Regents.

Additionally, I encourage the Senate to continue to investigate and to make recommendations addressing pay inequities related to sex, gender and marital status.

As you review this recommendation of the Senate EDI Committee, I ask that you consider this endorsement from someone who has worked on the issue of domestic partner benefits for nearly twenty years, seventeen of which includes encouraging the System to take the very steps recommended here.

Sincerely,

A handwritten signature in black ink that reads "Luke Jensen".

Luke Jensen
Director



UNIVERSITY OF MARYLAND

OFFICE OF DIVERSITY AND INCLUSION

1130 Shriver Laboratory, East Wing
College Park, MD 20742-4321
301.405.2838 TEL 301.314.9992 FAX
www.odi.umd.edu

Excellence Diversity Equity Community

October 19, 2011

Dear University Senate Officers,

On behalf of the Office of Diversity Education and Compliance, we endorse the University of Maryland University Senate Equity, Diversity, & Inclusion (EDI) Committee's recommendation that coverage of system benefits including sick leave, family and medical leave, bereavement leave, and tuition remission, along with policies on nepotism, be expanded to include same-sex domestic partners. We support the EDI Committee's effort in recommending the following:

- 1) USM Institutions should be authorized to offer the same tuition remission benefits for same-sex domestic partners enrolled at USM institutions that are available to spouses.
- 2) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use sick leave for illness or injury in the employee's immediate family.
- 3) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use paid bereavement leave on account of the death of any member of the employee's immediate family.
- 4) The inclusion of same-sex domestic partners in policies regarding family and medical leave should be executed, paralleling policies mandated by Federal law.
- 5) University policies related to nepotism should be extended to include same-sex domestic partners.
- 6) The expansion of system benefits to same-sex domestic partners may be considered a priority in the next go around of negotiations that will replace the Collective Bargaining Agreements set to expire on June 30, 2013 for the University of Maryland College Park. No changes to policies or benefits, such as those listed herein, for employees covered by collective bargaining may occur until after such negotiations take place, as appropriate.

Please consider our endorsement as you review the recommendations of the Senate EDI Committee this fall.

Sincerely,

Gloria J. Bouis
Executive Director
Diversity Education and Compliance
gbouis@umd.edu
(301) 405-2842

Who We Are

Established in 1971, the Office of Diversity and Inclusion (ODI), formerly the Office of Human Relations Programs, is the equity, compliance and diversity education arm of the Office of the President at the University of Maryland, College Park. ODI investigates complaints of discrimination and harassment under the Human Relations Code, conducts Sexual Harassment Prevention Program training, and provides proactive diversity education for students, staff, and faculty on the broad array of issues related to multiculturalism, such as our signature program: the Words of Engagement: Intergroup Dialogue Program.



UNIVERSITY OF MARYLAND

OFFICE OF THE ASSOCIATE PROVOST
FOR EQUITY AND DIVERSITY

1127C Main Administration Building
College Park, Maryland 20742-5031
301.405.7227 TEL 301.405.7139 FAX

September 26, 2011

Senate Office
1100 Marie Mount Hall
University of Maryland
College Park, MD 20741-7541

Dear University Senate Officers,

On behalf of the Office of Equity and Diversity, I endorse the University of Maryland University Senate Equity, Diversity, & Inclusion (EDI) Committee's recommendation that coverage of system benefits including sick leave, family and medical leave, bereavement leave, and tuition remission, along with policies on nepotism, be expanded to include same-sex domestic partners. We support the EDI Committee's effort in recommending the following:

- 1) USM Institutions should be authorized to offer the same tuition remission benefits for same-sex domestic partners enrolled at USM institutions that are available to spouses.
- 2) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use sick leave for illness or injury in the employee's immediate family.
- 3) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use paid bereavement leave on account of the death of any member of the employee's immediate family.
- 4) The inclusion of same-sex domestic partners in policies regarding family and medical leave should be executed, paralleling policies mandated by Federal law.
- 5) University policies related to nepotism should be extended to include same-sex domestic partners.
- 6) The expansion of system benefits to same-sex domestic partners may be considered a priority in the next go around of negotiations that will replace the Collective Bargaining Agreements set to expire on June 30, 2013 for the University of Maryland College Park. No changes to policies or benefits, such as those listed herein, for employees covered by collective bargaining may occur until after such negotiations take place, as appropriate.

Please consider our endorsement as you review the recommendations of the Senate EDI Committee this fall.

Sincerely,

Lee Thornton, Ph.D.

Associate Provost for Equity and Diversity (I)



UNIVERSITY OF MARYLAND

OFFICE OF THE PRESIDENT

Main Administration Building
College Park, Maryland 20742
301-405-5803 FAX 301-314-9500

October 31, 2011

Dear University Senate Officers,

The Equity Council endorses the University of Maryland University Senate Equity, Diversity, & Inclusion (EDI) Committee's recommendation that coverage of system benefits including sick leave, family and medical leave, bereavement leave, and tuition remission, along with policies on nepotism, be expanded to include same-sex domestic partners. We support the EDI Committee's effort in recommending the following:

- 1) USM Institutions should be authorized to offer the same tuition remission benefits for same-sex domestic partners enrolled at USM institutions that are available to spouses.
- 2) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use sick leave for illness or injury in the employee's immediate family.
- 3) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use paid bereavement leave on account of the death of any member of the employee's immediate family.
- 4) The inclusion of same-sex domestic partners in policies regarding family and medical leave should be executed, paralleling policies mandated by Federal law.
- 5) University policies related to nepotism should be extended to include same-sex domestic partners.
- 6) The expansion of system benefits to same-sex domestic partners may be considered a priority in the next go around of negotiations that will replace the Collective Bargaining Agreements set to expire on June 30, 2013 for the University of Maryland College Park. No changes to policies or benefits, such as those listed herein, for employees covered by collective bargaining may occur until after such negotiations take place, as appropriate.

The Equity Council serves as an advisory group to the President and supports the longstanding and continuous goal of the University of Maryland to be a national leader in recruiting and retaining a diverse community of faculty, staff, and students. We believe this recommendation is a step in the right direction in regard to obvious and long-standing pay inequities for LGBT employees.

Please consider our endorsement as you review the recommendations of the Senate EDI Committee this fall.

Sincerely,

Robert Waters
Chair



1208 Cole Student Activities Building
University of Maryland
College Park, MD 20742
Tel: 301-405-2931 Fax: 301-405-2868
<http://www.crge.umd.edu>

September 28, 2011

Dear University Senate Officers,

On behalf of Consortium on Race, Gender and Ethnicity (CRGE), we endorse the University of Maryland University Senate Equity, Diversity, & Inclusion (EDI) Committee's recommendation that coverage of system benefits including sick leave, family and medical leave, bereavement leave, and tuition remission, along with policies on nepotism, be expanded to include same-sex domestic partners.

As an important research center on campus CRGE's objective is the examination of the nature of power and its implementation in maintaining interconnected structures of inequality that affect individual and group identities and experiences, as such this recommendation to support the EDI Committee's endorsement will promote social justice and change and the eradication of policy disparities. We strongly support the EDI Committee's effort in recommending the following:

- 1) USM Institutions should be authorized to offer the same tuition remission benefits for same-sex domestic partners enrolled at USM institutions that are available to spouses.
- 2) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use sick leave for illness or injury in the employee's immediate family.
- 3) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use paid bereavement leave on account of the death of any member of the employee's immediate family.
- 4) The inclusion of same-sex domestic partners in policies regarding family and medical leave should be executed, paralleling policies mandated by Federal law.
- 5) University policies related to nepotism should be extended to include same-sex domestic partners.
- 6) The expansion of system benefits to same-sex domestic partners may be considered a priority in the next go around of negotiations that will replace the Collective Bargaining Agreements set to expire on June 30, 2013, for the University of Maryland College Park. No changes to policies or benefits, such as those listed herein, for employees covered by collective bargaining may occur until after such negotiations take place, as appropriate.

Please consider our endorsement as you review the recommendations of the Senate EDI Committee this fall.

Sincerely,

Ruth E. Zambrana, PhD
Professor, Department of Women's Studies
Director, Consortium on Race, Gender and Ethnicity



UNIVERSITY OF MARYLAND

LESBIAN, GAY, BISEXUAL, AND TRANSGENDER STUDIES PROGRAM

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www.lgbts.umd.edu

November 14, 2011

Dear University Senate Officers,

The Lesbian, Gay, Bisexual, and Transgender Studies Program is pleased to endorse the University of Maryland University Senate Equity, Diversity, & Inclusion (EDI) Committee's recommendation that coverage of system-level benefits, including sick leave, family and medical leave, bereavement leave, and tuition remission, along with policies on nepotism, be expanded to include same-sex domestic partners. These are small but important steps toward remedying obvious and long-standing pay inequities for LGBT employees, and we unequivocally support taking them.

We join others in urging the Senate to continue to investigate and seek ways to address pay equity issues related to sex, gender, and marital status.

Please consider our endorsement as you review the recommendations of the Senate EDI Committee this fall.

Sincerely,

Marilee Lindemann
Associate Professor, English
Director, Lesbian, Gay, Bisexual, and Transgender Studies

Statement of Support:

Date: September 26, 2011

Dear University Senate Officers,

On behalf of the President's Commission on Women's Issues, I endorse the University of Maryland University Senate Equity, Diversity, & Inclusion (EDI) Committee's recommendation that coverage of system benefits including sick leave, family and medical leave, bereavement leave, and tuition remission, along with policies on nepotism, be expanded to include same-sex domestic partners. We support the EDI Committee's effort in recommending the following:

- 1) USM Institutions should be authorized to offer the same tuition remission benefits for same-sex domestic partners enrolled at USM institutions that are available to spouses.
- 2) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use sick leave for illness or injury in the employee's immediate family.
- 3) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use paid bereavement leave on account of the death of any member of the employee's immediate family.
- 4) The inclusion of same-sex domestic partners in policies regarding family and medical leave should be executed, paralleling policies mandated by Federal law.
- 5) University policies related to nepotism should be extended to include same-sex domestic partners.
- 6) The expansion of system benefits to same-sex domestic partners may be considered a priority in the next go around of negotiations that will replace the Collective Bargaining Agreements set to expire on June 30, 2013 for the University of Maryland College Park. No changes to policies or benefits, such as those listed herein, for employees covered by collective bargaining may occur until after such negotiations take place, as appropriate.

Please consider our endorsement as you review the recommendations of the Senate EDI Committee this fall.

Sincerely,

Ellin K. Scholnick
Chair, President's Commission on Women's Issues
Professor Emerita and Faculty Ombuds Officer

October 29, 2011

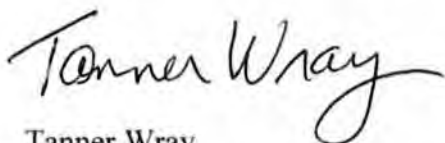
Dear University Senate Officers,

The President's Commission on Lesbian, Gay, Bisexual, and Transgender (LGBT) Issues unequivocally endorses the University of Maryland University Senate Equity, Diversity & Inclusion (EDI) Committee's recommendation that coverage of all system benefits be expanded to include same-sex domestic partners. We believe this recommendation is a step in the right direction in regard to obvious and long-standing pay inequities for LGBT employees.

Additionally, we strongly encourage the Senate to continue to investigate and seek ways to address pay equity issues related to sex, gender and marital status.

Please consider the Commission's endorsement as you review the recommendations of the Senate EDI Committee this fall.

Sincerely,



Tanner Wray
Chair, President's Commission on Lesbian, Gay, Bisexual, and Transgender Issues



UNIVERSITY OF MARYLAND

OFFICE OF THE PRESIDENT

Main Administration Building
College Park, Maryland 20742
301.405.5803 TEL 301.314.9560 FAX

Date: November 2, 2011

Dear University Senate Officers,

On behalf of the President's Commission on Ethnic Minority Issues, I endorse the University of Maryland University Senate Equity, Diversity, & Inclusion (EDI) Committee's recommendation that coverage of system benefits including sick leave, family and medical leave, bereavement leave, and tuition remission, along with policies on nepotism, be expanded to include same-sex domestic partners. We support the EDI Committee's effort in recommending the following:

- 1) USM Institutions should be authorized to offer the same tuition remission benefits for same-sex domestic partners enrolled at USM institutions that are available to spouses.
- 2) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use sick leave for illness or injury in the employee's immediate family.
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- 6) The expansion of system benefits to same-sex domestic partners may be considered a priority in the next go around of negotiations that will replace the Collective Bargaining Agreements set to expire on June 30, 2013 for the University of Maryland College Park. No changes to policies or benefits, such as those listed herein, for employees covered by collective bargaining may occur until after such negotiations take place, as appropriate.

Please consider our endorsement as you review the recommendations of the Senate EDI Committee this fall.

Sincerely,

Gloria Bouis
Chair, President's Commission on Ethnic Minority Issues



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<http://www.senate.umd.edu>

October 13, 2011

Dear University Senate Officers,

On behalf of the Senate Staff Affairs Committee, I am writing to endorse the University of Maryland University Senate Equity, Diversity, & Inclusion (EDI) Committee's recommendation that coverage of system benefits including sick leave, family and medical leave, bereavement leave, and tuition remission, along with policies on nepotism, be expanded to include same-sex domestic partners.

During the Fall Semester, 2010, Staff Affairs determined that the eligibility of same-sex spouses for all spousal USM benefits as the result of the Board of Regents resolution of September 17th, 2010 needed further consideration specifically because it did not afford benefits to same sex domestic partners. Therefore Staff Affairs recommended that the question receive further consideration in the EDI Committee.

Accordingly, on October 11, 2011, the Staff Affairs Committee voted unanimously in favor of supporting the EDI Committee's effort in recommending the following:

- 1) USM Institutions should be authorized to offer the same tuition remission benefits for same-sex domestic partners enrolled at USM institutions that are available to spouses.
- 2) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use sick leave for illness or injury in the employee's immediate family.
- 3) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use paid bereavement leave on account of the death of any member of the employee's immediate family.
- 4) The inclusion of same-sex domestic partners in policies regarding family and medical leave should be executed, paralleling policies mandated by Federal law.
- 5) University policies related to nepotism should be extended to include same-sex domestic partners.
- 6) The expansion of system benefits to same-sex domestic partners may be considered a priority in the next go around of negotiations that will replace the Collective Bargaining Agreements set to expire on June 30, 2013 for the University of Maryland College Park. No changes to policies or benefits, such as those listed herein, for employees covered by collective bargaining may occur until after such negotiations take place, as appropriate.

Please note the unanimous decision in the Senate Staff Affairs Committee to support the recommendations stated above and consider our endorsement as you review these recommendations put forth by the Senate EDI Committee this fall.

Sincerely,



Steven N. Petkas

Chair, 2011-2012 University Senate Staff Affairs Committee

SP/cb



UNIVERSITY OF MARYLAND

UNIVERSITY SENATE

1100 Marie Mount Hall
College Park, Maryland 20742-4111
Tel: (301) 405-5805 Fax: (301) 405-5749
<http://www.senate.umd.edu>

Statement of Support:

Date: 10/06/2011

Dear University Senate Officers,

On behalf of the Senate Student Affairs Committee, I endorse the University of Maryland University Senate Equity, Diversity, & Inclusion (EDI) Committee's recommendation that coverage of system benefits including sick leave, family and medical leave, bereavement leave, and tuition remission, along with policies on nepotism, be expanded to include same-sex domestic partners. We support the EDI Committee's effort in recommending the following:

- 1) USM Institutions should be authorized to offer the same tuition remission benefits for same-sex domestic partners enrolled at USM institutions that are available to spouses.
- 2) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use sick leave for illness or injury in the employee's immediate family.
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Please consider our endorsement as you review the recommendations of the Senate EDI Committee this fall.

Sincerely,

Ms. Rachel Cooper
2011-2012 Chair
Senate Student Affairs Committee

RC/gf



UNIVERSITY OF MARYLAND

UNIVERSITY SENATE

1100 Marie Mount Hall
College Park, Maryland 20742-4111
Tel: (301) 405-5805 Fax: (301) 405-5749
<http://www.senate.umd.edu>

Statement of Support:

Date: 10/06/2011

Dear University Senate Officers,

On behalf of the Senate Faculty Affairs Committee, I endorse the University of Maryland University Senate Equity, Diversity, & Inclusion (EDI) Committee's recommendation that coverage of system benefits including sick leave, family and medical leave, bereavement leave, and tuition remission, along with policies on nepotism, be expanded to include same-sex domestic partners. We support the EDI Committee's effort in recommending the following:

- 1) USM Institutions should be authorized to offer the same tuition remission benefits for same-sex domestic partners enrolled at USM institutions that are available to spouses.
- 2) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use sick leave for illness or injury in the employee's immediate family.
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- 6) The expansion of system benefits to same-sex domestic partners may be considered a priority in the next go around of negotiations that will replace the Collective Bargaining Agreements set to expire on June 30, 2013 for the University of Maryland College Park. No changes to policies or benefits, such as those listed herein, for employees covered by collective bargaining may occur until after such negotiations take place, as appropriate.

Please consider our endorsement as you review the recommendations of the Senate EDI Committee this fall.

Sincerely,

Dr. Charles Fenster
2011-2012 Chair
Senate Faculty Affairs Committee

CF/gf



UNIVERSITY OF MARYLAND

ADELE H. STAMP STUDENT UNION
Center for Campus Life

Office of Multicultural Involvement & Community
Advocacy [MICA]

301.314.8600 TEL 301.314.2672 FAX
<http://www.union.umd.edu/diversity>
MICA-contact@umd.edu

Stamp Student Union – Suite 1120 College Park,
Maryland 20742

Statement of Support:

Date: October 27, 2011

Dear University Senate Officers,

On behalf of the Office of Multicultural Involvement and Community Advocacy, I endorse the University of Maryland University Senate Equity, Diversity, & Inclusion (EDI) Committee's recommendation that coverage of system benefits including sick leave, family and medical leave, bereavement leave, and tuition remission, along with policies on nepotism, be expanded to include same-sex domestic partners. We support the EDI Committee's effort in recommending the following:

- 1) USM Institutions should be authorized to offer the same tuition remission benefits for same-sex domestic partners enrolled at USM institutions that are available to spouses.
- 2) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use sick leave for illness or injury in the employee's immediate family.
- 3) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use paid bereavement leave on account of the death of any member of the employee's immediate family.
- 4) The inclusion of same-sex domestic partners in policies regarding family and medical leave should be executed, paralleling policies mandated by Federal law.
- 5) University policies related to nepotism should be extended to include same-sex domestic partners.
- 6) The expansion of system benefits to same-sex domestic partners may be considered a priority in the next go around of negotiations that will replace the Collective Bargaining Agreements set to expire on June 30, 2013 for the University of Maryland College Park. No changes to policies or benefits, such as those listed herein, for employees covered by collective bargaining may occur until after such negotiations take place, as appropriate.

Please consider our endorsement as you review the recommendations of the Senate EDI Committee this fall.

Sincerely,

Alexander Breiding
Graduate Coordinator for LGBT Student Involvement and Advocacy
Office of Multicultural Involvement and Community Advocacy

Statement of Support:

Date: November 9, 2011

Dear University Senate Officers,

On behalf of LGBT Faculty/Staff Association, I endorse the University of Maryland University Senate Equity, Diversity, & Inclusion (EDI) Committee's recommendation that coverage of system benefits including sick leave, family and medical leave, bereavement leave, and tuition remission, along with policies on nepotism, be expanded to include same-sex domestic partners. We support the EDI Committee's effort in recommending the following:

- 1) USM Institutions should be authorized to offer the same tuition remission benefits for same-sex domestic partners enrolled at USM institutions that are available to spouses.
- 2) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use sick leave for illness or injury in the employee's immediate family.
- 3) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use paid bereavement leave on account of the death of any member of the employee's immediate family.
- 4) The inclusion of same-sex domestic partners in policies regarding family and medical leave should be executed, paralleling policies mandated by Federal law.
- 5) University policies related to nepotism should be extended to include same-sex domestic partners.
- 6) The expansion of system benefits to same-sex domestic partners may be considered a priority in the next go around of negotiations that will replace the Collective Bargaining Agreements set to expire on June 30, 2013 for the University of Maryland College Park. No changes to policies or benefits, such as those listed herein, for employees covered by collective bargaining may occur until after such negotiations take place, as appropriate.

Please consider our endorsement as you review the recommendations of the Senate EDI Committee this fall.

Sincerely,

Dr. Shaunna Payne Gold
Associate Director of Assessment Programs & Student Development
Office of Multi-ethnic Student Education
1101 Hornbake Library
College Park, MD 20742

GSGA31-R2

A Resolution Calling for Same-Sex Domestic Partner Benefits

Summary: A Resolution calling for the University to endorse the University of Maryland (College Park) University Senate Equity, Diversity, & Inclusion (EDI) Committee’s recommendation that coverage of system benefits including sick leave, family and medical leave, bereavement leave, and tuition remission, along with policies on nepotism, be expanded to include same-sex domestic partners.

WHEREAS, in fall 2010 the University of Maryland System Board of Regents extended benefits to same-sex couples married in other jurisdictions; and

WHEREAS, same-sex partners are not legally eligible to marry in Maryland, while heterosexual couples are eligible to marry and consequently access spousal benefits; and

WHEREAS, access to benefits for same-sex couples is a matter of equity and fairness; and

WHEREAS, the 2011 Maryland State Employees and Retirees health benefits guide states that same-sex domestic partners are eligible for health benefits at the University of Maryland if they meet the following requirements:

“Domestic Partner” means an individual in a relationship with an Employee or Retiree who is the same sex as the Employee or Retiree, if both individuals:

- are at least 18 years old;
- are not related to each other by blood or marriage within four degrees of consanguinity under civil law rule;
- are not married, in a civil union, or in a domestic partnership with another individual;
- have been in a committed relationship of mutual interdependence for at least 12 consecutive months in which each individual contributes to some extent to the other individual’s maintenance and support with the intention of remaining in the relationship indefinitely; and
- share a common primary residence; and

WHEREAS, the University of Maryland (College Park) University Senate’s Equity, Diversity and Inclusion (EDI) Committee recommends that coverage of system benefits be extended to same-sex domestic partners, including sick leave, family and medical leave, bereavement leave, and University policies related to nepotism; and

WHEREAS, graduate students are not considered employees by the University of Maryland, but have access to some employee benefits, such as health insurance,

THEREFORE, BE IT RESOLVED THAT until such a time as same-sex couples have equal access to marriage in Maryland, the Graduate Student Government endorses

45 and supports the EDI Committee's recommendation that all spousal benefits of this University
46 be extended to same-sex domestic partners; and
47

48 **THEREFORE, BE IT FURTHER RESOLVED THAT** the Graduate
49 Student Government calls upon the University to make all University benefits that are currently
50 offered to spouses of graduate students, as well as any future benefits or family policies available
51 to graduate students, also available to same-sex domestic partners of graduate students.
52

53 _____
54
55 **Author(s):** Anna Bedford, President (CMPL)
56

57 **Sponsor(s):** David Colón Cabrera, Program Representative (ANTH)
58 Barrett Dillow, Vice President for Legislative Affairs (ENAE)
59 Alice Donlan, Program Representative (EDHD)
60 Anne Jorstatd, Program Representative (AMSC)
61

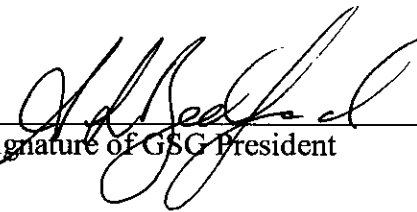
62 **Date and Time of Submission:** 5 October 2011
63

64 **Date of Presentation:** 21 October 2011
65

66 **Action(s) Taken:**
67

68 **UNANIMOUSLY APPROVED**

69 _____
70 Decision of GSG President

71 
72 _____
73 Signature of GSG President
74

71 _____
72 21 October, 2011
73 _____
74 Date

A Resolution Supporting Benefits Equality within the University System of Maryland

F 10-12-11 B

1. WHEREAS, the Student Government Association (SGA) represents the interests of the diverse student body; and,
2. WHEREAS, the University of Maryland, College Park is the flagship institution of the University System of Maryland (USM); and,
3. WHEREAS, all students should feel welcome at USM schools, regardless of race, gender, disability, religion, or sexual orientation; and,
4. WHEREAS, for students to truly feel welcome, the USM should set an example by treating all faculty and staff equally; and,
5. WHEREAS, the USM Board of Regents recently extended marital benefits to same-sex couples that were married in jurisdictions which allow it, but did not extend benefits to same-sex domestic partners; and,
6. WHEREAS, currently, same-sex couples who live in and whose partnership is recognized by the state of Maryland are not eligible to receive marital benefits; and,
7. WHEREAS, the University Senate Equity, Diversity, and Inclusion (EDI) Committee has been charged with reviewing the basis and need for extending benefits to same-sex domestic partners; and,
8. WHEREAS, the EDI Committee will recommend that coverage of system benefits including sick leave, family and medical leave, and bereavement leave to include same-sex domestic partners.
9. THEREFORE, BE IT RESOLVED that the SGA fully supports the EDI Committee's decision; and,
10. BE IT FURTHER RESOLVED that the SGA stands firmly in support of full recognition of same-sex couples within USM.


Sponsor:	Andrea Marcin	Commons Legislator
Co-Sponsor:	Aaron Zaccaria	Outlying Commuter Legislator
Committee:	Student Affairs	

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Vote: In Favor 26 Opposed 1 Abstentions 1

Therefore, the bill: PASSES FAILS

Speaker:


Carson McDonald

President:


Kaiyi Xie

Statement of Support:

Date: 09/26/2011

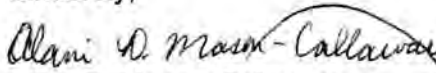
Dear University Senate Officers,

On behalf of The Peer Pride Program, we endorse the University of Maryland University Senate Equity, Diversity, & Inclusion (EDI) Committee's recommendation that coverage of system benefits including sick leave, family and medical leave, bereavement leave, and tuition remission, along with policies on nepotism, be expanded to include same-sex domestic partners. We support the EDI Committee's effort in recommending the following:

- 1) USM Institutions should be authorized to offer the same tuition remission benefits for same-sex domestic partners enrolled at USM institutions that are available to spouses.
- 2) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use sick leave for illness or injury in the employee's immediate family.
- 3) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use paid bereavement leave on account of the death of any member of the employee's immediate family.
- 4) The inclusion of same-sex domestic partners in policies regarding family and medical leave should be executed, paralleling policies mandated by Federal law.
- 5) University policies related to nepotism should be extended to include same-sex domestic partners.
- 6) The expansion of system benefits to same-sex domestic partners may be considered a priority in the next go around of negotiations that will replace the Collective Bargaining Agreements set to expire on June 30, 2013 for the University of Maryland College Park. No changes to policies or benefits, such as those listed herein, for employees covered by collective bargaining may occur until after such negotiations take place, as appropriate.

Please consider our endorsement as you review the recommendations of the Senate EDI Committee this fall.

Sincerely,


Alani D. Mason-Callaway


Mercedes "Myke" Hatcher-McLain

Statement of Support:

Date: September 28, 2011

Dear University Senate Officers,

On behalf of The One Project we endorse the University of Maryland University Senate Equity, Diversity, & Inclusion (EDI) Committee's recommendation that coverage of system benefits including sick leave, family and medical leave, bereavement leave, and tuition remission, along with policies on nepotism, be expanded to include same-sex domestic partners. We support the EDI Committee's effort in recommending the following:

- 1) USM Institutions should be authorized to offer the same tuition remission benefits for same-sex domestic partners enrolled at USM institutions that are available to spouses.
- 2) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use sick leave for illness or injury in the employee's immediate family.
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Please consider our endorsement as you review the recommendations of the Senate EDI Committee this fall.

Sincerely,



Dian Squire
Assistant Director of Orientation
Coordinator, The One Project



27 October 2011

University Senate
1100 Marie Mount Hall
University of Maryland
College Park, MD 20742

Dear University Senate Officers,

On behalf of Hamsa, the Jewish LGBTQQIA (Lesbian, Gay, Bisexual, Transgender, Queer, Questioning, Intersex, and Allies) Undergraduate Student Organization, we endorse the University of Maryland University Senate Equity, Diversity, & Inclusion (EDI) Committee's proposal to include sick leave, family and medical leave, bereavement leave, and tuition remission to same-sex domestic partners, and to include same-sex domestic partners in the University System of Maryland's policies on nepotism.

Equity and diversity are tenants of the University of Maryland and higher education more generally. Hamsa believes that equitable treatment of employees, including where it pertains to marriage benefits and same-sex domestic partnerships, should be a priority of the University, the University System, and the State of Maryland.

Please consider our endorsement as you review the Senate EDI Committee's recommendations.

Sincerely,

Hannah Spiro '12
President

Noah D. Drezner, Ph.D.
Assistant Professor &
Hamsa Faculty Advisor

Elishabet Lato '12
Vice-President

Date: 11/8/11

Dear University Senate Officers,

On behalf of Out in Science, Technology, Engineering, and Math at Maryland, we endorse the University of Maryland University Senate Equity, Diversity, & Inclusion (EDI) Committee's recommendation that coverage of system benefits including sick leave, family and medical leave, bereavement leave, and tuition remission, along with policies on nepotism, be expanded to include same-sex domestic partners. We support the EDI Committee's effort in recommending the following:

- 1) USM Institutions should be authorized to offer the same tuition remission benefits for same-sex domestic partners enrolled at USM institutions that are available to spouses.
- 2) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use sick leave for illness or injury in the employee's immediate family.
- 3) Same-sex domestic partners should be included in the policies, as appropriate, which allow USM employees to use paid bereavement leave on account of the death of any member of the employee's immediate family.
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- 5) University policies related to nepotism should be extended to include same-sex domestic partners.
- 6) The expansion of system benefits to same-sex domestic partners may be considered a priority in the next go around of negotiations that will replace the Collective Bargaining Agreements set to expire on June 30, 2013 for the University of Maryland College Park. No changes to policies or benefits, such as those listed herein, for employees covered by collective bargaining may occur until after such negotiations take place, as appropriate.

As you know, LGBTQ members of this university serve as a vital part of our infrastructure. In seeking to support students through our organization, we have also recognized the lack of support that some members of our faculty, such as our previous organization advisor, have felt. This endorsement would empower those employees to continue to devote their time and energy to our amazing university. Please consider our endorsement as you review the recommendations of the Senate EDI Committee this fall.

Sincerely,

Andrew P. Sabelhaus
Chapter President, oSTEM @ Maryland
Mechanical Engineering, Class of 2012



Bowie State University
14000 Jericho Park Road
Bowie, MD 20715

Coppin State University
2500 W. North Avenue
Baltimore, MD 21216

Frostburg State University
101 Braddock Road
Frostburg, MD 21532

Salisbury University
1101 Camden Avenue
Salisbury, MD 21801

Towson University
8000 York Road
Towson, MD 21252

University of Baltimore
1420 N. Charles Street
Baltimore, MD 21201

**University of Maryland,
Baltimore**
620 E. Lexington Street
Baltimore, MD 21202

**University of Maryland Center
for Environmental Science**
P.O. Box 775
Cambridge, MD 21613

**University of Maryland,
Baltimore County**
1000 Hilltop Circle
Baltimore, MD 21250

**University of Maryland,
College Park**
College Park, MD 20742

**University of Maryland,
Eastern Shore**
Princess Anne, MD 21853

**University of Maryland,
University College**
3501 University Blvd. East
Adelphi, MD 20783

**University System of Maryland
Office**
3300 Metzgerott Road
Adelphi, MD 20783-1690

Statement of Support:

Date: 25 October 2011

Dear University of Maryland, College Park Senate Officers,

On behalf of the Council of University System Staff (CUSS), we endorse the University of Maryland University Senate Equity, Diversity, & Inclusion (EDI) Committee's recommendation that coverage of system benefits including sick leave, family and medical leave, bereavement leave, and tuition remission, along with policies on nepotism, be expanded to include same-sex domestic partners. We support the EDI Committee's effort in recommending the following:

- 1) USM Institutions should be authorized to offer the same tuition remission benefits for same-sex domestic partners enrolled at USM institutions that are available to spouses.
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Please consider our endorsement as you review the recommendations of the Senate EDI Committee this fall.

Sincerely,

Willie L. Brown

Chair, Council of University System Staff

Statement of Support:

Date: 11/04/2011

Dear University Senate Officers,

On behalf of the Frostburg State University Faculty Senate, we endorse the University of Maryland University Senate Equity, Diversity, & Inclusion (EDI) Committee's recommendation that coverage of system benefits including sick leave, family and medical leave, bereavement leave, and tuition remission, along with policies on nepotism, be expanded to include same-sex domestic partners. We support the EDI Committee's effort in recommending the following:

- 1) USM Institutions should be authorized to offer the same tuition remission benefits for same-sex domestic partners enrolled at USM institutions that are available to spouses.
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- 6) The expansion of system benefits to same-sex domestic partners may be considered a priority in the next go around of negotiations that will replace the Collective Bargaining Agreements set to expire on June 30, 2013 for the University of Maryland College Park. No changes to policies or benefits, such as those listed herein, for employees covered by collective bargaining may occur until after such negotiations take place, as appropriate.

Please consider our endorsement as you review the recommendations of the Senate EDI Committee this fall.

Sincerely,

Mary W. Mumper, PhD
Chair
Frostburg State University Faculty Senate

Date: 10/13/2011

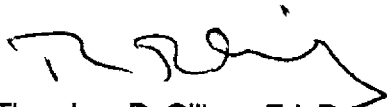
Dear University Senate Officers,

On behalf of the Salisbury University Faculty Senate, we endorse the University of Maryland University Senate Equity, Diversity, & Inclusion (EDI) Committee's recommendation that coverage of system benefits including sick leave, family and medical leave, bereavement leave, and tuition remission, along with policies on nepotism, be expanded to include same-sex domestic partners. We support the EDI Committee's effort in recommending the following:

- 1) USM Institutions should be authorized to offer the same tuition remission benefits for same-sex domestic partners enrolled at USM institutions that are available to spouses.
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Please consider our endorsement as you review the recommendations of the Senate EDI Committee this fall.

Sincerely,



Theodore R. Gilkey, Ed. D.
Faculty Senate President
Salisbury University



University Senate TRANSMITTAL FORM

Senate Document #:	10-11-57
PCC ID #:	N/A
Title:	Request for Non-Exempt Staff Issues and Development Review
Presenter:	Steve Petkas, Chair, Senate Staff Affairs Committee
Date of SEC Review:	November 29, 2011
Date of Senate Review:	December 8, 2011
Voting (highlight one):	<ol style="list-style-type: none"> 1. On resolutions or recommendations one by one, or 2. In a single vote 3. To endorse entire report
Statement of Issue:	<p>During the past few years, the Senate Staff Affairs Committee has discussed challenges faced by non-exempt staff members on campus, and the complexity of issues regarding inclusion and communication. As the standing committee of the Senate charged with continually reviewing campus policies affecting staff members and actively promoting orientation and opportunities for staff involvement in shared governance, this broad issue has been brought to the committee's attention on numerous occasions. The committee has found that non-exempt staff members often anecdotally cite that they are consistently unaware of opportunities they have on campus, they do not receive regular information about their rights and benefits, and they are seemingly unaware of campus policies, processes, and tools in place for grievance procedures and other important measures that directly impact their positions.</p>
Relevant Policy # & URL:	N/A
Recommendation:	<p>The Staff Affairs Committee recommends that an inter-divisional Presidential Task Force or working group be created to consider and undertake seven distinct recommendations, which are outlined in the attached report.</p>

<p>Committee Work:</p>	<p>In May 2011, the Staff Affairs Committee sent a letter to the Senate Executive Committee (SEC) asking it to consider the creation of a Task Force for the purpose of conducting a detailed and careful review of the unique issues faced by non-exempt staff members at the University. The SEC considered this request alongside another related proposal, which had been sent to the SEC, entitled “Making UMD a Great Place to Work Initiative” (Senate Doc #10-11-55). At the same time, an HR Working Group was created on campus to review three anonymous letters that had been sent to administrators in the Spring of 2011 regarding issues in the workplace, specifically in Facilities Management (FM). The Black Faculty and Staff Association (BFSA) also submitted a Workers’ Rights Report, which the HR Working Group congruently reviewed. The letters and report under review cited alleged mistreatment of staff in several departments on campus. Following the release of the HR Working Group Report in September 2011, the SEC asked the Staff Affairs Committee to determine whether the report addresses any of the committee’s concerns raised in the letter it submitted to the SEC in May. The Staff Affairs Committee created a subgroup of members to review the HR Working Group report and compare its findings to the committee’s original letter of request. The subcommittee developed a report with seven revised recommendations. The Staff Affairs Committee reviewed and approved this report and its recommendations at a meeting on November 7, 2011.</p>
<p>Alternatives:</p>	<p>The Senate could choose not to create a Task Force charged with undertaking these recommendations.</p>
<p>Risks:</p>	<p>There are no associated risks.</p>
<p>Financial Implications:</p>	<p>Any related financial implications would be determined by the Task Force, if created and charged.</p>
<p>Further Approvals Required: <i>(*Important for PCC Items)</i></p>	<p>Senate Approval, Presidential Approval.</p>

Senate Staff Affairs Committee Report
November 2011
Request for Non-Exempt Staff Issues and Development Review
Senate Doc #10-11-57

BACKGROUND

On May 5, 2011, the Staff Affairs Committee (Staff Affairs) wrote to the Senate Executive Committee (SEC) requesting a task force be composed to examine issues faced by non-exempt staff at the University. The committee had been discussing the broader challenges faced by staff members on campus, specifically non-exempt staff employees, and the complexity of issues regarding inclusion and communication. The letter noted that non-exempt staff members often anecdotally cite that they are consistently unaware of opportunities they have on campus, they do not receive regular information about their rights and benefits, and they are seemingly unaware of campus policies, processes, and tools in place for grievance procedures and other important measures that directly impact their positions.

Meanwhile, on April 7, 2011, Dale Anderson, the Director of University Human Resources, was charged with leading a review of three anonymous letters sent to administrators in the spring of 2011 by employees from Facilities Management (FM). An HR Working Group was created to review these letters, as well as a “Workers’ Rights Report,” which was submitted on May 27, 2011, by the Black Faculty and Staff Association (BFSA). The HR Working Group was comprised of Director Dale Anderson, JoAnn Goedert, Assistant Vice Chancellor for Human Resources for the University System of Maryland, and Phillip Ross III, Associate Vice President for Human Resources at Towson University. The letters and report under review cited alleged mistreatment of staff in several departments on campus. On September 12, 2011, the HR Working Group submitted a report to the Provost describing its examination and findings for consideration by the President and Cabinet. The HR Working Group Report was distributed to the campus community on September 21, 2011.

COMMITTEE WORK

On October 3, 2011, the SEC requested that Staff Affairs review the HR Working Group Report to determine the extent to which its findings and recommendations addressed concerns previously expressed by Staff Affairs, and if necessary, submit revised recommendations to the SEC. Staff Affairs met during the Fall 2011 semester to discuss and review this request. The Staff Affairs Committee determined the following:

In its letter of May 5, 2011, Staff Affairs cited the following concerns with respect to inclusion of and communication with non-exempt staff:

- Lack of understanding of campus processes, involvement opportunities, benefits and policies.

- Lack of access to computer work stations which limit their knowledge of, or capacity to research campus information available to other staff on campus resources, processes, events, their rights, etc.
- Obstacles to participation in campus shared governance and volunteer service activities.
- Lack of recognition, including low nomination rates for the Board of Regents' (BOR) University System of Maryland Staff Awards.
- Lack of understanding or knowledge of grievance options, or alternative problem solving and conflict resolution resources, such as the Staff Ombuds Office.

Of the nine specific recommendations put forth in the HR Working Group Report and accepted by the Cabinet, the following are pertinent to the concerns cited by Staff Affairs:

- Expand offerings of English for Speakers of Other Languages (ESOL) classes and re-evaluate criteria for staff participation.*
- Provide computer skill training.*
- Enhance access to promotional opportunities.*
- Revise FM Fair Treatment Guidelines.*
- Improve supervisory practice and communication through mandatory training.
- Provide a non-English speaking Facilitator for FM.
- Improve grievance representation in Residential Facilities.

*Also recommended in the report by the BFSAs.

The efforts described in the HR Working Group Report to assess the scope of the problems that emerged last year should be commended. Director Anderson and his colleagues on the HR Working Group made multiple and carefully considered efforts to engage staff in ways that would reassure them that the inquiries were being made in good faith and that their perspectives and accounts would be taken seriously and handled with care.

The recommended actions put forth in the HR Working Group Report and accepted by the Cabinet are good steps forward; however, they do not address all of the concerns cited by Staff Affairs in its letter of May 5, 2011, about the issues faced by non-exempt staff.

- The findings primarily address two departments: Facilities Management (FM) and Residential Facilities (RF). Although the BFSAs Forums, which were taken up in the HR Working Group report, likely represented issues arising from departments on campus in addition to FM and RF, there is no determination of how representative the findings are for problems that may lie elsewhere. The recommended actions are a mix of actions particular to FM and RF and actions that would apply campus-wide.
- No recommendations were made to improve access of non-exempt staff to computer stations and web/campus information. This need is acute for non-exempt staff in the trades and on grounds or housekeeping crews whose “work stations” are dispersed throughout the campus and provide no individual computer work stations (unlike non-exempt staff who serve in administrative or support positions attached to specific offices).

- There is no discussion of the range of information where inadequate knowledge or access is a serious liability for non-exempt staff. While supervisor training may improve communication, a clear designation of the absolute necessities of available information that staff must know would be helpful to supervisors and staff alike.
- No recommendations were put forward for actions to improve the recognition of non-exempt staff by management or by the campus community, both for superlative service, and as well for appreciation of daily jobs well done.

REVISED RECOMMENDATIONS

Staff Affairs submits the following recommendations which are aimed particularly at improving mechanisms by which non-exempt staff are included and recognized for their contributions to the University Community, informed on resources and information that the University makes available to them, and are encouraged and empowered to act in their own interests toward constructive solutions when faced with conflicts or problems in their work experiences. Staff Affairs recognizes that these recommendations could additionally improve the working environment for all staff members, including exempt staff. Ideally, improvements will be made over time by implementing these recommendations to better the workplace for all staff employees. In order to make continuing improvements in the inclusion, satisfaction, equitable treatment, recognition, and empowerment of non-exempt staff, the Staff Affairs Committee reasserts the need for an inter-divisional Presidential Task Force or working group to undertake the following:

1. **The group/task force should stipulate the bare minimum scope of information that every non-exempt staff member should know in order to be aware of the policies and procedures pertaining to their employment, as well as the multiple available campus resources available to assist employees in addressing problems in their employment settings.** This information should be published in a manner that enables redundant display (technology, handbooks, break rooms, etc.), and enables supervisors to verse employees, as well as to determine that employees have received the information provided. This information should also be published in various languages, including Spanish and French. While employees should make themselves informed, Staff Affairs believes that University Departments/Units should be resolute in their efforts to provide, communicate, and display this information, as well as to engage staff members in order to abet their understanding.
2. **The group/task force should determine how to increase the availability of computer work stations/laptops that each Department/Unit must provide to all non-exempt employees who do not have individual workstations equipped with computers.** This availability is crucial to non-exempt staff on crews and in the trades, and could be expressed in a minimum ratio of numbers of staff to workstations as well as accessible locations in break rooms, crew dispatch locations, maintenance/repair facilities, etc. This accessibility is crucial to staff members' abilities to remain abreast of campus information, research campus policies and resources for assistance, and to communicate by email with those who might provide assistance.

3. **The group/task force should investigate the possible ways in which the University might enable and assist the procurement of personal computers by non-exempt staff, particularly those on crews and in trades who are not assigned to a computer in their work stations.** With the assistance of the Office of Information Technology (OIT), the group should investigate such options as whether any forms of purchase assistance or discounted purchases might be made available which would enable access of these staff to University information and resources via the web.
4. **The group/task force should inventory and assess the multiple resource offices and agents on campus that are available to non-exempt staff in order to either identify or establish a resource able to provide a comprehensive range of assistance including counsel, information on rights, support, and procedural options.** The currently available resources on campus provide some overlapping assistance in the above categories, yet each has limitations in either role or scope. A resource needs to be identified that is versed in issues related to individual and group identity and diversity, is structurally able to counsel individuals or groups, is versed in the entire range of campus services and resources, and positioned so as to be viewed credibly by non-exempt staff in need of assistance. University Human Resources staff, either within specific Departments/Units or UHR, generally represent campus management in grievance situations or are perceived as having that allegiance. The American Federation of State, County, and Municipal Employees (AFSCME) is the representative for all employees in the exempt and non-exempt employee bargaining unit. The Staff Ombuds Officer provides counsel, but only informal resolution to conflicts. The Campus Compliance Officer determines if alleged grievances violate Campus or Federal codes or laws. Department Equity Officers serve primarily to insure equity in search, hiring, promotion, and other personnel actions, but vary in their perceived readiness to counsel individual staff. The Faculty/Staff Assistance Program provides counseling and referral. The new Associate Vice President and Chief Diversity Officer (CDO) will advocate for diversity and equity issues; provide active oversight, coordinator, and evaluation of work in these areas; track University progress in meeting the goals of the *Diversity Strategic Plan*; and encourage and support the efforts of units to achieve their diversity goals. The Office of the CDO will serve as a resource providing regular and accurate information on existing University equity and diversity programs, centers, academic units, and identity-based organizations.
5. **The group/task force should explore the creation of peer mentoring and advising resources for non-exempt staff via a “Communities of Assistance” (CA) program in which seasoned and veteran non-exempt staff might be identified and prepared to serve as mentors to fellow staff.** Focal areas for mentoring could include assistance with communication across language and cultural barriers, awareness and understanding of work-related procedures and routines within specific Departments/Units, encouragement and assistance with constructive problem solving and provision of information on available University resources for assistance. A “CA” role and program might be organized and administered by the new Office of University Diversity under the leadership of the Chief Diversity Officer and peer staff mentoring roles could be formalized and staff members who serve in those roles could be recognized via that office. Such a CA program might also

incorporate service learning opportunities for University students who might offer skills to non-exempt staff, such as second language learning and translation, among others.

6. **The group/task force should compose a values statement describing the desired opportunities for non-exempt staff participation in campus shared governance structures and Presidential Commissions.** This statement would become the basis for campus policy on such matters as leave approval for shared governance participation.
7. **The group/task force should recommend strategies to increase the recognition and appreciation of non-exempt staff members by Departments/Units and the campus for the work they do.** These strategies should address both recognition for superlative work, as well as appreciation by others for a daily job well-done. Best practices should be stipulated for individual Department/Unit efforts to recognize staff based on those already being utilized by some Departments/Units on the campus. Best practices should also be stipulated for Department/Unit efforts to utilize existing award structures such as the BOR Staff Awards, and the President's Distinguished Service Awards. The group should recommend a strategy by which the President or the Vice Presidents might recognize those Departments that have adopted best practices for increased recognition of non-exempt staff for both superlative service and for a daily job well-done.

The working group or task force would need to include representatives from the Department of University Human Resources (UHR), the Senate Staff Affairs Committee, the Staff Ombuds Office, the Council of University System Staff (CUSS), the President's Commission on Women's Issues (PCWI), the President's Commission on Lesbian, Gay, Bisexual, and Transgender (LGBT) Issues, the President's Commission on Disability Issues, the President's Commission on Ethnic Minority Issues, and the Office of the new Associate Vice President and Chief Diversity Officer.

APPENDICES

Appendix 1: Request from Senate Executive Committee (SEC) in Response to the HR Working Group Report – October 3, 2011

Appendix 2: HR Working Group Report – September 12, 2011

Appendix 3: Staff Affairs Committee's Letter to the SEC – May 5, 2011



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Date: October 3, 2011
To: Steven Petkas, Chair, Staff Affairs Committee
From: Eric Kasischke, Chair of the University Senate 
Subject: Human Resources Working Group Report & Impact on the Staff Affairs
Committee Recommendation Regarding Non-Exempt Staff Issues

The SEC reviewed the Staff Affairs Committee's letter regarding the challenges and issues faced by non-exempt staff members at its meeting on May 12, 2011. SEC members agreed to consult with the Chairs of the Campus, Faculty, Staff, and Student Affairs Committees on this and other work-life related proposals. The SEC reviewed the minutes from the meeting of these chairs at its meeting on September 7, 2011. However, they agreed to postpone consideration of the issue until after the Human Resources (HR) Working Group Report was released.

The HR Working Group Report was distributed to the campus community on September 21, 2011. The SEC reviewed the report at its meeting on September 26, 2011 and agreed that it should be forwarded to the Staff Affairs Committee. The SEC would like the committee to review the report and decide whether it addresses any of the concerns raised in your letter. If appropriate, we ask that you submit revised recommendations to the SEC. If you have questions or need assistance, please contact Reka Montfort in the Senate Office, extension 5-5804.

Attachment

EK/rm



Report of the HR Working Group

September 12, 2011



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BACKGROUND

Between February 2, 2011, and March 5, 2011, three anonymous letters were sent to senior University administrators on subjects pertaining to management and supervisory **practices in Facilities Management (hereafter referred to as “FM”)**. These letters appeared to originate from employee groups in two different departments within FM – Campus Projects and Building & Landscape Services. Though different in their specifics, the three letters pointed to a number of larger management themes including respect/civility, communication, fair treatment, access to channels for registering complaints without fear of retribution, and promotional opportunities.

On April 7, 2011, Provost Ann Wylie, the recipient of the first letter during her capacity as Interim Vice President for Administrative Affairs, charged Director of University Human Resources Dale O. Anderson with **“conducting a confidential review of the anonymous complaints both with respect to their specific allegations (such as they may exist in an anonymous format) and, more importantly, with respect to their broader themes.”** Provost Wylie’s charge further states, **“The purpose of the review is to determine what, if any, changes should be made to address the concerns underlying the anonymous letters.”** (Appendix A)

On April 26, 2011, the Black Faculty and Staff Association¹ (**“BFSA”**) sponsored the first of several **“Let Your Voice Be Heard!” forums** held at the Nymburu Cultural Center. Frank Brewer, Interim Vice President for Administrative Affairs was invited to provide opening remarks and listen. 18 staff members spoke at the first forum; of those that shared their departmental affiliation, most were from FM and Residential Facilities². **The BFSA went to great lengths to compile their “Workers Rights Report” and on May 27, 2011, they met and shared their report with President Loh.**

On July 26, 2011, Provost Ann Wylie sent a letter to all campus staff on the subject of **“Concerns About the Campus Work Environment”**; the letter was translated and distributed to Spanish-speaking staff (Appendices B and C). The letter provided an update on the steps that had been taken regarding the concerns identified in the three anonymous letters. It also informed staff that Dr. Loh had referred the BFSA report to the HR Working Group, led by Dale Anderson, to be used as supporting materials in their investigation.

This report addresses the **general findings** of HR Working Group in the review of the three anonymous letters and the BFSA report, along with **recommended changes**.

¹ The BFSA is an independent advocacy group that requires annual membership dues.

² Facilities Management is a department within the Division of Administrative Affairs; Residential Facilities aligns within the Division of Student Affairs.

The letters that triggered this review included several specific citations of incidents between one or more named employees and other FM staff, also named. Similarly, the BFSAs report cited specific incidents between individual employees. Each instance has been duly investigated by the HR Working Group, but because of confidentiality required in certain personnel matters under Maryland statute, specific details (including actions taken) are not contained within this report.

HR WORKING GROUP

Provost Wylie's charge directed Mr. Anderson to be assisted in his review by external human resources experts from within the University System of Maryland. This was to ensure an objective review by top-level HR administrators who have experience with USM human resources programs and policies at the institutional level, and as well as with higher education collective bargaining law in the State of Maryland.

The review panel of three was appointed; they are referred to as the "HR Working Group" throughout this report. They are:

- **Dale O. Anderson**, review leader, Director of University Human Resources
University of Maryland, College Park
- **JoAnn Goedert**, Assistant Vice Chancellor for Human Resources
University System of Maryland
Former Maryland Assistant Attorney General for Educational Affairs
- **Phillip Ross III**, Associate Vice President for Human Resources
Towson University

REVIEW PROCESS

In the summer of 2011, general information and specific facts were gathered as the investigation of the three anonymous letters commenced. Additional feedback was received from a variety of sources, including the Black Faculty and Staff Association forums and their subsequent **“Workers Rights Report,”** and a letter from the Senate Staff Affairs Committee to the Chair of the Senate on the subject of nonexempt staff concerns.

Simultaneously, Director Anderson conducted dozens of individual interviews with employees representing all levels of the FM Campus Projects and Building & Landscape Services groups, as well as with a smaller number from Residential Facilities (**“RF”**). Some were selected and invited to be interviewed, and others came forward on their own accord. They represented a diverse cross-section of **FM’s employee population** in terms of race/ethnicity, age, and gender. **FM’s senior leadership** staff were interviewed, as were staff from the FM-Human Resources office, and supervisors down to the Zone Supervisor level in Building & Landscape Services. A similar approach was taken with staff and managers in RF.

The interviews were conducted during the day and in the evenings, at the convenience of the employees who agreed to share their experiences and opinions. Most interviews spanned 90 minutes to two hours. Some employees required translation assistance from a friend or relative; some employees asked that a representative from AFSCME be present. All requests were accommodated as the goal was to make the individuals feel comfortable and unimpeded in sharing what they had to say.

Staff were asked general questions about work practices and policies, and specific questions about their work environment, their supervisors, and their experiences working for Facilities Management or Residential Facilities. They were also asked:

- Were their work rules and supervisory directions explicit and easy to understand?
- Were the rules applied fairly and consistency?
- Did they feel that their supervisor treated them with respect?
- Did they have fair and open access to problem-solving channels without fear of retribution (or did they even know there were resources available to assist?)
- Did they believe they had opportunities for training, including access to ESOL classes?

- What were their experiences and perceptions regarding promotional opportunities within FM (or RF)?

The confidential interviews were designed to be free-flowing and comfortable, with no topic being “off-limits.”

Director Anderson communicated with AFSCME as the investigation process was developed. AFSCME is the “exclusive representative” for **College Park’s Nonexempt and Exempt bargaining unit staff on matters of “wages, benefits, and other terms and conditions of employment,”** pursuant to the Maryland State Higher Education Labor Relations Act³. Supervisors, managers and a small number of “confidential” staff are excluded from bargaining under the law. As of August 25, 2011, **there were 1,916 regular Nonexempt staff employed by the campus, of which 1,604 (84%) were represented by AFSCME.** In addition, **there were 2,724 regular Exempt staff, of which 1,503 (55%) were represented by AFSCME.** Collective bargaining is administered centrally by UHR’s Office of Staff Relations.

For privacy reasons, individual employees will not be identified in this report, as many agreed to discuss their work experiences only on the condition of anonymity. In fact, some employees who initially agreed to be interviewed, canceled out of concern that their information would not be kept private. Several employees scheduled, did not show, and scheduled again.

³ MD Code, State Personnel and Pensions, §§ 3-101 to 3-602 (July 1, 2006).

FINDINGS

The review of the three anonymous letters did not support the allegations of broad employee mistreatment in Facilities Management or Residential Facilities, particularly given the size of the organizations, and the scope of their missions. The review did identify issues in the management of FM and RF staff that warrant attention. It pointed to general themes that should compel action, including a critical need to better develop supervisors, and efforts to improve communication from a qualitative standpoint.

With regard to specific, individualized complaints of mistreatment, it is important to note that several of the incidents detailed in the letters have already been addressed and resolved through the staff grievance process available to employees under State law and the collective bargaining agreements and/or through disciplinary measures directed at offending employees.

The following is a summation of the investigation of each of the three letters.

SPECIFIC LETTERS

FIRST ANONYMOUS LETTER (DATED 2/9/2010, RECEIVED IN 2/2011)

The first letter, published in *The Diamondback*, alleged unfair treatment of employees in FM's Campus Projects unit **and work conditions characterized as "being run like a Nazi camp."** The letter also alleged favoritism in hiring. Director Anderson interviewed management and staff from this unit.

Based on the interviews and a review of the facts, the HR Working Group concluded that this new department in FM is experiencing sharp growing pains associated with the combination of two units into one over a relatively short period of time. There are clearly issues in the Campus Projects unit related to change management, and the sense **that the new organization's management** group may have been compelled to implement too much change too fast and without sufficient employee input.

The review found examples of inappropriate language used as a result of frustration with tasks or deliverables; there were also examples of questionable or unacceptable tone in communications at times. While the motivation expressed by managers to exceed customer expectations in meeting deadlines and improve the quality and economy of the Campus Projects work product was legitimate, it did not justify inappropriate interactions with staff.

A specific point in this letter was the matter of the three layoff notifications that occurred in the week before Christmas. Although served with 90-days of notice at that time, upon later reflection, the former Associate Vice President expressed regret that he chose to have those employees notified immediately before the holidays. The HR Working Group agrees that his action was an exercise in insensitive judgment.

There were no facts provided to support the allegations of cronyism in hiring or promotions within Campus Projects. The credentials of the employees hired were examined, and it was determined that each met the qualifications for the position for which s/he was hired.

The review also netted positive feedback about the Campus Projects unit. Some employees interviewed indicated an excitement about the work of the new unit, and enjoyed the professional challenges and deadline orientation of their work.

SECOND ANONYMOUS LETTER (DATED 2/9/2011)

The second anonymous letter alleged mistreatment of snow removal staff in FM's Building & Landscape Services unit. **FM's snow removal staff are designated as "Essential Employees" and are required to report on-time in a weather emergency to clear the sidewalks and parking lots. The goal is always to re-open the campus as quickly as possible once the weather improves.**

The HR Working Group analyzed data provided by Facilities Management gathered over a period of 26 months – covering all weather events that resulted in closures, delayed openings and early closings. Though 369 disciplinary actions were taken under the FM ***Fair Treatment Guidelines***⁴ ("FTG"), in 84% of those cases, employees eventually sought and received waivers to the discipline, citing reasons such as "restricted duty; under care of doctor." **The remaining 16% received the discipline required by the FTG, mostly for infractions such as "no call, no show."** Clearly, supervisors are granted very little latitude in applying discretion under the Fair Treatment Guidelines, as is evidenced by the number of waivers granted by FM-HR. The HR Working Group reviewed the FTG and characterized them as "unnecessary and dysfunctional." The Working Group further commented about the "bad will" they felt the FTG engendered within the FM workforce.

The second anonymous letter also asserted that FM gave raises to their management staff during the "recent times of hardship." Though there were no specific examples cited, the letter included a copy of an old advertisement placed by AFSCME in ***The Diamondback*** listing certain administrator salaries and what they alleged were pay raises granted during years when University and State employees were experiencing freezes in COLA and merit. Notably, those allegations were investigated at the time the advertisement ran, and it was established that the AFSCME ad represented data from the period including FY2009, the last year that all employees received COLA and merit

⁴ The Facilities Management "**Fair Treatment Guidelines**" serve as their roadmap for progressive and cumulative discipline. The document was developed by FM senior staff in 1997; FM is the only department on the campus that uses them.

adjustments. However, the ad characterized the data as salary adjustments occurring in FY2010, which created the appearance that administrators were continuing to receive routine increases when in fact, they were not.⁵

The **review of FM's** salary administration practices by the HR Working Group demonstrated that the only salary adjustments that had been made in the past several years were those that were the result of approved actions supported by Board of Regents policies, such as reclassification actions when an employee assumed significant additional duties, or when an employee competed for and was selected for a new position. In all cases reviewed, policies and procedures were applied correctly, and appropriate reviews and approvals were conducted by the responsible offices outside of FM.

THIRD ANONYMOUS LETTER (UNDATED, RECEIVED 3/5/2011)

The third letter alleged “racism, favoritism, and unfair advancement” in the Landscape Services group, particularly with respect to promotional opportunities for Nonexempt employees. As the letter correctly pointed out, the Landscape Services group is a “**majority-minority**” population, a phenomenon mirrored across the FM workforce. The population in this group is both race/ethnicity diverse, and gender diverse. The leadership positions reflect a similar degree of diversity.

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Speaking in general terms and without naming specific employees, the issue pertains to the criteria by which certain new positions in the unit were filled. In one case, a female manager was reclassified/promoted to a higher-level vacancy without a search. This action was permissible under the campus ***Procedures and Guidelines for Conducting Searches*** inasmuch as the internal candidate was well-qualified for the position, and such an appointment supported the **unit's** diversity goals. This action was reviewed and approved by UHR and the Vice President for Administrative Affairs.

In the second case identified by the letter, FM ultimately decided to upgrade a vacant manager position to require a **Bachelor's degree**, and they initiated a search. The addition of the **Bachelor's degree was deemed to be a critical** qualification by the unit in order to bring a higher level of expertise and academic perspective. The unit maintained **that hiring a manager with a Bachelor's degree was essential to upgrading the unit's capabilities, and they were sufficiently persuasive in making the case that the Bachelor's degree was a bona fide occupational qualification for this particular position. UHR's** Classification unit **approved the addition of the Bachelor's degree to the minimum** qualifications before the position was posted.

⁵ Immediately following publication of *The Diamondback* ad, Director Anderson informed AFSCME of their mistake; however, they took no steps to correct the misinformation.

However, the addition of the **Bachelor's degree requirement precluded** individuals from within the unit from qualifying to compete for the regular position because they did not have the required degree. This included an African-American employee who, during the **search, had temporarily served in the position in an "acting capacity"** status. Once the impact was brought forward, the search was stopped.

In the review of facts relating to both cases cited in the third letter, the HR Working Group concluded that Board of Regents and campus policies and procedures had been applied correctly. In one case, those policies and procedures created a promotional opportunity for a well-qualified female employee. In the other case, in an effort designed to **upgrade the capabilities of a particular job, the addition of a Bachelor's degree** to the minimum qualifications did result in screening out a number of internal candidates, including minorities. The search was canceled and the position is being reevaluated.

GENERAL THEMES

There is no doubt that there is a general discontent permeating the FM and RF workforces, and it, to some extent, mirrors some of what the campus is experiencing at-large. UM's staff employees at all levels have endured three years without any regular salary increases or cost of living adjustments, and three years of furloughs which have reduced their take-home pay. At the same time, the costs of benefits for employees have increased, including significantly increased mandatory retirement contributions for some. There have been University-wide hiring freezes which had the effect of restricting promotional opportunities for staff, plus budget cuts, organizational restructurings resulting in layoffs, and a dramatic wave of leadership changes. All of this has contributed to a general sense of unease and has undermined the foundational trust between staff and the institution. One employee interviewed summed it up by stating **"this place used to be a family, but now everyone is always looking over their shoulder."**

In addition, FM and RF have some unique challenges, some of which are inherent in the nature of their work. The University community has high expectations for the physical **appearance of the campus, and isn't always fully aware of what it takes to achieve such excellence.** Some of their work occurs in the shadows of the regular day, and just outside of the consciousness of most campus citizens – except when there is a problem with a dirty classroom or dormitory space or some such issue, when it has the potential to become a noisy complaint by a student or parent. It is essential that FM and RF supervisors and managers provide recognition of the good work of their staff, and there is evidence that many do. It is equally imperative that the campus as a whole effectively recognize the efforts of staff.

COMMUNICATION

From the interviews, there were numerous examples of ineffective communication within FM and RF at different levels, from the manner in which some supervisors give instructions, to the use of inappropriate language, to a complete lack of communication within a work group, to an assistant director not having access to information she needs to do her job. Examples of intimidating behaviors were found in both organizations. The review indicated that most units do employ some regular mechanisms to communicate with their staff such as weekly meetings, electronic communications, and team meetings, **but there is a “quality” element missing in some groups**, manifesting itself as a lack of effort to genuinely engage employees in a meaningful and constructive way. Some supervisors seem to be focused on the work product to the exclusion of most **everything else, and it contributes to the perception that they “bark orders.”**

In addition, FM and RF have a segment of their population that lacks basic computer skills. Many of these staff do not use computers to perform their work, and some do not use computers at home. Some do not even use a computer to record their time each day in PHR, instead using cardswipe. Therefore these employees do not have regular access **to the staples of communication in today’s workplace**, nor do they have the opportunity to acquire skills to build this critical competency.

The final communication issue is a significant one. It pertains to the non-English speaking population in Facilities Management – estimated to be approximately two hundred staff, predominantly located in Housekeeping and Building & Landscape Services.⁶ The tragedy is that a significant portion **of FM’s** non-English speaking employees not only lack English language proficiency, but are also functionally illiterate in their native language (principally Spanish⁷). This is a profound realization that poses significant challenges. For example, campus administrators often ask “is this a document that should be translated into Spanish for our employees?” when in fact, such communications often cannot be read in English OR their native Spanish. Therefore, it is difficult for the University to communicate with this population in order to meet their basic needs and help them grow professionally.

As a result of this phenomenon, these employees are virtually insulated from the University and largely function on the job within their own sub-culture. Though some of the FM Zone Supervisors are bi-lingual and assist with work assignment instructions, these non-English speakers need a tremendous amount of support in other areas of University life – enrolling in Benefits, for example. They currently receive support from

⁶ There were fewer English literacy issues raised by RF employees. ESOL is offered to RF employees by in-house staff.

⁷ Spanish is not the only language spoken in FM or RF; diversity in primary language is growing exponentially on the campus. For example, Landscape Services recently hired ten new French-speaking employees from Cameroon.

an informal network of “friendly” staff scattered around the University who speak their language and assist with verbal translating when necessary and available. However, in relying on this type of communication, they miss a substantial amount of formal information from the University. As a further impact of the sense of isolation from the institution, they do not feel free to bring complaints forward, out of fear of the unknown, and because they tremendously value the steady income and good benefits of a University job.

ESOL program support has been limited in the past few years due to budget cuts to the program; the most recent class was able to enroll 40 staff from across the campus, and **80 will be enrolled in this fall’s** session. At a minimum, **UHR’s ESOL** and Adult Basic Education program should be expanded and made widely available to help these campus employees work toward basic language literacy to improve their lives and have promotional opportunities. Efforts to improve literacy or enhance English as a Second Language will have to be broader than the simple Spanish-to-English variety⁸.

FM’S PRD PROCESS AND EVALUATION

There was significant and almost unanimous feedback from non-supervisory staff regarding the negativity of the PRD process as it is administered in FM. Words like **“threatening” and “intimidating” were used with a surprising degree of regularity.** Whereby the PRD process was developed and implemented on the campus to ensure good and positive feedback to employees regarding their performance throughout the review year, many of the FM staff interviewed viewed the PRD process as one to be dreaded or feared. Some of the RF staff had negative feedback about the PRD process as well.

The review found that too much emphasis is being placed on the negative components of the various performance categories and not enough emphasis placed on the positive aspects of performance. Furthermore, it was learned that the FM Fair Treatment Guidelines actually detail PRD penalties for certain behavioral offenses, and in fact, **include a section entitled “PRD Cumulative Violations” that is used as a basis for lowering an employee’s annual rating.** The PRD process should not be, nor was it ever intended to be, a disciplinary tool.

RESPECT/CIVILITY

The diminishment of “civil treatment” or the lack of consideration of personal dignity is a theme throughout society, and a particular issue in FM and RF. Indeed, it is seen

⁸ For example, the Housekeeping unit in Residential Facilities has many employees who speak languages from Southeast Asia (Vietnamese, Laotian, and Cambodian).

around the campus, and is recognized as a negative in societal evolution. There have been efforts to address respect and civility within FM and RF. For example, FM recently rolled out a new civility training **program called “It’s As Simple As Respect,”** and UHR has included civility modules as part of its last two collective bargaining briefings to the campus. There have been other campus efforts as well. However, when such training is applied sporadically at the University, these types of efforts have minimal impact in changing undesirable behaviors, no matter how well-intended.

Quite simply, many employees are increasingly feeling stressed and disrespected, no matter what their job. Lest anyone think this is unique to Facilities staff, there were examples expressed at the BFSAs forums from staff in academic departments. In the **University’s goal-oriented, budget-challenged, “do more with less” environment,** the focus on high-profile accomplishments tends to put pressures on supervisors to achieve, and also often over-shadows the recognition of *all* employees in the daily work that occurs to keep the campus on-mission.

FAIR TREATMENT IN PROMOTIONAL OPPORTUNITIES

Facilities Management has been aggressively working to improve the quality of their support to the campus as the University has ascended in stature over the past decade. This is evident in all areas of **FM’s organization;** they are not **the old “Physical Plant.”** Residential Facilities has grown in size and mission too.

During this period of time, there have been increased governmental requirements for training, recordkeeping, and pertaining to matters such as waste disposal and safety, and these regulatory requirements have placed new demands on their organizations. **No longer can it be assumed that employees merely need to spend “time in service” to automatically qualify for a promotional opportunity. Sometimes, in addition to “on the job training” there are bona fide educational requirements or specialized training or experience that existing staff in a unit don’t possess.**

At the same time, there are positions that open up within FM and RF that would be suitable in providing promotional opportunities for staff within their units. AFSCME has expressed concerns for years about the lack of promotional opportunities for bargaining unit staff, and they have questioned why some employees are given access to promotional opportunities while others seemingly are not. They have also expressed concerns about the number of new layers of management in FM which have substantially added to the size and complexity of the organization over the past ten years, but with what they represent as few opportunities for rank and file staff.

ACCESS TO CHANNELS FOR REGISTERING COMPLAINTS WITHOUT THE FEAR OF RETRIBUTION

One very strong theme – in the letters, in the BFSAs report, and during the interviews – was that staff employees feared bringing complaints forward. This concern was **registered in the letters with statements such as “if you complain, you are opened up for retaliation,”** (first letter, p.1). This was also expressed by staff at the BFSAs forums with **statements such as “if you speak up, they give you more work.”** The fears expressed were fairly widespread.

In particular, there was a great deal of feedback received about **FM’s Human Resources** group. There seems to be a general perception that FM-HR is a support group for management only, despite their messages to the contrary; that issues generally do not receive a fair evaluation in **hearing the employee’s “side of the story.”** There is a perception that **FM-HR never intercedes on an employee’s behalf**, nor do they make effective outreach efforts to help employees understand that they are there to help. Most interviewed were wary of FM-HR generally and felt that their organizational purpose was to “build a case” against the employee to be used in a disciplinary action or grievance⁹. The non-English speaking population feared FM-HR the most.

This was a matter that was looked at closely by Director Anderson, and there were no facts to support the allegations of retribution for employees who brought complaints forward to FM-HR. In the cases examined, it was determined that it was not the complaint that caused the later disciplinary action or termination, but rather a gross violation of work rules or other breach of conduct. Although no facts were found to support the allegations, the perception exists, and it must be addressed.

Under many University policies and procedures, employees who raise problems or concerns about work–related issues have protection against retaliation without having to resort to local, state or federal agencies. If the concern is raised through the staff grievance process (which covers acts of discrimination), the Maryland grievance statute reflected in USM Policy states:

“Each University System employee shall have the right to make known a problem or complaint without the fear of coercion or reprisal. The employee also has the right to representation at any step of the grievance procedure. An employee who violates the provision of this subsection shall be subject to disciplinary action, up to, and including termination **of employment.”** (Emphasis added)

⁹ The grievance process is administered by UHR. Under BOR policy, the initial employee filing and Step 1 hearing is conducted in the **employee’s department, but Steps 2 and 3 are heard by an impartial hearing officer or Administrative Law Judge.**

Finally, there were also complaints raised about the manner in which RF handles employee grievances. Specifically, the RF-HR person responsible for hearing cases at Step 1 is the representative for the University at Step 2 of the process before a neutral hearing officer. That creates the perception of a conflict of interest that has the effect of dissuading some employees from filing grievances; this was first raised at the BFA forums and substantiated through the interview process. Though RF is not in violation of any Board of Regents policies, the HR Working Group agrees that once RF hears the initial Step 1 case, it should be transferred to UHR to avoid any appearance of a conflict of interest.

RECOMMENDATIONS

The HR Working Group recommends the following specific actions:

1. Systematic training of supervisors and managers in how to communicate and interact with staff appropriately and effectively is essential to addressing the issues in FM and across the campus. **The HR Working Group strongly recommends that the President and Cabinet endorse the implementation of the “Pillars (Building Great Supervisors)” proposal, which provides new mandatory training for all nonexempt and exempt staff supervisors and managers to develop broader, more even competencies across the campus.** (Appendix H)

The implementation of Pillars represents an important first step as the campus renews its commitment to developing its staff. Pillars content will include the following subject areas delivered in four days of training:

- ***Who are we and where are we going? The University in 2012 and beyond*** (organization/structure, shared governance, collective bargaining, foundational commitment to diversity and inclusion, Dr. Loh’s four strategic priorities and the climate/culture he wants fostered)
- ***Roles and responsibilities of a UM supervisor*** (including transitioning from subordinate to supervisor)
- ***Toward a healthy culture: respect and civility at the University***
- ***Your employees are your customers too: understanding what your employees need and developing your commitment to them***
- ***Communication 101: developing fluency upward, downward, and sideways***
- ***Getting the work done: positive supervision in a collective bargaining environment***
- ***Conflict resolution*** (between peers, and between management/supervisors and subordinates)
- ***Maximizing the PRD process*** (to benefit staff *and* supervisors)

- ***Tough boss or bully?*** (knowing the difference, developing skills to work in a challenging environment, and when to get help)
 - ***Safety, security, and sexual harassment prevention at the University of Maryland***
 - ***The nuts and bolts of staff relations*** (collective bargaining MOU's, time and attendance basics, and fundamentals of employee discipline)
2. Language isolation contributes greatly to the communication problems within FM. ESOL support for non-English speaking employees is at a critical juncture now with several hundred non-English speaking workers in FM and other campus departments. The HR Working Group strongly endorses a **vigorous campus effort to provide expanded work-related ESOL training**. It is recommended that UHR dedicate an FTE to expanding the ESOL program for campus staff, and identify barriers that should be eliminated in order to expand utilization in FM and other departments.
 3. The HR Working Group recommends that **FM consider hiring a “facilitator” for the non-English speakers**. Furthermore, **an evaluation should be done to determine if there is a member of the FM staff who is qualified and for whom this would be a promotional opportunity**. The non-English speakers are a tremendously underserved employee population, with deep challenges related to English and native-language literacy, along with general cultural dissonance **within UM’s workforce**. Their needs are currently being attended to by an informal network of employees scattered in various offices, but this matter should be elevated in importance.
 4. **Access to promotional opportunities for FM staff should be enhanced; FM-HR should work with FM managers and supervisors to better inform staff when new positions are being created in their work unit.** Additionally, FM-HR should commit to developing their employees and to giving their existing staff fullest consideration of their qualifications when they apply for internal positions. FM’s management is encouraged to **fully utilize existing policies and Equity guidelines¹⁰ to promote staff from within the organization, particularly those from underrepresented groups; supervisors should be recognized when they provide such opportunity**. This should be a PRD performance objective for every manager and supervisor within the organization.

¹⁰“Procedures and Guidelines for Conducting Searches at the University of Maryland” published by the Equity Council (July 2007)

5. The FM Fair Treatment Guidelines contribute greatly to the sense of fear and misunderstanding among FM staff. The HR Working Group strongly recommends **the FM Fair Treatment Guidelines be modified or eliminated through collective bargaining** negotiations with AFSCME so that FM's employees are not treated with an inflexible "cookbook approach" in their employment relationship with the University. This has been an ongoing source of grievance and general irritation over many years, and notably, FM is the only organization at the University that employs such a formulaic set of disciplinary guidelines with an "if this, then that" approach. In the interviews, employees and supervisors alike cited the FTG as ineffective and/or unevenly applied. Some of the employees interviewed did not even know they existed, or didn't know where to get a copy. Notably, RF's approach is more reasonable and allows managers/supervisors greater discretion and flexibility in applying a range of discipline. (Appendix G)
6. Enhancing computer skills among FM and RF staff has the potential to significantly improve communications. The HR Working Group endorses UHR's efforts to **develop a training course to build basic computer skills for employees who do not use computers in their daily work**. This has to be the most fundamental type of training, to begin to build basic literacy in this segment of the population so that they have access to the full breadth of information available to employees. FM-HR and RF-HR will identify who these individuals are, and ensure their employees have full access to these classes during an agreed-upon time during the workday.
7. **RF should hear employee grievances at Step 1 of the process only, to avoid the appearance of "conflict of interest."** Once a decision is rendered at Step 1 and the employee appeals, the grievance should be turned over immediately to UHR for representation at the next step(s). Step 2 hearings are conducted before a neutral, third-party hearing officer, and Step 3 hearings are conducted before an administrative law judge.
8. There are provisions in the 2010 Nonexempt and Exempt bargaining agreements with AFSCME that provide for a "Labor-Management Problem Solving Committee" comprised of representation from AFSCME and the University¹¹. The HR Working Group recommends that **the LMPSC process be used more effectively to resolve labor issues that are broader in nature than individual employee grievances**. The LMPSC process does not supplant or replace the employee grievance process available to staff.

¹¹ Article 16 in both MOU's.

9. The effectiveness of the FM-HR Office needs improvement. The HR Working Group initially considered a recommendation to move FM-HR's reporting structure to UHR **to report to the "central office" while providing field support in FM.** The benefit of such a re-**structuring would be that FM's employees would be less likely to perceive that FM's HR** office acts solely in the best interests of FM management.

However, after careful consideration of this recommendation, an alternative re-structuring was deemed to be more likely to achieve the desired effects and in the shorter term. Therefore, the recommendation is to **reorganize the FM-HR office to elevate its importance in FM's organizational structure and give it greater accountability** by moving the Assistant Director for FM-Human Resources to a direct-report relationship with the Associate Vice President. This action is intended to convey a message from the Associate Vice President that *"FM's staff issues are so important to me that the HR leader will be one of my direct-reports and have immediate access to me."* (Notably, the Residential Facilities HR group reports to their director, and that is a best practice.)

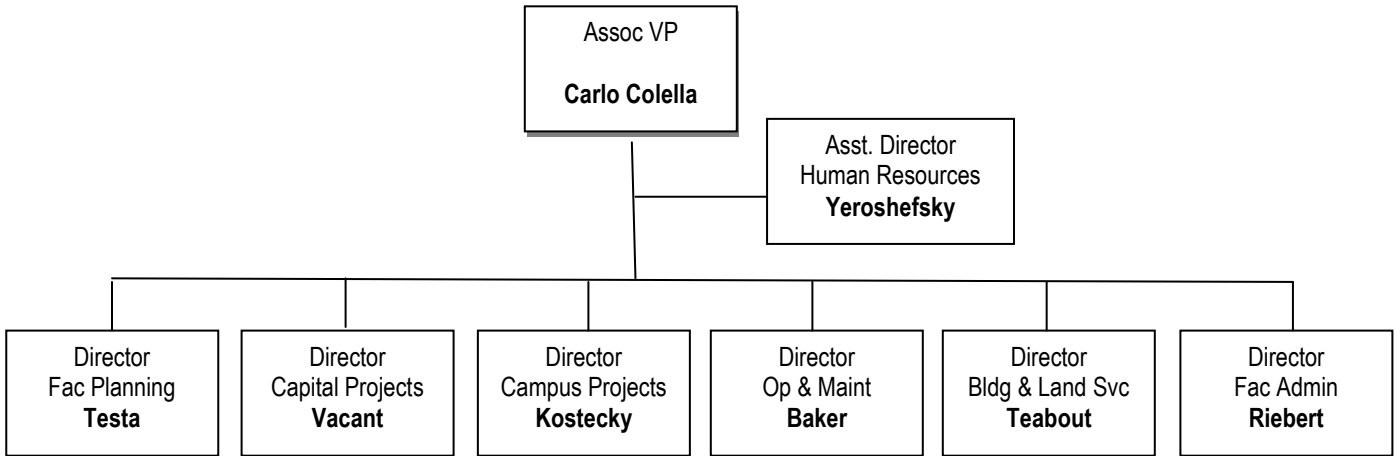
It is critical that FM's HR office re-invent itself so that all segments of the FM workforce – including the non-English speaking population and other underrepresented groups – see FM-HR as a front-line resource for problem solving, rather than an organization to fear. HR's reporting to the very top of the organization is intended to make sure employees understand their issues and concerns will not be marginalized or filtered. Similarly, employees will know that when the head of FM-HR speaks, she speaks directly on behalf of the Associate Vice President.

The following specific measures are also recommended by the HR Working Group:

- A. It is essential that the **Manager of FM-Staff Relations work more directly with UHR's Office of Staff Relations** (which has responsibility for the entire campus) to ensure an efficient and effective relationship with AFSCME, and so that BOR and campus policies are administered correctly on behalf of all campus employees. This includes the timely sharing of critical information and documents pertaining to investigations, employee grievances and other disciplinary matters, as required by Board of Regents policy. This is currently lacking, and UHR is often unable to get a balanced view of an employee matter before it escalates.
- B. **FM's four-person Payroll staff** should remain within the Office of Facilities Administration, which aligns it with the financial and other administrative functions. This would parallel the campus structure where UHR reports directly

to the Vice President for Administrative Affairs and Payroll Services reports to the Comptroller.

Recommended Organizational Structure Facilities Management



CONCLUSIONS

The HR Working Group concluded that there have been no widespread breaches of Board of Regents or campus human resources policies or procedures within FM or RF. Though the HR Working Group found no fundamental issues that create a “toxic workplace,” two systemic concerns clearly contribute to discontent among staff. First, in FM, the Fair Treatment Guidelines that are used to discipline staff create substantial problems. In the opinion of the HR Working Group, the FTG are “antiquated, cumbersome, and antagonistic” and should be abolished or modified through collective bargaining with AFSCME. The University and its departments have an obligation to develop supervisory skills and competencies so that they are fair and effective, without having to rely on such a rigid disciplinary matrix such as the FTG.

Second, issues related to the training of supervisors and managers require serious attention, and this report should serve as a call to action. There is inconsistent development of supervisors within FM and RF, and across the campus, that manifests itself in a variety of ways. The implementation of the new “**Pillars**” supervisory development training program will make great strides in developing a consistent set of supervisor/manager competencies, and it will make an important statement that the University of Maryland deeply values its staff employees.

In addition, FM can make better, more proactive efforts to develop its employees and provide them with promotional opportunities. The workforce is loyal and dedicated, and committed deeply to the mission of the institution. A reorganized, revitalized FM-HR Office can and should lead in these efforts.

Finally, the University must recognize that the FM and RF workforces are loyal and dedicated, and committed deeply to the mission of the institution. The HR Working Group especially wishes to thank the FM and RF employees who came forward to share their experiences and offer their insights. The efforts of AFSCME and the BFSA have helped tremendously in elevating their voices.

The HR Working Group believes that the flagship campus will rise to the occasion in meeting its challenges so that ALL employees will be treated with the respect and dignity that they deserve. Only with an engaged, knowledgeable, and committed workforce will the University reach its highest potential. With a new President, and key leadership changes including a new Vice President for Administrative Affairs and Associate Vice President for Facilities Management, this is an opportune time to effect necessary changes.

Respectfully submitted,

The HR Working Group
September 12, 2011

APPENDIX A: PROVOST WYLIE'S LETTER TO UHR DIRECTOR
DALE ANDERSON CHARGING THE "HR WORKING GROUP"
(4/7/11)

CONFIDENTIAL & PRIVILEGED

To: Dale Anderson
Director, University Human Resources

From: Ann Wylie, Senior Vice President and Provost

Date: April 7, 2011

Re: Review of Facilities

Between February 9, 2011, and March 5, 2011, the University received 3 anonymous Letters questioning a variety of personnel related matters in the Division of Facilities Management. The letters raise specific allegations about particular managers, supervisors and events in separate departments, e.g., Landscape Services and Campus Planning, but also raise common themes of alleged unfair treatment, disrespect and inequity in the application of employment rules and processes. In this regard, they raise questions about the opportunities available for regular exempt staff, especially minorities, to receive promotions, qualify for newly created higher level supervisory and managerial positions and/or to increase their income and salaries. They also raise complaints that the investigation of employee complaints to Human Resources staff housed internally within the Division of Facilities Management is tainted by conflict of interest.

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These anonymous letters have been brought to my attention because the former Associate Vice President for Administrative Affairs with responsibility for oversight of the Division of Facilities Management during the timeframe at issue currently serves as Interim Vice President for Administrative Affairs. As a result, I would ask you to coordinate a confidential review of the anonymous complaints both with respect to their specific allegations (such as they may exist in an anonymous format) and, more importantly, with respect to their broader themes. The purpose of the review is to determine what, if any, changes should be made to address the concerns underlying the anonymous letters. The review should be performed, to the extent practicable, by University personnel outside the Division of Facilities Management, and assisted, preferably, by individuals from outside the University, such as representatives from the University System of Maryland and/or other institutions of higher education within the University System of Maryland.

I would hope that the review can be completed by June 30, 2011. Please let me know if you have any questions.

APPENDIX B: PROVOST WYLIE’S LETTER TO CAMPUS STAFF
REGARDING “CONCERNS ABOUT THE CAMPUS WORK
ENVIRONMENT,” ENGLISH VERSION (7/26/2011)



UNIVERSITY OF
MARYLAND

OFFICE OF THE SENIOR VICE PRESIDENT AND PROVOST

1119 Main Administration Building
College Park, Maryland 20742-5031
301.405.5252 TEL 301.405.8195 FAX

MEMORANDUM

DATE: July 26, 2011

TO: All UMD Staff Members

FROM: Ann G. Wylie *Ann G. Wylie*
Senior Vice President and Provost

SUBJECT: Concerns about the Campus Work Environment

I want to take this opportunity to give you a brief update on the steps President Loh and I have taken to date in response to the concerns you have raised about working conditions on campus.

First, let me say to you that, without any qualification, President Loh is determined to have a safe and respectful work and learning environment for all faculty, staff, and students. When the issues revolving around the campus work environment were presented to him, the President immediately asked me to take the necessary steps to explore the nature of these concerns and begin making recommendations for resolving them.

To ensure that we had the expertise and objectivity required, and considering the confidential nature of employee issues, the President asked me to assemble a three-person "HR Working Group" to investigate the issues raised by the anonymous letters. That group consists of Dale Anderson, Director of University Human Resources at the University of Maryland, College Park (UMD); Joanne Goedert, Assistant Vice Chancellor, Administration and Finance at the University System of Maryland (USM); and Phil Ross, Associate Vice President, Office of Human Resources at Towson University.

Collectively, this group has significant experience in addressing confidential employment issues and practices. It has expertise in personnel matters, including the integrity of the collective bargaining process and established USM and UMD policies and procedures (sexual harassment, discrimination). It will ensure that the affected employees have access to those procedures. Finally, the HR Working Group will also bring unbiased credibility to resolving the issues that will be identified.

The initial plan was for the group to report back to me by June 30. However, when President Loh met with representatives from the Black Faculty and Staff Association (BFSA) and they handed him their report, he asked Frank Brewer, Interim Vice President for Administrative Affairs, and Susan Bayly, Legal Counsel, to review the BFSA report and to recommend next steps to him. They, in turn, recommended that President Loh forward the BFSA report to the HR Working Group and expand its scope.

The HR Working Group is now reviewing the original allegations as well as the report that the BFSA presented to the President, and will make recommendations to me at the beginning of the fall semester. The recommendations included in the BFSA's report certainly will be considered, and the BFSA will be informed of the measures put into place as a result.

BFSA President Solomon Commisiong and Nyumburu Director Ron Ziegler have been informed about President Loh's decision and about the time frame for the investigation. They have also been asked to forward any additional complaints they may receive to Mr. Dale Anderson for the HR Working Group to include in its review.

President Loh and I take each and every one of these concerns very seriously – both the initial allegations and those contained in the BFSA report. We have directed the HR Working Group to fully explore the concerns that have been raised by members of the UMD community and to provide substantive recommendations for further action as appropriate. We will all learn more when the team makes its recommendations to me.

APPENDIX C: PROVOST WYLIE’S LETTER TO CAMPUS STAFF
REGARDING “CONCERNS ABOUT THE CAMPUS WORK
ENVIRONMENT,” SPANISH VERSION (7/26/2011)

UNIVERSITY OF MARYLAND

OFICINA DEL VICEPRESIDENCIA Y DIRECCIÓN

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TEL. 301.405.8195 FAX

MEMORÁNDUM

FECHA: 26 de julio de 2011

PARA: Miembros del Personal de UMD

DE: Ann G. Wylie
Vice Presidenta y Rectora

TEMA: Preocupaciones con Respecto al Ambiente de Trabajo en la Universidad

Quiero aprovechar esta oportunidad para darles una breve actualización con respecto a las medidas que el Presidente Loh y yo hemos tomado hasta la fecha en respuesta a las preocupaciones que ustedes han manifestado con respecto a las condiciones de trabajo en el campus.

En primer lugar, quisiera expresarles que, sin ningún tipo de calificación, el Presidente Loh está decidido a lograr un ambiente de trabajo y aprendizaje seguro y respetuoso para todos los miembros académicos, el personal y los estudiantes. Cuando se le presentaron al Presidente los temas con respecto al ambiente de trabajo en el campus, él inmediatamente me solicitó que tomara las medidas necesarias para investigar la naturaleza de dichas preocupaciones y que comenzara a hacer recomendaciones a los fines de resolver las mismas.

Para asegurarnos de contar con la experiencia y objetividad necesaria y considerando la naturaleza confidencial de los temas con los empleados, el Presidente me solicitó formar un "Grupo de Trabajo de Recursos Humanos" integrado por tres personas para investigar los temas planteados en las cartas anónimas. Ese grupo está integrado por Dale Anderson, Director de Recursos Humanos de la Universidad de Maryland, College Park (UMD); Joanne Goedert, Vice Rectora Adjunta, Administración y Finanzas del Sistema Universitario de Maryland (USM) y Phil Ross, Vice Presidente Asociado, Oficina de Recursos Humanos de la Universidad de Towson.

En conjunto, este grupo cuenta con una significativa cantidad de experiencia en tratar temas y prácticas confidenciales relacionadas al empleo. El mismo cuenta con experiencia en temas de personal, incluyendo la integridad del proceso de convenios colectivos y con respecto a las políticas y procedimientos (acoso sexual, discriminación) establecidos en USM y UMD. Esto asegurará que los empleados afectados tengan acceso a dichos procedimientos. Finalmente, el Grupo de trabajo de Recursos Humanos, también contará con credibilidad imparcial para resolver los temas que se identifiquen.

El plan inicial era que el grupo me informaría a mí antes del 30 de junio. Sin embargo, cuando el Presidente Loh se reunió con los representantes del Black Faculty and Staff Association (BFSA) y ellos le entregaron su informe, el Presidente Loh le solicitó a Frank Brewer, Vice Presidente Interino de Asuntos Administrativos, y a Susan Bayly, Asesora Legal, que revisen el informe de BFSA y le recomienden los pasos a seguir. Ellos, a su vez, recomendaron al Presidente Loh que enviara el informe de BFSA al Grupo de Trabajo de Recursos Humanos y que expandieran los parámetros de la investigación.

El Grupo de Trabajo de Recursos Humanos se encuentra actualmente revisando los alegatos originales así como también el informe que BFSa presentó al Presidente y me informará sus recomendaciones al comienzo del semestre de otoño. Sin duda se tomarán en cuenta las recomendaciones incluidas en el informe de BFSa y se informará a BFSa de las medidas tomadas como resultado.

Solomon Commsiong, Presidente de BFSa y Ron Ziegler, Presidente de Nyumburu, han sido informados de la decisión del Presidente Loh y del marco de tiempo de la investigación. También se les ha solicitado enviar cualquier reclamo adicional que ellos reciban al Sr. Dale Anderson para que el Grupo de Trabajo de Recursos Humanos lo incluya en su revisión.

El Presidente Loh y yo tomamos con mucha seriedad todas y cada una de estas preocupaciones – tanto los alegatos iniciales como aquellos incluidos en el informe de BFSa. Hemos instruido al Grupo de Trabajo de Recursos Humanos para que investigue a fondo las preocupaciones que han sido expresadas por los miembros de la comunidad de UMD y que brinde recomendaciones concretas para tomar las acciones futuras que resulten adecuadas. Todos recibiremos más información cuando el equipo me entregue sus recomendaciones.

APPENDIX D: FACILITIES MANAGEMENT EMPLOYEE COUNTS,
BY UNIT (AS OF 8/23/2011)

FACILITIES MANAGEMENT		
UNIT	TYPE	COUNT
Building & Landscape Services	Contingent 2 ¹²	21
	Regular	273
	Total	294
Operations and Maintenance	Contingent 2	11
	Regular	277
	Total	288
Office of Facilities Administration	Contingent 2	3
	Regular	76
	Total	79
Capital Projects	Contingent 2	1
	Regular	46
	Total	47
Campus Projects	Contingent 2	4
	Regular	41
	Total	45
Facilities Planning	Contingent 2	4
	Regular	16
	Total	20
TOTAL – ALL FM		773

¹² Contingent 2 (“C2”) employees are “contractual” staff employees, appointed for a term of one year and with benefits, pursuant to Board of Regents policy VII-1.40. C2’s are hired through a competitive search, and are converted to regular status after three years of continuous employment in the same position.

APPENDIX E: RESIDENTIAL FACILITIES EMPLOYEE COUNTS,
ALL UNITS (AS OF 8/23/2011)

RESIDENTIAL FACILITIES		
UNIT	TYPE	COUNT
	Contingent 2	39
	Regular	181
TOTAL – RF		220

APPENDIX F: FM “FAIR TREATMENT GUIDELINES”

FACILITIES MANAGEMENT

FAIR TREATMENT GUIDELINES

Including consequences to Pay that may result from inappropriate workplace behaviors.

Revised by: Senior Staff, FM

Effective: March 15, 1997

Revised: 02/20/2007

This document includes a revised Attachment B that reflects changes surrounding the lateness policy that resulted from the implementation of the Payroll Human Resources (PHR) System effective, August 12, 2001. This revised attachment also references the UMCP Sick Leave Policy that took effect December 5, 1997. This document clarifies certain provisions as a result of the 2004 Memorandum of Understanding (MOU).

POLICY TITLE:

FAIR TREATMENT GUIDELINES

PURPOSE:

To establish guidelines for progressive disciplinary action of Facilities Management (formerly the Department of Physical Plant) that ensures equal treatment for violations of policy and misconduct. **The guidelines provide the consequences which may be expected to result from inappropriate workplace behaviors.**

These consequences fall into one of three (2) categories:

- 1) Pay (associated with the offense itself)**
- 2) Fair Treatment Guidelines sanction when disciplinary action is taken**

Supervisors are expected to follow the guidelines or a waiver form must be processed and submitted to Human Resources.

General provisions and definitions accompany the guidelines for clarification.

BACKGROUND:

The University of Maryland Personnel Policies and Rules for Classified Employees, Section VIII- CONDUCT AND DISCIPLINE, pages 1-7, defines the University of Maryland policy and procedure on this topic.

The guidelines, general provisions, and definitions were developed by the Facilities Management Employee Relations Office, as directed by the Senior Staff. The package was discussed and distributed to Leadership Staff at a training Session in West Virginia in June of 1987. The package was given to a Task Force of twelve (12) employees in July 1987. The Task Force reviewed the package, rewrote the guidelines and definitions to reflect their recommendations. Senior Staff made final decisions including some of the recommendations. In June 1988, the Leadership Staff reviewed the final approved version of the Fair Treatment Guidelines reflected in this document.

POLICY STATEMENT:

ALL REGULAR AND CONTINGENT II EMPLOYEES OF FACILITIES MANAGEMENT ARE SUBJECT TO THE FAIR TREATMENT GUIDELINES. AN EMPLOYEE GUILTY OF MISCONDUCT SHOULD EXPECT CONSEQUENCES. SUPERVISORS WILL INITIATE PROGRESSIVE DISCIPLINARY ACTION USING THE FAIR TREATMENT GUIDELINES.

DISCIPLINARY ACTION MAY BE IN THE FORM OF: A LETTER OF COUNSELING, A LETTER OF REPRIMAND, SUSPENSION WITHOUT PAY FROM ONE TO FIVE DAYS, OR SUSPENSION PENDING REMOVAL FROM STATE SERVICE.

PROCEDURES:

1. The Fair Treatment Guidelines for disciplinary action will be used by all units of Facilities Management in accordance with the definitions and general provisions. (See Attachments A & B, and the attached table, “Inappropriate Workplace Behaviors and Consequences”.)
2. Any supervisor who does not follow the guidelines will submit an exception to the guidelines on the “Waiver Form.”
3. In cases where consequences are not listed on the guidelines or when there are cumulative infractions within sections of the guidelines, supervisors will contact the Facilities Management Employee Relations Manager for consultation.
4. All supervisors will work with Employee Relations personnel when initiating disciplinary actions and removals. Employee Relations will coordinate the necessary final actions with the appropriate Assistant Directors and Payroll Services.
5. The Employee Relations Office will monitor compliance with the guidelines, and coordinate appropriate actions with the Department of University Human Resources.

NOTE: Employees serving a probationary period may be rejected on probation at any time during the probationary period and the following information contained in the general guidelines may not apply. The consequences and guidelines apply to regular employees who have satisfactorily passed probation. The guidelines may also be used for Contract employees (Contingent II).

EFFECTIVE DATE: MARCH 15, 1997

DEPARTMENTAL POLICY COORDINATOR:

Manager, Employee Relations
Assistant Director, Human Resources Management

REVIEW/REVISION DATE: Annually, no later than July 1

FORM(S):

- 1) General Guidelines
- 2) Definitions
- 3) Counseling Forms
- 4) Counseling Statement Forms
- 5) Disciplinary Suspension Forms (HR)
- 6) Charges and Specifications for Removal of Permanent Employees (HR)
- 7) Waiver Forms

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POLICY AUTHORIZATION & DATE: _____

Associate Vice President of Facilities Management
(Date)

UNIVERSITY POLICY REFERENCE(S):

- 1) University of Maryland Personnel Policies and Rules for Classified Employees, Section VIII, pages 1-7

CLOSELY RELATED DEPARTMENT POLICY(S):

- 1) All Facilities Management policies must be observed.

Facilities Management

Inappropriate Workplace Behaviors and Consequences

Below appear the normal departmental responses to the noted inappropriate workplace behaviors.

SECTION I – 1 YEAR “ROLLING WINDOW”

BEHAVIOR	RESPONSE	1	2	3	4	5	6	7
UNAUTHORIZED ABSENCE, 60 MINUTES OR LESS (3 Emergency Call-Ins are allowed each March)	PAY	Docked for length of UA	Docked for length of UA	Docked for length of UA	Docked for length of UA	Docked for length of UA	Docked for length of UA	Docked for length of UA
	FTG	Verbal Counseling	Written Counseling, FSAP Referral	Official Letter of Reprimand	1-Day Suspension	3-Day Suspension	5-Day Suspension	Terminate
	PRD	*	*	*	*	*	*	N/A
UNAUTHORIZED ABSENCE: MORE THAN 60 MINUTES (3 Emergency Call-Ins are allowed each March)	PAY	Docked for length of UA	Docked for length of UA	Docked for length of UA	Docked for length of UA	Docked for length of UA	Terminate	-----
	FTG	Written Counseling FSAP Referral	Official Letter of Reprimand	1-Day Suspension	3-Day Suspension	5-Day Suspension	Terminate	-----
	PRD	*	*	*	*	*	N/A	-----
UNAUTHORIZED ABSENCE DURING THE WORK SHIFT	PAY	Dependent upon the circumstances	Dependent upon the circumstances	Dependent upon the circumstances	Dependent upon the circumstances	Terminate	-----	-----
	FTG	Official Letter of Reprimand OR 1-Day DS	1-Day Suspension	3-Day Suspension	5-Day Suspension	Terminate	-----	-----
	PRD	*	*	*	*	N/A	-----	-----
FAILURE TO CALL IN (During absences for which the cause is already known, e.g., sick absence)	PAY	-----	-----	-----	-----	-----	-----	Terminate
	FTG	Verbal Counseling	Written Counseling, FSAP Referral	Official Letter of Reprimand	1-Day Suspension	3-Day Suspension	5-Day Suspension	Terminate
	PRD	*	*	*	*	*	*	N/A
ABUSE OF OFFICIAL WORKTIME	PAY	Dependent upon the circumstances	Dependent upon the circumstances	Dependent upon the circumstances	Dependent upon the circumstances	Terminate	-----	-----
	FTG	Official letter of Reprimand OR 1-Day DS	1-Day Suspension	3-Day Suspension	5-Day Suspension	Terminate	-----	-----
	PRD	*	*	*	*	N/A	-----	-----

**Cumulative violations may result in below expectation and unsatisfactory ratings.*

SECTION I – 1 YEAR “ROLLING WINDOW” (cont.)

BEHAVIOR	RESPONSE	1	2	3	4	5	6	7
FAILURE TO PUNCH/SIGN IN OR OUT	PAY	Dependent upon the circumstances	Dependent upon the circumstances	Dependent upon the circumstances	Dependent upon the circumstances	Dependent upon the circumstances	Dependent upon the circumstances	Terminate
	FTG	Verbal Counseling	Written Counseling, FSAP Referral	Official Letter of Reprimand	1-Day Suspension	3-Day Suspension	5-Day Suspension	Terminate
	PRD	*	*	*	*	*	*	N/A
PUNCHING TIMECARD FOR ANOTHER EMPLOYEE (Both employees participated)	PAY	Dependent upon the circumstances	Dependent upon the circumstances	Dependent upon the circumstances	Terminate	-----	-----	-----
	FTG	Official Letter of Reprimand OR 1-Day DS	3-Day Suspension	5-Day Suspension	Terminate	-----	-----	-----
	PRD	*	*	*	N/A	-----	-----	-----
INCOMPLETE UNIFORM OR ID BADGE	PAY	-----	-----	-----	-----	-----	-----	Terminate 37
	FTG	Verbal Counseling	Written Counseling, FSAP Referral	Official Letter of Reprimand	1-Day Suspension	3-Day Suspension	5-Day Suspension	Terminate
	PRD	*	*	*	*	*	*	N/A
SMOKING IN UNAUTHORIZED AREAS (Includes all State buildings)	PAY	-----	-----	-----	-----	Terminate	-----	-----
	FTG	Official Letter of Reprimand	1-Day Suspension	3-Day Suspension	5-Day Suspension	Terminate	-----	-----
	PRD	*	*	*	*	N/A	-----	-----
USE OF PROFANITY OR ABUSIVE LANGUAGE	PAY	-----	-----	-----	-----	Terminate	-----	-----
	FTG	Official letter of Reprimand	1-Day Suspension	3-Day Suspension	5-Day Suspension	Terminate	-----	-----
	PRD	*	*	*	*	N/A	-----	-----

* Cumulative violations may result in below expectation and unsatisfactory ratings.

SECTION II – 3 YEAR TIME PERIOD

BEHAVIOR	RESPONSE	1	2	3	4	5	6	7
FAILURE REPORT DAMAGE TO A STATE VEHICLE	PAY	-----	-----	-----	Terminate	-----	-----	-----
	FTG	1-Day Suspension	3-Day Suspension	5-Day Suspension	Terminate	-----	-----	-----
	PRD	*	*	*	N/A	-----	-----	-----
UNAUTHORIZED USE OF A STATE VEHICLE (On/Off campus, during/not during work shift)	PAY	-----	-----	Terminate	-----	-----	-----	-----
	FTG	1-Day to 5-Day Suspension	5-Day Suspension or N/A	Terminate	-----	-----	-----	-----
	PRD	*	*	N/A	-----	-----	-----	-----
DRIVING A STATE VEHICLE WITHOUT A VALID LICENSE	PAY	Terminate	-----	-----	-----	-----	-----	-----
	FTG	Terminate	-----	-----	-----	-----	-----	-----
	PRD	N/A	-----	-----	-----	-----	-----	-----
MAKING A FRAUDULENT OFFICIAL STATEMENT	PAY	-----	-----	Terminate	-----	-----	-----	-----
	FTG	1-Day Suspension	5-Day Suspension	Terminate	-----	-----	-----	-----
	PRD	*	*	N/A	-----	-----	-----	-----
INSUBORDINATION	PAY	-----	-----	Terminate	-----	-----	-----	-----
	FTG	1-Day Suspension	5-Day Suspension	Terminate	-----	-----	-----	-----
	PRD	*	*	N/A	-----	-----	-----	-----
HARASSMENT OR USE OF SEXUAL/RACIAL LANGUAGE	PAY	-----	-----	Terminate	-----	-----	-----	-----
	FTG	1-Day Suspension	5-Day Suspension	Terminate	-----	-----	-----	-----
	PRD	*	*	N/A	-----	-----	-----	-----

*Cumulative violations may result in below expectation and unsatisfactory ratings.

SECTION III – ALL INFRACTIONS REMAIN ON PERMANENT RECORD

BEHAVIOR	RESPONSE	1	2	3	4	5	6	7
THREATENING A CO-WORKER	PAY	-----	-----	Terminate	-----	-----	-----	-----
	FTG	1-Day DS	5-Day DS	Terminate	-----	-----	-----	-----
	PRD	*	*	N/A	-----	-----	-----	-----
PHYSICAL ABUSE OF A CO-WORKER	PAY	-----	-----	Terminate	-----	-----	-----	-----
	FTG	1-Day DS	5-Day DS	Terminate	-----	-----	-----	-----
	PRD	*	*	N/A	-----	-----	-----	-----
ASSAULT AND BATTERY OF A CO-WORKER	PAY	-----	Terminate	-----	-----	-----	-----	-----
	FTG	5-Day DS OR Terminate	Terminate	-----	-----	-----	-----	-----
	PRD	*	N/A	-----	-----	-----	-----	-----
DESTRUCTION OF PROPERTY	PAY	-----	-----	-----	Terminate	-----	-----	-----
	FTG	1-Day DS	3-Day DS	5-Day DS	Terminate	-----	-----	-----
	PRD	*	*	*	N/A	-----	-----	-----
POSSESSION, USE, OR SALE OF ILLEGAL DRUGS	PAY	-----	-----	-----	-----	-----	-----	-----
	FTG	Terminate	-----	-----	-----	-----	-----	-----
	PRD	N/A	-----	-----	-----	-----	-----	-----
WORKING WHILE UNDER THE INFLUENCE OF DRUGS OR ALCOHOL	PAY	-----	-----	Terminate	-----	-----	-----	-----
	FTG	1-Day DS	5-Day DS	Terminate	-----	-----	-----	-----
	PRD	*	*	N/A	-----	-----	-----	-----
UNAUTHORIZED USE OR LOSS OF KEYS	PAY	-----	Terminate	-----	-----	-----	-----	-----
	FTG	5-Day DS	Terminate	-----	-----	-----	-----	-----
	PRD	*	N/A	-----	-----	-----	-----	-----
SLEEPING DURING SHIFT	PAY	-----	-----	Terminate	-----	-----	-----	-----
	FTG	1-Day Suspension	5-Day Suspension	Terminate	-----	-----	-----	-----

	PRD	*	*	N/A	-----	-----	-----	-----
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*Cumulative violations may result in below expectation and unsatisfactory ratings.

SECTION III – ALL INFRACTIONS REMAIN ON PERMANENT RECORD (cont.)

BEHAVIOR	RESPONSE	1	2	3	4	5	6	7
SUBMISSION OF FRAUDULENT LEAVE DOCUMENTATION	PAY	-----	Terminate	-----	-----	-----	-----	-----
	FTG	5-Day DS	Terminate	-----	-----	-----	-----	-----
	PRD	*	N/A	-----	-----	-----	-----	-----
MINOR THEFT	PAY	-----	-----	Terminate	-----	-----	-----	-----
	FTG	1-Day DS	5-Day DS	Terminate	-----	-----	-----	-----
	PRD	*	*	N/A	-----	-----	-----	-----
MAJOR THEFT OR THEFT OF ANY AMOUNT FROM A CUSTOMER	PAY	Terminate	-----	-----	-----	-----	-----	-----
	FTG	Terminate	-----	-----	-----	-----	-----	-----
	PRD	N/A	-----	-----	-----	-----	-----	----- 40

*Cumulative violations may result in below expectation and unsatisfactory ratings.

PRD CUMULATIVE VIOLATIONS

VIOLATION	CALENDAR	OUTSTANDING	EXCEEDS	MEETS	BELOW	UNSAT
SECTION I- Failure to call in, punch in/sign in, Timecard, uniform violations, UA (late) (60 minutes or less)	12 months	0	Up to 3 Excused, no Unexcused 60 minutes or less UA's, no other violations	Up to 3 Excused and up to 2 Unexcused 60 minutes or less UA's, up to 2 other violations	3	4+
Other SECTION I Violations	12 months	0	N/A	N/A	1 or 2	2 or 3+
SECTION II	3 years	0	N/A	N/A	N/A	1
SECTION III	Permanent	0	N/A	N/A	N/A	1

When calculating the final overall employee rating, an employee who is rated "below" in any of the above sections cannot be rated "exceeds" or "outstanding" overall. An employee who is rated "unsatisfactory" in any of the above sections cannot be rated "meets", "exceeds", or "outstanding" overall.

GENERAL GUIDELINES

The “General Guidelines” establish a fair and uniform approach to carry out disciplinary action within Facilities Management. Under these provisions, employees regardless of unit or individual supervisor will be treated equally.

Inappropriate behavior(s) are listed along with the consequences on the attached table. Across the top of the table, numbers “1” thru “7” indicates the number of times that inappropriate behavior takes place. Under each number, the consequence of that behavior is defined in 3 areas: “PAY” denotes any loss of pay which is a direct result of the behavior, “FTG” is the response as a result of disciplinary action taken because of the inappropriate behavior which can mean additional loss of pay through suspension, and “PRD” defines the eventual category rating that can be expected on the Performance Review and Development Evaluation for cumulative violations.

Explanations of **behaviors** and supporting information are found in attachment B. **Behaviors and Consequences** listed in the General Guidelines are more common violations of policy. Infractions, however, are not limited to those listed. Infractions not listed will be dealt with appropriately. Supervisors should contact the Office of Human Resources Management for consultation and disposition.

Inappropriate Behaviors listed in the first section of the table are considered less severe; infractions will be counted by the rolling window method through each twelve-month period. Basically, the rolling window counts only the past twelve-month period. The employee’s record of infractions and any disciplinary actions taken during the twelve-month period will remain a part of the employee’s permanent file. Items under Section II are more serious infractions that will remain active and be counted during a three-year time period. After three years, the offense will no longer be counted, but will remain a part of the record. Section III violations are the most serious and remain active and permanent on the employee’s record. Employees committing a first infraction under this section will receive referral information concerning the Faculty/Staff Assistance Program (FSAP) when appropriate.

When infractions of policy are in more than one category or section, they must be looked at as combined infractions when determining progressive discipline. Before an employee is terminated for any offense listed within the guidelines, the record of previous years will be reviewed and taken into consideration.

All supervisors are expected to follow the guidelines. Unusual circumstances will occur that will constitute exceptions to prescribed sanctions. In such cases when the disciplinary action indicated will not be taken for good reason, supervisors will complete a “Waiver Form” within **24 hours** of the day in which the infraction occurred. **An**

General Guidelines (cont.)

employee may fill out a “Waiver Form” and submit it to the supervisor for approval.

The Waiver form will be submitted to the Assistant Director of the division, who will forward approved forms to the Employee Relations office.

The guidelines and rules contained herewith are intended for use by Facilities Management in compliance with the Personnel Manual, *Personnel Policies and Rules for Classified Employees of the University of Maryland*. The provisions of the Personnel Manual and rules and regulations of the State of Maryland will have precedence over any inconsistencies now or in the future regarding disciplinary sanctions contained in these departmental guidelines.

[FM FAIR TREATMENT GUIDELINES ATTACHMENT B]

NOTE: **This attachment was revised January 2002, with changes resulting from the implementation of the Payroll Human Resources System (PHR). The changes fall under the Lateness & Less than 60 minutes category and were communicated at the time of implementation August 2001. The section on Medical Documentation and Sick Leave has been deleted, and the new Sick Leave Policy, approved by the Board of Regents December 5, 1997 is made available under separate cover. No other changes are reflected in this document.**

DEFINITIONS

LATENESS: Employees are expected to arrive at their appointed work area, ready to work, at their scheduled starting time. **Anyone who arrives after his or her designated starting time is considered late.** However, Facilities Management has established a traffic management window of five (5) minutes before and after the beginning and ending of a scheduled shift, before an employee is subject to disciplinary action and before pay is impacted. This does not mean that arriving five minutes late to work is acceptable behavior. In fact, an employee demonstrating a pattern of abuse regarding swiping in after the start of their shift, or swiping out prior to the end of their shift will have such performance reflected in their performance evaluation and their evaluation rating and potential for merit increase will be adversely impacted. **Disciplinary action may also be warranted.**

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Examples:

1. Employee A's shift is from 7:00 am to 3:30 pm.

Employee A swipes in at 7:05 am and punches out at 3:30pm.

Employee A is not penalized for payroll purposes. The employee is reminded by the supervisor that the work shift begins at 7:00 am.

2. Employee B's shift is from 7:00 am to 3:30 pm.

Employee B swipes in at 7:06 and punches out at 3:30 pm.

Employee B is penalized for payroll purposes and is docked the length of the unauthorized absence (6 minutes). The employee also receives disciplinary action for an Unauthorized Absence in the 60 minutes or less category.

DEFINITIONS (cont.)

3. Employee C's shift is from 11:00 pm to 7:00 am.

Employee C swipes out at 7:30 am.

Unless pre-approved by a supervisor to work beyond the end of the shift (or prior to the beginning of the work shift), Employee C will receive disciplinary action for Unapproved Work Hours.

EXCUSED LATENESS:

The first three (3) times beginning March 15 each year (eff. March 1998) that an employee is late less than 60 minutes will be considered an excused lateness. The employee is not required to call-in (if arrival is less than 20 minutes after the start of the shift), but the lateness must be recorded on the "Emergency Call-Ins to Record Leave" form. For these emergency exceptions, the employee must take earned annual, personal, or compensatory leave to cover the absence.

When an employee is less than 20 minutes late, it will be assumed that the lateness could not be anticipated or that the employee could not call-in while traveling to the job and an emergency occurred. An employee is excused from the call-in procedure when using the three late emergency exceptions (60 minutes or less); however, an employee is required to follow the call-in procedure when using the three emergency exceptions due to unauthorized absence of more than 60 minutes, or, if the period of lateness exceeds 20 minutes after the start of their work shift.

UNAUTHORIZED ABSENCE (UA), 60 MINUTES OR LESS:

Means arriving at work six (6) minutes after the workshift begins to sixty (60) minutes after the starting time. Beginning with the first instance of unexcused lateness (fourth incident of lateness per twelve month period), infractions will be counted and progressive disciplinary action will be taken in accordance with the General Guidelines. No leave will be granted to cover the lateness and payroll deductions will be made.

Unauthorized absences 60 Minutes or Less may also be excused in cases of emergencies at the discretion of the supervisor. In these instances, the supervisor may require an explanation and documentation of the emergency. When the supervisor excuses the lateness, a Waiver Form must be submitted by the supervisor within 24 hours of the infraction.

[FM FAIR TREATMENT GUIDELINES ATTACHMENT B]

UNAUTHORIZED ABSENCE OF MORE THAN 60 MINUTES:

Unauthorized absence occurs when an employee is absent from the regular workshift and is not in an approved leave status. Unauthorized absence of more than 60 minutes includes:

- a. Late a portion of the day (more than 60 minutes).
- b. Absent all day without approval.
- c. Late call-in to request sick leave, which means the employee was absent without authorization until the time of notification.
- d. Call-in for family sick leave beyond the 15 days allowed per calendar year.

The first three (3) emergencies that exceed one hour beginning each March 15 (eff. March 1998) will be considered exceptions to the requirement to request leave in advance, *if* the employee has complied with the call-in policy. The following stipulations apply:

- a. Emergency call-ins are not allowed during snow or other weather emergencies, steam shut down, year-end closings, or other declared emergencies.
- b. When an emergency absence occurs, the employee will request and use annual, personal, or compensatory leave. An employee who has worked less than six months is not eligible to take annual leave.
- c. Each incident of unauthorized absence will be more than one hour but will not exceed one day.

An employee who has used the three excused late exceptions (less than 60 minutes) and has one or more emergency exceptions of more than 60 minutes available, may request to use an exception when absent without authorization 60 minutes or less (late).

ADVANCE REQUEST FOR LEAVE: All leave including annual, personal, and sick leave for scheduled medical appointments must be requested in advance on a leave request form and is subject to approval by the supervisor. Advance notice requirements are as follows:

- Less than 1 day.....1/2 day in advance
- 1-2 days.....one working day in advance
- 3-5 days.....one week in advance
- More than 5 days.....two weeks in advance

UNAUTHORIZED ABSENCE DURING THE WORKSHIFT: Can occur once the employee has officially arrived at work and is away from the job site without approval. Employees must remain at their workstations engaged in official duties at all times during the workshift unless released by their supervisor or the supervisor's designee.

ABUSE OF OFFICIAL WORKTIME: Will be charged if the employee has officially arrived at work (punched in or signed in) and is engaged in other than official duties during the workshift. Examples: absence from work area, delay in proceeding to job site, extended breaks, excessive personal telephone calls or use of machinery, lengthy conversations, gambling or soliciting that may involve raffle tickets (unless sponsored by the University or the Department), subscriptions or sale of merchandise for personal profits or charities, and trips to the Credit Union or bank.

UNIFORM VIOLATIONS: Department policy requires most employees to wear uniforms and/or identification badges. When a partial uniform, no uniform, or the uniform is worn inappropriately, disciplinary action will be taken as indicated. The uniform consists of pants and shirt, or T-shirt and/or coveralls with ID badge. For safety reasons, some units require that specific footwear also be part of the uniform. An employee may be sent home if the supervisor determines that an employee's footwear is unsafe.

FAILURE TO CALL-IN: An employee is required to telephone the supervisor, unless otherwise instructed, to report an unscheduled absence. The call-in policy requires that the employee call-in each day, *before the start of the shift*.

FOR INFORMATION ON MEDICAL DOCUMENTATION AND SICK LEAVE, PLEASE REFERENCE THE UMCP POLICY: Policy on Sick Leave (VII-7.45), effective December 5, 1997.

VEHICLE POLICY VIOLATIONS: a University vehicle may only be driven by a licensed employee engaged in official business. Disciplinary action will result for failure to observe the rules as defined in Facilities Management's Vehicle Policy I.3 as revised. These rules include, but are not limited to the following:

1. All accidents or damage to a University vehicle must be reported to the supervisor.
2. Leaving campus on official business must be authorized by the supervisor or reported to Work Control before leaving and upon returning to campus.
3. Unauthorized use of a vehicle during the workshift or after the workshift is not allowed.

[FM FAIR TREATMENT GUIDELINES ATTACHMENT B]

4. Failure to possess a valid Class C driver's license with less than 6 points, while operating a state vehicle.

FALSE OFFICIAL STATEMENT: A false official statement (*written or verbal*) is a statement made intentionally to mislead another and can involve loss of time, property, money, and/or inefficient or ineffective performance of duty.

INSUBORDINATION: Refusal to follow a reasonable job related direction given by a supervisor or person of authority. If refusal is to prevent injury, the employee must identify the safety concern and carry out the direction as soon as the safety problem is satisfactorily resolved.

MISCONDUCT: Employees must treat others courteously and with respect whether supervisor, co-worker, faculty, staff or student. The property of others will also be respected. Any conduct that reflects in an adverse way upon the Department or other employees will be considered misconduct. In addition, the following infraction examples will not be permitted (not all inclusive):

1. Profanity and verbal and non-verbal abuse that insults an individual is considered misconduct; this is unproductive use of official work time, and is harmful to others. Crude and vulgar language is inappropriate in the workplace as is profanity, particularly when directed toward another, in the presence of others, or when such language will reflect poorly upon the department.
2. Harassment and language that references or insults an individual's background or beliefs, including: race, gender, sexual orientation, disability, ethnic or religious background, carries a more severe penalty. Sexual harassment is included in this category.
3. Threatening a Co-Worker is a communicated intent or hostile act to inflict physical or other harm on any person or their property. Direct or indirect threats (intent to harm another made to a third party) are considered threatening behavior.
4. Physical Abuse is pushing, shoving, grabbing or coming into intentional contact with a co-worker if that contact is unacceptable to the co-worker. In order to minimize circumstances that might lead to physical abuse, management and employees have a responsibility to discourage any kind of physical contact or interaction outside the normal scope of work that could lead to physical abuse as defined above.

[FM FAIR TREATMENT GUIDELINES ATTACHMENT B]

5. Assault and battery will include (although not limited to): Punching another, physical fighting, hitting, or use of an object that inflicts harm or injures another employee or the employee's property.
6. Destruction of Property is negligent or willful conduct that causes damage to public property or waste of public supplies.
7. Theft is willfully taking, or attempting to take, any article or thing without regard for ownership. **Minor theft** can be possession of someone else's property without the owner's knowledge with the intention of returning it. **Minor theft** involves items of little value or consequence. **Major theft** is willfully taking any item from a customer, staff member, student or the University regardless of value. **Major theft** is of items of monetary value or items of consequence to the owner.
8. Use of Controlled Substances - Employees may not bring alcoholic beverages to the workplace or drink alcoholic beverages on the job. Drugs will not be allowed on the job except for medical reasons (see Item 8 below).
9. Unsafe to Perform Duty – If a supervisor suspects that an employee (who is not actually in possession of alcoholic beverages or drugs) is not in full control and is not operating in a responsible or safe manner, or that the employee may be working under the influence of alcohol or drugs, the supervisor may: recommend medical assistance, take the employee to be tested through the Health Center, or have the employee escorted home. Leave will be charged or disciplinary action recorded, whichever is applicable. A supervisor must use his discretion to ensure the safety of the employees and the campus community.
10. Unauthorized Use or Loss of Keys/Card Swipes – Facilities Management employees have access to keys and or cards for entry on campus; therefore they are expected to properly secure these items at all times. Employees may not use keys or cards except for the purpose of performing official duties.
11. Sleeping During the Shift – The employee must be fully conscious and aware in order to perform duties. An employee cannot sleep during the workshift or on a break, both of which are paid time.
12. Submission of Fraudulent Leave Documentation – Documentation from a medical authority is an official notification that must be submitted in its original form. It is fraudulent act to change any medical certification intentionally after it is signed or to fabricate medical documentation.

APPENDIX G: RF SUPERVISORY GUIDELINES FOR MISCONDUCT—NONEXEMPT STAFF

RF Supervisory Guidelines To Misconduct–Nonexempt Staff

The chart that follows is provided as an example of the range of actions that would be considered in response to various employee behaviors. As employees review this chart, they should keep in mind that the specific action(s) taken by a supervisor will always reflect consideration of important factors such as the employee's past performance, the seriousness of the incident, and/or other special circumstances which affect the incident.

GROUP I: Action taken as a result of these types of violations will remain an active part of the employee's record for one "rolling year."	
Examples of Misconduct	Range of Supervisory Response
<ol style="list-style-type: none"> 1. Failure to clock in and/or out at the designated times for the beginning and end of a shift. 2. Reporting late to work at the beginning of a shift. 3. Stopping work before or starting work after the designated time. 4. Failing to follow established lunch and break procedures (e.g., reporting late after the lunch period or after a designated work break). 5. Failing to follow established leave request procedures/policies (i.e., providing the required advance notice, requesting supervisor approval before taking leave, contacting supervisor in advance of work shift, etc.) 6. Failing to perform work assignments or work schedules as instructed. 7. Failing to follow uniform and staff identification procedures and policies. 8. Failing to observe appropriate campus parking regulations or department parking policies. 9. Failing to follow established work safety procedures and regulations (e.g., not establishing a safe work site to protect self and others; not using protective safety equipment - gloves, goggles, face shields; removing safety devices from equipment). 10. Failing to follow work procedures or use appropriate work techniques as instructed (i.e., not maintaining adequate supply levels; not using the correct equipment, materials, parts, or chemicals to perform a task; using improper dilution of chemicals or incorrect buffing pads; leaving work incomplete; not removing all debris; filling out work orders improperly, not posting important service notices to residents; etc.). 11. <i>Inappropriate care of department-issued "take-home" keys</i> 	<p>First Occasion: Performance Counseling</p> <p>Second Occasion: Letter of Understanding/Written Reprimand</p> <p>Third Occasion: Written Reprimand or One-day Suspension</p> <p>Fourth Occasion: One or Three Day Suspension</p> <p>Fifth Occasion: Three or Five Day Suspension</p> <p>Sixth Occasion: Five Day Suspension or Termination</p> <p>Seventh Occasion: Termination</p>

RF Supervisory Guidelines To Misconduct–Nonexempt Staff

GROUP II: Action taken as a result of these types of violations will remain an active part of the employee's record for two "rolling years."	
Examples of Misconduct	Range of Supervisory Response
<ul style="list-style-type: none"> 12. Leaving the work site during work hours without the prior approval of supervisor. 13. Intentionally punching another employee's time card. 14. Failing to report for part or all of a day's work for which leave was not granted in advance by the supervisor (UA). 15. Failing to perform all or part of a day's work. 16. Failing to provide satisfactory documentation as required, to support absences due to illness, emergencies, or other reasons. (UA). 17. Verbally or physically harassing an employee or resident through use of sexual, racial, ethnic or other inappropriate language or actions. 18. Using inappropriate language with residents, employees or supervisors. 19. Failing to follow building security procedures (i.e., leaving exterior doors propped and unattended). 20. Inappropriate use or care of telephones, supplies, tools, materials, equipment or vehicles. 21. Inappropriate access or entry into department <i>or unoccupied</i> resident spaces. 22. Mishandling of University issued ID/Access card. 23. Failure to promptly report loss of University issued ID/Access card. 24. Mishandling or loss of keys or access cards borrowed from a keybox for short-term loan. 25. Deliberate mismanagement of take-home or permanently issued department keys (e.g., duplicating keys or accepting duplicated keys from others) 26. Working unauthorized overtime. 	<p>First Occasion: Written Reprimand or One-day Suspension</p> <p>Second Occasion: One or Three Day Suspension</p> <p>Third Occasion: Three or Five Day Suspension</p> <p>Fourth Occasion: Five Day Suspension or Termination</p> <p>Fifth Occasion: Termination</p>

RF Supervisory Guidelines To Misconduct–Nonexempt Staff

GROUP III: Action taken as a result of these kinds of violations will remain an active part of the employee's record for three "rolling years."	
Examples of Misconduct	Range of Supervisory Response
27. Sleeping or resting except at authorized breaks or during lunch breaks.	First Occasion: One or Three Day Suspension
28. Verbally or physically threatening a supervisor, employee or resident.	Second Occasion: Three or Five Day Suspension
29. Insubordination by refusing through word or action to follow a supervisor's legitimate instruction.	Third Occasion: Five Day Suspension or Termination
30. Unauthorized use or operation of telephones, supplies, tools, materials, equipment or vehicles.	Fourth Occasion: Termination
31. Failing to report a vehicle accident involving damage to only the department vehicle.	
32. Deliberate mismanagement of University ID or other key/access card issued for short-term loan (duplicating keys, forging IDs, or lending key/ID to others to provide unauthorized access).	
33. Mishandling or loss of Master Keys (includes failure to properly secure master keys, transferring master keys to others in the field, failing to return master keys to keybox at end of shift)	

RF Supervisory Guidelines To Misconduct–Nonexempt Staff

GROUP IV: Action taken as a result of these types of violations will remain an active part of the employee's record for three "rolling years."	
Examples of Misconduct	Range of Supervisory Response
34. Working under the influence of alcohol or illegal drugs to the extent work performance is impaired. 35. Intentionally damaging university property, or the property of other employees or residents. 36. Intentionally making a false official statement. 37. Theft or removal of university or personal property. 38. Failing to report traffic accidents involving damage to other vehicles, university or private property, or personal injury. 39. Possession of weapons or firearms on university premises. 40. Driving a university owned or rental vehicle with an invalid, suspended or revoked license. 41. Mishandling or loss of Grand master keys or control keys. (taking grand masters off campus, failure to return to key box at end of work shift) 42. Deliberate mismanagement of Grand Master, Master or control key (e.g., duplication of keys, obtaining duplicated keys from others). 43. Inappropriate or unauthorized access to any occupied space. 44. Use of department issued key to facilitate deliberate and serious employee misconduct.	First Occasion: Five Day Suspension or Termination Second Occasion: Termination

GROUP V: Actions taken as a result of these violations will become a permanent part of the employee's record.	
Examples of Misconduct	Range of Supervisory Response
45. Drinking alcoholic beverages while on the job. 46. Possessing or using illegal drugs while on the job. 47. Intentionally falsifying university records. 48. Physically assaulting another employee or resident. 49. Fighting on university premises.	First Occasion: Termination

APPENDIX H: PROPOSAL FOR “**P**ILLARS (BUILDING GREAT SUPERVISORS)”



Renewing the Campus Commitment to Staff Training & Development

University Human Resources
Leadership Development Institute

Pillars

(Building Great Supervisors)

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July 20, 2011

Renewing the Campus Commitment to Staff Training & Development

Pillars (Building Great Supervisors)

Following a decade of cuts to staff training programs and the effects on the workforce, the institution must re-commit to developing its staff. This is a matter of high strategic priority for the University, and it must begin at the beginning – with the front-line supervisors and lead workers that the institution first set out to develop in 2000 through the Leadership Development Institute. Only with an engaged, knowledgeable, and committed workforce will the University reach its highest potential.

A new program – Pillars – has been developed as a component of the Leadership Development Institute administered by University Human Resources (“UHR”). This proposal includes the following elements:

- UHR will train all nonexempt and exempt staff supervisors on the LDI Pillars program within the first twelve months following implementation. It is estimated that there are between 800 and 1,000 such supervisors on the campus.
- Pillars training will be comprised of four full days of mandatory supervisory development, with 20-25 attendees per 4-day session. Pillars will be piloted twice in February 2012, with a full launch of the program following a short period of assessment and adjustment. All supervisors and lead workers will complete the Pillars training by April 1, 2013.
- The objective of Pillars is to develop broader competency in the university’s cadre of supervisors by offering uniform training on established content areas. This will be accomplished through the utilization of both external “subject matter expert” trainers and UHR trainers. This program is intended to attain maximum immediate effect – to develop knowledge and skills *and* change behaviors.

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Pillars will include the following content areas:

- ***Who are we and where are we going? The University in 2012 and beyond*** (i.e., organization/structure, culture of shared governance, foundational commitment to diversity and inclusion, Strategic Plan, Dr. Loh’s four points)
- ***Roles and Responsibilities of a UM Supervisor***
- ***Toward a healthy culture: respect and civility at the University***
- ***Your employees are your customers too: understanding what your employees need and developing your commitment to them***
- ***Communication 101: developing fluency downward, upward, and sideways***
- ***Getting the work done: positive supervision in a collective bargaining environment***

- *Conflict resolution in the workplace*
- *Maximizing PRD: coaching and performance management*
- *Tough Boss or Bully?* (content to be developed from SHRM research; this is a potentially rich topic to mine in an effort to build awareness and understanding)
- *Safety, security, and sexual harassment prevention at the University of Maryland*
- *The nuts and bolts of Staff Relations* (MOU, policies, time and attendance basics, fundamentals of discipline)

Notes:

1. A significant amount of the Pillars content has already been developed by UHR, and includes training on the workplace issues that have emerged through various employee feedback channels in 2011.
2. UHR will identify and market “bundles” of SkillSoft web-based training courses to complement the Pillars program (the SkillSoft catalogue is already available to UM employees 24/7). Examples of current SkillSoft catalogue offerings are “Coaching with Confidence,” “Essential Skills for Tomorrow’s Managers,” and “Delegation Skills.”
3. For supervisors who don’t use computers in the daily performance of their work, UHR will offer basic computer skills training on the Outlook email system, basic web surfing, and introduction to “Word,” “Excel,” and “SkillSoft.” This training will be classroom-based and taught by a facilitator.
4. UHR will develop and offer secondary content to augment Pillars for supervisors seeking continuous learning opportunities, and this may evolve into a second level of Pillars programming (contingent upon campus support). Examples may include: “Effective Selection and Interviewing Skills,” “Team Building to Maximize Employee Engagement,” “Understanding UM’s Career Opportunities to Help Develop Your Employees,” and “Project Management.”
5. UHR will implement a reorganization plan previously approved by former Vice President of Administrative Affairs Ann Wylie which proposed folding the Employee Training and Development unit back into the Staff Relations unit. Historically, the two functions fell under one unit in the old Personnel Services Department; then in 1998, the training function was split off in order to give greater emphasis to what was then the new campus PRD program. However, since collective bargaining came to the campus in 2001, it has become apparent that there should be a closer, more strategic programmatic link between staff relations and training, and this is the appropriate time to re-combine these two functional areas.

Pillars Funding Requirements

1. **Permanent funding is requested of the Vice President for Administrative Affairs** to support this Pillars supervisory development proposal, as well as provide additional programmatic support for UHR's Staff training and development programs (including ESOL, basic computer literacy, and future Pillars content).

Year	Description	Amount	Total
FY2012	Salary support for two permanent trainers, to begin on or about 1/1/2012 (@\$65,000 annual salary)	\$65,000	\$75,000 (FY2012)
	Operating support for two staff	\$10,000	
FY2013	Salary support to bring trainers to from half-year to full-year equivalence	\$65,000	\$65,000 (FY2013)
Total permanent funding requested of the VPAA:			\$140,000

2. **One-time funding is requested of the campus Finance Committee** to support mandatory Pillars supervisory development training, spread over FY2012 and FY2013, as follows:

Year	Description	Amount	Total
FY2012	Contract trainers (12 sessions/48 days of training=250 supervisors)	\$48,000	\$72,000 (FY2012)
	Assessment instruments, room rentals, materials	\$24,000	
FY2013	Contract trainers to supplement UHR trainers (40 sessions/160 days of training=800 supervisors)	\$80,000	\$120,000 (FY2013)
	Assessment instruments, room rentals, materials	\$40,000	
FY2014 (if needed)	Contract trainers	\$20,000	(If needed)
	Assessment instruments, room rentals, materials	\$12,000	
Total one-time funding requested of the Finance Committee:			\$192,000

3. **UHR will charge Pillars attendees \$100 per participant**, which will be paid by the employee's department. The fees will cover the costs of lunches and refreshment breaks.

Year	Description	Training Fees
FY2012	250 supervisors @ \$100 each	\$25,000
FY2013	800 supervisors @ \$100 each	\$80,000
Participation fees to be collected from departments:		\$105,000

Addendum

History of the UHR Leadership Development Institute

In 2002, University Human Resources implemented the first phase of the **University of Maryland Leadership Development Institute** to great fanfare. LDI was developed from a collaborative effort with the CQI-Quality of Worklife Coordinating Group intended to remedy challenges in the UM workforce by developing the skills and competencies of supervisors and managers. A climate survey at that time indicated low employee morale, attributed to a number of factors including marginal supervisory development.

Conceptually, LDI was initially developed as a three-tier program, with the first level being supervisory development, the second tier as a professional management practicum, and the third level as an executive leadership development program for senior administrators and executives. In 2002, when first presented with the full-spectrum LDI proposal, the Cabinet approved and funded the implementation of “Level One” (the “new supervisors” development program), with \$100,000 in permanent funding for University Human Resources. The total cost of attendance was \$1,500 per participant; the campus funding allowed the cost to be shared between the University and the employee’s department, with the University’s share being \$1,000 per attendee, and the sponsoring department’s share \$500 per attendee. The Cabinet felt strongly that this cost-sharing model ensured departments were fully invested and engaged in the development process of their supervisors.

The first year, UHR offered three Level One programs. Each “class” had 25 participants who had been nominated by their supervisors and who were accepted into LDI based on rigorous selection criteria, and with a commitment of strong engagement from their unit management. The program required attendance at LDI for a day a week for 12 weeks. Core competencies were developed by a team of expert external trainers who worked closely with UHR training staff, and LDI graduates returned as alumni to teach and mentor later classes. The results were very positive, and each enrollment session had long waitlists. There was a demonstrated excitement and commitment from the campus for the LDI program. And though only 75 students were enrolled in LDI that first year, it was evident that the program began to sow the seeds of change in new front-line supervisory.

Unfortunately, in FY2002, the campus entered into a decade of budget shortfalls resulting in years of deep cuts. As a discretionary matter, departments generally pulled back in their willingness to sponsor training for employees. UHR was not immune to the cuts, and within a year of initial implementation, UHR had to pare LDI-Level One to two sessions a year and reduce reliance on the external trainers who were intended to be a hallmark of the program. Several years later, LDI was cut to one session per year, and then in 2009, eliminated altogether. **The full campus allocation of \$100,000 was given back to the campus in a series of budget recissions.**

The Leadership Development Institute never realized anywhere close to its full potential before the cuts began, and yet **the workforce conditions first identified by the Quality of Worklife Coordinating Group in 2000 remained, and in fact worsened over the decade that followed their work.** **Additional factors have compounded staff morale issues: freezes on**

wages, furloughs, two hiring freezes that limited employee mobility, and reduced staffing levels that challenged units and employees to do more with less.

It wasn't simply that LDI funding that was cut; UHR's Employee Training and Development unit had 5.5 FTE at the time LDI was implemented in 2002. The unit was comprised of an Assistant Director, an LDI coordinator, an Adult Basic Learning coordinator responsible for ESOL and GED preparation programs, a "generalist" trainer that conducted PRD and other professional development training, a half-time ESOL instructor, and an administrative assistant. Following three budget recissions, the training unit headcount was reduced to two: an Assistant Director and an administrative support staff person. UHR's once-abundant and innovative staff training and development programs have suffered deep and disproportionate cuts to the point where only minimal programming is now offered to the campus. **The lack of quality training and development programs made available to campus staff over the past decade has had profound effects on UM's workforce.**

UHR's Employee Training & Development Unit
(Then and Now)

FY2002 (5.5 FTE)

Assistant Director for Training
Leadership Development Institute coordinator
Training coordinator – general professional development
Adult Basic Learning coordinator – ESOL and GED prep
ESOL instructor (.5 FTE)
Admin assistant/nonexempt support

FY2011 (2 FTE)

Assistant Director for Training
Admin/nonexempt support



UNIVERSITY OF
MARYLAND
UNIVERSITY SENATE

1100 Marie Mount Hall
College Park, Maryland 20742-4111
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<http://www.senate.umd.edu>

May 5, 2011

Professor Linda Mabbs
Chair, University Senate
1100 Marie Mount Hall
University of Maryland
College Park, MD 20742-7541

Dear Chair Mabbs:

For many years, the challenges and issues faced by staff members, in particular non-exempt staff members, have been frequently discussed at Staff Affairs Committee meetings. The Staff Affairs Committee would like to recommend that a Task Force be created to conduct a detailed and careful review of the unique issues faced by non-exempt staff members at Maryland. This Task Force could include members from the Department of University Human Resources, Staff Ombuds Office, Staff Relations, the Senate Staff Affairs Committee, all four of the President's Commissions, CUSS, and other members of campus engaged in the overall well-being and interests of non-exempt staff members. Such a Task Force would need to conduct focus groups and/or open forums with non-exempt staff members in order to find out more about the severity of the issue regarding lack of understanding of campus processes, involvement opportunities, benefits and policies, etc. If the Senate Executive Committee determines that a Task Force is not feasible at this time, the Staff Affairs Committee respectfully requests that, at a minimum, a working group of the Department of University Human Resources be established to look into this matter further.

Any body created for such purpose should also be granted authority to work with all related units and groups involved with the creation of staff policy and departmental procedures for non-exempt staff members, including the American Federation of State, County, and Municipal Employees (AFSCME) as much as possible.

Recently, the Chair of the Council of University System Staff (CUSS) asked the Staff Affairs Committee to review the issue of low recognition of non-exempt employees on campus; this request was prompted by the low nomination rate of non-exempt staff members for the Board of Regents Staff Awards, an issue on which the Staff Affairs Committee continues to work. Additionally, the committee has been discussing the broader challenges faced by non-exempt staff members on campus, and the complexity of issues regarding inclusion and communication. As the standing committee of the Senate charged with continually reviewing campus policies affecting staff members and actively promoting orientation and opportunities for staff involvement in shared governance, this broad issue has been brought to our attention on numerous occasions.

The Staff Affairs Committee has continuously struggled with the fact that non-exempt staff members, particularly those without access to computers or workstations, have often stated that they feel "out-of-the-loop." These staff members cite that they are consistently unaware of opportunities they have on campus and are not receiving regular information about their rights and benefits. During recent discussions about such challenges, the Staff Affairs Committee was also made aware of the fact that many other committees and councils at the University have

been reviewing these same overarching concerns. For instance, the President's Commission on Ethnic and Minority Issues drafted notes regarding ongoing staff development issues following the Diversity Town Hall meeting in 2009. The President's Commission on Women's Issues also recently conducted research on staff development opportunities at other institutions, illustrating areas where the University of Maryland is lacking in terms of staff recognition and involvement. Additionally, the Staff Affairs Committee has conducted an institutional comparison on diversity and inclusion, the findings of which also pertain to these broader ideals. Both Commissions have expressly shared their support of the intention of our request in this letter.

The Staff Affairs Committee, as well as some of the President's Commissions, have noted that non-exempt staff members face difficulty in participating in elements of shared governance as they cannot easily receive permission to take time away from their workday duties to volunteer for service. However, because the issue of receiving time off to attend trainings and other activities falls under bargaining unit agreements, the committees and commissions have not investigated these areas further. As a body representing shared governance on campus, even the Senate itself often has difficulty reaching staff members who do not readily have access to email or the internet with information regarding elections, voting procedures, and access to mechanisms for submitting feedback. Issues and challenges faced by non-exempt staff members when attempting to make complaints about their work environments or professional circumstances were also recently emphasized in an anonymous letter sent to administrators by a Facilities Management employee, which was published in the University's student newspaper, *The Diamondback*, on March 31, 2011. In addition to this letter, it has been anecdotally shared on a number of occasions that many non-exempt staff members are seemingly unaware of campus policies and the processes and tools in place for grievance procedures and other important measures that directly impact their positions.

Several suggestions for better communication with non-exempt staff members have arisen in Staff Affairs Committee meetings, such as posting information on bulletin boards in break rooms, the re-instatement of printed benefits handbooks (also printed in Spanish, etc.), ongoing mini-orientations at monthly safety meetings, and the addition of closed-circuit television sets in break rooms to display information. Additionally, the committee, as well as many other bodies, believes that new employee and faculty orientations should be mandatory. While the feasibility and practicality of these suggestions vary from department to department, the core idea remains that actions need to be taken to create clear ways for better connections with non-exempt staff members, especially those who do not have access to regular email. It is our understanding that there are several hundred staff members on campus who do not have routine access to email.

Thank you for your consideration of this matter.

Sincerely,

Cynthia Shaw
Chair, University Senate Staff Affairs Committee

Enclosure(s):

PCEMI Notes on Staff Development Issues

Staff Affairs Spreadsheet of Peer Institution Comparison of Diversity and Inclusion Programming

PCWI Spreadsheet of Peer Institution Comparison of Professional Development Opportunities

CS/cb

Cc: Reka Montfort, Executive Secretary and Director, University Senate

Staff Development
Diversity Town Hall Briefing 2009
Administrators, Exempt and Non-Exempt

- Develop an assertiveness training program that empowers individuals to inform others if they aren't comfortable with a specific word, joke etc.
- Can there really only be one woman of color in FM Administration?
- Institute a formal mentor program or succession plan for new staff on diversity
- Provide opportunities "to learn how to talk with people different than myself, never really had education or training on communication with others different than me"
- We want to have the Non Exempt conference brought back. What happened to the Administrative Assistance Day Celebration?
- There should be a LDI training for non exempts who want to become managers.
- We need to have release time to attend diversity programs.
- Administrators do not include us in meetings or ask us to join important committees.
- More classes need to be given to Bosses that cannot speak Spanish.
- Why can't we evaluate our supervisors?
- We want a program that will help us get promoted and we need someone to listen to us rather than always siding with the supervisors.
- New employee and faculty orientations. Make them mandatory.

Appendix Two: Spreadsheet of Peer Institution Comparison of Diversity and Inclusion Programming

	A	B	C
1	Institution	Programs	Description
2	Duke	Managing Diversity at Duke: A Toolkit for Managers	10 PDF files that address issues such as strategies for cross cultural communication, creating a unit diversity working group and Diversity Measures for evaluating manager specific performance http://www.duke.edu/web/equity/diversity_managing.htm
3		Office for Institutional Equity Training Programs	Offers customized training for departments on subjects such as LGBT concerns in the workplace, self awareness and bias, challenging dialogues, and enhancing respect in the workplace http://www.duke.edu/web/equity/Diversity_eduOpp.htm
4		Office for Institutional Equity Resource Links page	includes commonly used definitions and terms, EEO reporting forms, and coaching clips, e.g. identifying and reducing subtle bias http://www.duke.edu/web/equity/Resources.htm
5	U Florida	Multicultural and Diversity Affairs	"Conversations with Black Faculty and Staff" opens the doors of communication between students and African American staff. This program is designed to help students network with faculty and staff in a setting outside of the classroom.
6		Diversity at Work Training	Nonmandatory workshop that educates departments and staff on making diversity work for them
7		Sexual harassment prevention training	Every new employee is expected to complete the online Preventing Sexual Harassment training, and all employees are encouraged to review the training if they would like a refresher.
8	U Illinois	Office of equal opportunity and access	Has links to policies, organizations and initiatives

	A	B	C
9		Inclusive Illinois Diversity Roundtable Series	conversations around, African American, Native American, and women's issues. Also sponsors a cross-community event geared towards deepening racial and cultural understanding. Participants will engage in brief, focused conversations centered around race and diversity on campus
10	U Michigan	Diversity web page	Has links to policies, organizations and initiatives, news and events, also has links to same info in Spanish http://www.diversity.umich.edu/about/
11		Building Great Places to Work Initiative	a website that provides ideas and tools to help departments enhance working climates across campus. The HR department staff will also provide custom workshops for individual units http://www.hr.umich.edu/greatplaces/why.html
12	U Maryland, Baltimore County	Office of Human Relations	Provides conflict/dispute management, sexual harassment training, leadership development, fair employment practices, and Affirmative Action implementation plans. The Human relations committee is made up of members from each senate and works with the office to advance its programs. http://www.umbc.edu/ola/hr/index.html
13	George Mason	Office of Equity and Diversity Services	Provides educational workshops that educates members of the campus community on their rights and responsibilities, specifically in regard to maintaining a learning and working environment free from illegal discrimination. Training is mandatory for all new hires and those up for promotion or tenure. http://equity.gmu.edu/
14	Georgetown	Office of Institutional Diversity, Equity & Affirmative Action	offers counseling to any member of the University community about personnel issues related to equity, diversity, and discrimination. All counseling is confidential. Counseling provides faculty, administrators, staff and students with information on federal, local anti-discrimination laws, university policies and procedures as well as specific advice on issues of individual concern.

	A	B	C
15			provides educational programs for any department, student and employee organization. also offers a series of discussions on timely topics to the university community.
16			"Promoting a Respectful Campus Community" is a University-wide anti-harassment online training program designed by and for Georgetown University faculty and staff. The training is mandatory.
17	UC Berkley	Initiative for Equity, Inclusion	Innovation grants for students, faculty, and staff to seed work in areas that advance equity, inclusion, and diversity
18		Faculty and Staff campus climate forum	charged to increase the collective understanding of the campus landscape in regards to climate. What's going well? Where are the gaps? Explore steps the Division of E&I and/or others could take to enhance campus climate.
19	UNC Chapel Hill	Office of Diversity and Multicultural Affairs	The Diversity Incentive Fund: designed to provide support for new, innovative and creative approaches to engaging a broad cross-section of the University community in issues related to diversity.
20		Consultations	Providing assistance with strategies and planning for encouraging/increasing diversity; conflict management assistance; best practices; planning & assessment; identifying readings and resources
21		Diversity Advocate Certificate	Attend Diversity 101 Training; Attend four (4) other diversity events on campus; Attend four (4) other diversity events on campus; Write a 250-word statement on your experiences of diversity, what you learned from the attended events, and/or how you sought to promote a diversity-friendly environment; All events must have been attended within two years of submitting the application

Appendix Three: PCWI Spreadsheet of Peer Institution Comparison of Professional Development Opportunities

	A	B	C	D
1	Institution	Programs	Description	Costs
2	Duke	Duke Leadership Academy	A 12-month program Offering emerging leaders from across the university the opportunity to focus on leadership and management styles and strategies and to learn from senior-level staff	Unavailable
3		Development and Support Resources	numerous job transfer support resources for staff looking for new challenges and opportunities, e.g, resume help, interview prep, mentor/mentee tips, etc.	Unavailable
4		First Time Supervisor Program	focuses on developing high-potential Duke staff who aspire to become supervisors or who will be moving into new supervisory roles, has classes, seminars, and OJT	Unavailable; an application process in involved
5		Office Staff Development Program	A 44-week program to help lower level clerical/administrative staff gain the skill needed to advance at Duke	borne by both the staff's department and the university; An application process in involved
6	Florida State	Training and Orginational Development	short in person and online workshops on par with UMD	borne by the participant's department
7	Illinois State	Training and Development	short in person and online workshops on par with UMD	born by the participant's department
8	Michigan	Leadership Development	Leadership courses usually about 3-hours long that have various topic, i.e., developing your leadership style, leading under pressure, delegating, etc.	borne by participant with tuition support available from their department; classes avg \$160
9		Personal and Professional Development	various 3-hour to all day courses that range from time management to presenation skills	borne by participant with tuition support available from their department; classes avg \$160
10		Compentency Training Tracks	Website under revision, no information available	N/A
11	Ohio State	Bridge Program	Program for employees with a high school education or equivalent. Class offerings are one core course dedicated to bridge student over three semesters, also have dedicated academic advisors	Fee authorization: similar to tuition remission, but incompleation or failure requires varying levels of forfeiture

	A	B	C	D
12		Faculty Staff Tuition Assistant Program	For enrollment in undergraduate, graduate or professional programs	Up to \$9000 per academic year for residents in undergraduate programs; for graduate programs, any amount over \$5250 is taxed. Also must reimburse the school if course is not completed with a passing grade
13	Penn State	Office Professional Certificate	a 40-hour program covering various topics such as time management, customer service, oral & written communication, etc.	\$475, borne by the department with supervisor permission
14		Master Supervision	a 63-hour program that offers seminars to develop skills for supervision other such as interviewing, staff review, managing meetings, etc.	\$475, borne by the department with supervisor permission
15		The Penn State Leader	an eight-hour program for both faculty and staff at all campus levels that cover topics on the concepts and principles of leadership	\$150, borne by the department with supervisor permission
16	UC-Berkley	Career Development for staff	Link broken or page currently down	N/A
17		Career Compass	A new initiative linked by three components: job standards, performance management and career development with the intent to standardize job responsibilities, the evaluation process, and the skills needed to perform the job, both employees in their current positions and those seeking to advance; workshops and training are involved	borne by the university
18		Berkley Staff Assembly (BSA) Mentorship Program	An application process open to BSA members only; BSA web link broken or down	N/A
19		Staff Learning and Development	there are standard resume and interviewing workshops run by the career center	borne by the university
20	Univeristy of Colorado	Leadership Development	Seminars that cover leadership style, dealing with conflict and reports	borne by the university
21		Jobs Skills development and enhancement	seminars covering topics such as communication, writing, running effective meetings, etc	borne by the university, with a \$25 administrative fee paid by the participants department

	A	B	C	D
22		Professional development Center	classes for personal development (e.g. Spanish 1); online training in Microsoft applications; specialized training (no offerings at this time); supervisory training, technical training (e.g. project management or Microsoft apps); Webinars	fees borne by student to cover operational costs of the center
23	UNC Chapel Hill	Clerical Skills Training Program	career development program for UNC employees who have minimal or no training in an office environment to gain skills to work in an entry level clerical position.	An application process, however; program is currently being revamped
24		Workplace Literacy Program	Offers small classes and self-paced study on writing and computer skills	borne by university
25		Mentoring Resources	Offers support mechanisms for monitoring success, i.e., training materials, departmental consultations and development programs	Unavailable
26		Professional development and Training	Offers courses on general and specific topics for both faculty and staff, examples: managerial skills, instructional technology, environmental health and safety, and financial systems training	borne by the participants department with supervisor permission
27		Leadership Education and Development (U-LEAD)	a nine-week comprehensive program that addresses core characteristics and skills needed to lead effectively in an academic environment	borne by the university; but an application process limited to those with a minimum of three years managerial experience
28	USC	Professional Development	covering topics such as basic writing, computer skills, the basics of supervision, understanding power relationships, decoding USC's strategic plan	borne by the university
29		Trojan Leadership Academy	a new highly customized, experiential leadership and management development program; no specifics	N/A



University Senate TRANSMITTAL FORM

Senate Document #:	11-12-10
PCC ID #:	N/A
Title:	Updates to Procedural Requirements Pertaining to Sexual Harassment and Sexual Violence
Presenter:	Nan Ratner, Chair, Senate Student Conduct Committee
Date of SEC Review:	November 29, 2011
Date of Senate Review:	December 8, 2011
Voting (highlight one):	On resolutions or recommendations one by one, or In a single vote To endorse entire report
Statement of Issue:	In April 2011, the US Department of Education's Office for Civil Rights (OCR) distributed a "Dear Colleague Letter" providing guidance to institutions regarding sexual harassment and sexual violence disciplinary proceedings and appeals processes. As a recipient of Federal financial assistance, the University needs to comply with the directives issued in the letter. In order to be in compliance, the burden of proof requirement and appeals process must be revised in the <i>Code of Student Conduct</i> to include "preponderance of the evidence" instead of "clear and convincing" as the evidentiary standard in proceedings. Additionally, the OCR letter recommends that schools provide an appeals process for findings or remedy, and that they do so for both parties involved. Currently, the <i>Code of Student Conduct</i> provides an appeal to the respondent (accused student) only.
Relevant Policy # & URL:	http://www.president.umd.edu/policies/v100b.html
Recommendation:	The Student Conduct Committee (SCC) recommends that the University make the changes to the <i>Code of Student Conduct</i> necessary to bring the University into compliance with the directives outlined in the OCR letter. The specific changes to the <i>Code</i> are outlined in the attached report. The SCC wishes to reserve the right to revisit the <i>Code</i> and the recommendations in one year, at the beginning of the Fall 2012 semester. If this recommendation is approved, the SCC requests that it be charged

	by the SEC to perform this review in Fall 2012.
Committee Work:	<p>The SCC reviewed this issue during the Fall 2011 semester. The committee consulted with the Office of Student Conduct and the President’s Legal Office, to ensure that any proposed changes to the <i>Code of Student Conduct</i> would be appropriate for the University. The committee stayed abreast of developments within the Senate Equity, Diversity, & Inclusion (EDI) Committee, as the EDI Committee worked on two similar charges related to the University’s Sexual Harassment Policy. The SCC received information regarding peer institution research on evidentiary standards and researched national responses to the OCR letter and its guidance.</p> <p>At its meeting on November 8, 2011, following deliberation, the SCC voted unanimously in favor of recommending the University make the changes to the <i>Code of Student Conduct</i> necessary to be in compliance with the directives outlined in the OCR letter.</p>
Alternatives:	The University could continue to use “clear and convincing evidence” for cases of student-on-student sexual harassment and sexual violence, as outlined in the <i>Code of Student Conduct</i> ; the University would then not be in compliance with the OCR.
Risks:	There are no associated risks. However, if this recommendation is not endorsed, the University could face penalties (unspecified) from the OCR.
Financial Implications:	There are no related financial implications.
Further Approvals Required: (*Important for PCC Items)	Senate Approval, Presidential Approval.

Senate Student Conduct Committee

Senate Document 11-12-10

Updates to Procedural Requirements Pertaining to Sexual Harassment and Sexual Violence

November 2011

BACKGROUND:

In April 2011, the US Department of Education's Office for Civil Rights (OCR) distributed a "Dear Colleague Letter" providing guidance to institutions regarding sexual harassment and sexual violence disciplinary proceedings and appeals processes (Appendix 5). This letter outlined an institution's current responsibilities under Title IX for dealing with complaints of sexual harassment and sexual violence. As a recipient of Federal financial assistance, the University of Maryland needs to comply with the directives issued in the letter. In order to be in compliance, the burden of proof requirement and appeals process must be revised in the *Code of Student Conduct* to include "preponderance of the evidence" (i.e., it is more likely than not that the sexual harassment or violence occurred) instead of "clear and convincing" (i.e., it is highly probable or reasonably certain that the sexual harassment or violence occurred) as the evidentiary standard in proceedings. Additionally, the OCR letter recommends that institutions provide an appeals process for findings or remedies, and that they do so for both parties involved.

The OCR letter explains that the "preponderance of the evidence" evidentiary standard is the standard of proof established for violations of civil rights laws, and is thus "the appropriate standard for investigating allegations of sexual harassment or violence" (US Department of Education, Office for Civil Rights. 2011, April 4. Dear Colleague Letter, p. 11). The letter states that grievance procedures that use "clear and convincing" standards for cases of sexual harassment and sexual violence are not equitable under Title IX.

According to the National Institute of Justice (NIJ), "Surveys of college students confirm that many sexual assaults are not reported to the police. Researchers asked students why they did not report the incidents to law enforcement officers. The most commonly reported response—offered by more than half the students—was that they did not think the incident was serious enough to report. More than 35 percent said they did not report the incident because they were unclear as to whether a crime was committed or that harm was intended" (<http://nij.gov/>).

In response to the OCR letter, a Sexual Violence Policy Working Group was formed at the University and charged with the following:

- 1) Review and Evaluate current policy and practice;
- 2) Evaluate OCR Guidance;
- 3) Recommend policy changes consistent with OCR guidance;
- 4) Recommend changes in practice to ensure compliance.

The members of the Sexual Violence Policy Working Group include:

- John Zacker, Assistant Vice President of Student Affairs, CHAIR
- Allison Bennett, Coordinator, Sexual Assault Response and Prevention, Health Center
- Roger Candelaria, Campus Compliance Officer, Office of Diversity Education & Compliance

- Kevin Glover, Athletic Department
- Andrea Goodwin, Director, Office of Student Conduct
- Major Chris Jagoe, Department of Public Safety
- Diane Krejsa, Legal Counsel
- Keira Martone, Manager of Resident Office of Rights and Responsibilities in the Department of Resident Life
- Steve Petkas, Associate Director, Department of Resident Life
- Matt Supple, Director, Department of Fraternity and Sorority Life

Following deliberation between the end of the Spring 2011 semester and the Fall 2011 semester, the Sexual Violence Policy Working Group developed a proposal for the University Senate with proposed changes to the *Code of Student Conduct*.

CURRENT PRACTICE:

The *Code of Student Conduct* (University of Maryland Policy V-1.00(B)) defines prohibited conduct by students and the review process for violations and appeals. Title IX of the Education Amendments of 1972 prohibits sex-based discrimination at educational institutions that receive Federal funding. The OCR maintains that sexual harassment and sexual violence interfere with a student's right to an education free of discrimination.

Currently, the evidentiary standard used in the *Code of Student Conduct* for all disciplinary cases is "clear and convincing." Additionally, the *Code of Student Conduct* currently provides an appeal to the respondent (accused student) only.

COMMITTEE WORK:

The Senate Student Conduct Committee (SCC) was charged (Appendix 3) by the Senate Executive Committee (SEC) with reviewing the proposal, "Updates to Procedural Requirements Pertaining to Sexual Harassment and Sexual Violence" on October 3, 2011 (Appendix 4). The SEC asked the SCC to make recommendations on whether the University of Maryland *Code of Student Conduct* should be revised.

The SEC asked the SCC to consult with the Office of Student Conduct (OSC) and the subcommittee charged with proposing revisions to the *Code of Student Conduct*. Dr. Andrea Goodwin, Director of the OSC and a member of the subcommittee, sits on the SCC and provided input throughout the review process. A member of the University's Office of Legal Affairs also sat on the subcommittee charged with proposing revisions to the *Code of Student Conduct*. The committee received the proposed revisions on October 25, 2011 (Appendix 1).

The SCC stayed abreast of developments within the Senate's Equity, Diversity, and Inclusion (EDI) Committee during its review process, as the EDI Committee was similarly charged with reviewing two proposals (Senate Docs 11-12-05 and 11-12-09) related to the University's Sexual Harassment Policy (VI-1.20(A) UNIVERSITY OF MARYLAND POLICY AND PROCEDURES ON SEXUAL HARASSMENT). The SCC determined that the proposed changes to the *Code of Student Conduct* will have minimal, if any, impact on the University of Maryland *Code of Equity, Diversity, and Inclusion*, as the *Code of Student Conduct* deals solely with cases of student-on-student sexual harassment and sexual violence.

The SCC reviewed how the University's peer institutions have implemented the changes suggested in the OCR letter. The SCC found that two institutions, Eastern Michigan University and Notre Dame College in Ohio, were recently under investigation and received letters with guidelines for handling allegations of sexual assault (Ashburn, E. 2010, December 10. Education Dept. Tells 2 Colleges to Revamp Sexual-Harassment Policies. *The Chronicle of Higher Education*. Retrieved online from <http://chronicle.com/>).

Additionally, the Sexual Violence Policy Working Group provided a list of peer institution evidentiary standards, which it had used when originally researching this issue (Appendix 2). Standards were reviewed at both public and private institutions across the nation. The list includes all of the University of Maryland's peers, including University of California, Berkeley, University of Illinois at Urbana-Champaign, University of California, Los Angeles (UCLA), the University of North Carolina at Chapel Hill, and University of Michigan, Ann Arbor. Of the twenty-three institutions reviewed, only one uses anything other than "preponderance of the evidence" for cases of sexual harassment and sexual violence. Most use a "preponderance of the evidence" standard for all violations. Therefore, the University of Maryland is atypical in using "clear and convincing" as an evidentiary standard. According to the OSC, even within the University System of Maryland (USM), most institutions use a "preponderance of the evidence" standard.

The committee also researched criticism of the Education Department's sexual harassment guidance, noting that the American Association of University Professors (AAUP) has written and sent at least two letters of criticism to the OCR. The AAUP asserts that lowering the standard of evidence to a "preponderance of the evidence" would make it "more likely that faculty members will be unfairly accused and found guilty, their careers ruined" (2011, August 18. AAUP Renews Criticism of Education Dept.'s Sexual Harassment Guidance. *The Chronicle of Higher Education*. Retrieved online from <http://chronicle.com/>).

The SCC considered whether the proposed evidentiary standard of "preponderance of the evidence" should apply to all violations of the *Code of Student Conduct*, in addition to complaints of sexual harassment and sexual violence. Additionally, the SCC considered whether the proposed change to the appeals procedures—that schools provide an appeals process for **both** parties—should apply to all violations of the *Code of Student Conduct*.

RECOMMENDATIONS:

At its meeting on November 8, 2011, the SCC voted unanimously in favor of recommending that the University make the changes to the *Code of Student Conduct* necessary to get to the University in compliance with the directives outlined in the OCR letter. However, the committee wishes to reserve the right to revisit the *Code* and the recommendations in one year, at the beginning of the Fall 2012 semester. If approved, the SCC requests that it be charged by the SEC as such.

Therefore, in order for the University to be in compliance with the United States Department of Education Office for Civil Rights, the Senate Student Conduct Committee recommends that the attached policy changes be made to the *Code of Student Conduct* (Appendix 1). The recommended changes are outlined below:

1) The SCC recommends that the following section be added to the *Code of Student Conduct*, in order to reflect OCR compliance:

BURDEN OF PROOF²⁹

32. Except as provided below, the burden of proof shall be upon the complainant, who must establish the guilt of the respondent by clear and convincing evidence³⁰. In disciplinary conferences and hearings under section 9(p) of this *Code* which allege violation of VI-1.30(A) UMCP Procedures on Sexual Assault and/or VI-1.20(A) University of Maryland Policy and Procedures on Sexual Harassment, the burden of proof shall be upon the complainant, who must establish the guilt of the respondent by a preponderance of the evidence.³¹

The SCC recommends that items 42 and 43 of the Appeals section in the *Code of Student Conduct* be updated as follows, in order to comply with OCR:

APPEALS

42. Except as provided below, any determination made pursuant to this *Code* resulting in expulsion or suspension⁴⁶ may be appealed by the respondent to the Senate Committee on Student Conduct. Appeals regarding violations of VI-1.30(A) UMCP Procedures on Sexual Assault and/or VI-1.20(A) University of Maryland Policy and Procedures on Sexual Harassment may be made by either party.⁴⁷ The Senate Committee shall also hear appeals from denials of petitions to void disciplinary records, pursuant to Part 52 of this *Code*.

43. Except as provided below, final decisions of residence boards, the Central Board and ad hoc boards, not involving the sanctions specified in Part 42, may be appealed by the respondent to the Appellate Board.⁴⁸ Appeals regarding violations of VI-1.30(A) UMCP Procedures on Sexual Assault and/or VI-1.20(A) University of Maryland Policy and Procedures on Sexual Harassment may be made by either party.⁴⁹

The SCC recommends that the following three items be added to the Annotations section of the *Code of Student Conduct*, in order to reflect OCR compliance:

ANNOTATIONS

29. On April 4, 2011, the United States Department of Education, Office of Civil Rights issued a "significant guidance document" to provide universities with information to assist them in meeting their obligations under Title IX of the Education Amendments of 1972 ("Title IX"). This document is known as the "OCR Dear Colleague Letter". According to the OCR Dear Colleague Letter, Title IX requires that the burden of proof in sexual harassment cases, including sexual assault, be "preponderance of the evidence." Prior to the issuance of the OCR Dear Colleague Letter, the burden of proof under the Code was "clear and convincing evidence". According to the OCR Dear Colleague Letter, Title IX also requires that both parties in disciplinary hearings in sexual harassment cases, including sexual assault, be provided the same appeal rights, if any.

30. "Clear and convincing" means "the evidence should be 'clear' in the sense that it is certain, plain to the understanding and unambiguous, and 'convincing' in the sense that it is so reasonable and persuasive as to cause [one] to believe it." *Wills v. State of Maryland*, 329 Md. 370, 374 (1993), quoting Maryland Civil Practice Jury Instruction Section 1:8b (1984). It does not call for "unanswerable" or "conclusive" evidence. *Attorney Grievance Commission v. Harris*, 366 Md. 376, 389 (2001). To be clear and convincing means that it is substantially more likely than not that the allegations are in fact true but that it "need not be established with absolute certainty". *Vogel v. State*, 315 Md. 458, 473 (1989). The burden is "more than a mere

preponderance of the evidence [the burden of proof in ordinary civil cases] but not beyond a reasonable doubt [the standard in criminal cases]. *Berkey v. Delia*, 287 Md. 302, 319-20 (1980).

31. "Preponderance of the evidence" means it is "more likely than not" that the violation occurred as alleged. To meet a burden of proof by a preponderance of the evidence, means that "the scales tipped in the direction" of one of the parties. "When the scales are 'in a state of even balance,' the party with the burden of proving its case by a preponderance of the evidence loses. *Wills v. State of Maryland*, 329 Md. 370, 374 (1993), quoting *Potts v. Armour & Co.*, 183 Md 483, 490 (1944). See Maryland Civil Pattern Jury Instructions Section 1:8a (1984).

APPENDICES:

Appendix 1 – Recommended Policy Changes to the *Code of Student Conduct*

Appendix 2 – Peer Institution Evidentiary Standards Research

Appendix 3 – Charge from the Senate Executive Committee, October 3, 2011

Appendix 4 – Proposal from the Office of Student Conduct, September 12, 2011

Appendix 5 – Dear Colleague Letter from the Office for Civil Rights, April 4, 2011

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V-1.00(B) UNIVERSITY OF MARYLAND CODE OF STUDENT CONDUCT

Approved by the Board of Regents January 25, 1980; amended effective September 4, 1990; December 18, 2001; April 22, 2004; November 18, 2005; April 5, 2006; March 10, 2011

Note: Different procedures and penalties are applicable in cases involving allegations of academic dishonesty. Please refer to the *Code of Academic Integrity*, available from the Office of Student Conduct (301-314-8204).

Footnotes which appear throughout the *Code of Student Conduct* refer to the Annotations listed at the end of this appendix.

RATIONALE

1. The primary purpose for the imposition of discipline in the University setting is to protect the campus community. Consistent with that purpose, reasonable efforts will also be made to foster the personal and social development of those students who are held accountable for violations of University regulations.¹

DEFINITIONS

2. When used in this *Code*:²
 - (a) The term “aggravated violation” means a violation which resulted or foreseeably could have resulted in significant damage to persons or property or which otherwise posed a substantial threat to the stability and continuance of normal University or University-sponsored activities.
 - (b) The term “distribution” means sale or exchange for personal profit.
 - (c) The term “group” means a number of persons who are associated with each other and who have not complied with University requirements for registration as an organization.
 - (d) The terms “institution” and “University” mean the University of Maryland, College Park.
 - (e) The term “organization” means a number of persons who have complied with University requirements for registration.
 - (f) The term “reckless conduct” means action which any member of the University community can be expected to know would create a clear risk of harm to persons or property, or would disrupt the lawful activities of others, including studying, teaching, research, and University administration.³
 - (g) The term “student” means a person taking or auditing courses at the institution either on a full- or part-time basis.⁴
 - (h) The term “University premises” means buildings or grounds owned, leased, operated, controlled or supervised by the University.

- (i) The term “weapon” means any object or substance designed to inflict a wound, cause injury, or incapacitate, including, but not limited to, all firearms, pellet guns, switchblade knives, knives with blades five or more inches in length.
- (j) The term “University-sponsored activity” means any activity on or off campus which is initiated, aided, authorized or supervised by the University.
- (k) The terms “will” or “shall” are used in the imperative sense.

INTERPRETATION OF REGULATIONS

- 3. Disciplinary regulations at the University are set forth in writing in order to give students general notice of prohibited conduct. The regulations should be read broadly and are not designed to define misconduct in exhaustive terms.

INHERENT AUTHORITY

- 4. The University reserves the right to take necessary and appropriate action to protect the safety and well-being of the campus community.⁵

STUDENT PARTICIPATION

- 5. Students are asked to assume positions of responsibility in the University judicial system in order that they might contribute their skills and insights to the resolution of disciplinary cases. Final authority in disciplinary matters, however, is vested in the University administration and in the Board of Regents.

STANDARDS OF DUE PROCESS

- 6. Students subject to expulsion, suspension⁶ or disciplinary removal from University housing⁷ will be accorded a conduct board hearing as specified in Part 30 of this *Code*. Students subject to less severe sanctions will be entitled to an informal disciplinary conference,⁸ as set forth in Parts 33 and 34.
- 7. The focus of inquiry in disciplinary proceedings shall be the guilt or innocence of those accused of violating disciplinary regulations. Formal rules of evidence shall not be applicable, nor shall deviations from prescribed procedures necessarily invalidate a decision or proceeding, unless significant prejudice to a student respondent or the University may result.⁹

VIOLATIONS OF LAW AND DISCIPLINARY REGULATIONS

- 8. Students may be accountable to both civil authorities and to the University for acts which constitute violations of law and of this *Code*.¹⁰ Disciplinary action at the University will normally proceed during the pendency of criminal proceedings

and will not be subject to challenge on the ground that criminal charges involving the same incident have been dismissed or reduced.

PROHIBITED CONDUCT

9. The following misconduct is subject to disciplinary action:
- (a) Intentionally or recklessly causing physical harm to any person on University premises or at University-sponsored activities, or intentionally or recklessly causing reasonable apprehension of such harm.
 - (b) Unauthorized use, possession or storage of any weapon on University premises or at University-sponsored activities.
 - (c) Intentionally initiating or causing to be initiated any false report, warning or threat of fire, explosion or other emergency on University premises or at University-sponsored activities.
 - (d) Off-campus misconduct which:
 - i. is a criminal offense off campus, resulting in conviction, if such an offense would constitute a violation of this *Code* had it occurred on University premises. No student convicted of a misdemeanor under this section shall be subject to expulsion or full suspension unless the offense constitutes an “aggravated violation” as defined in Part 2(a) of this *Code*. The University shall not pursue disciplinary action when a non-aggravated misdemeanor does not pose a threat to the stability of the campus or campus community; provided, however,
 - ii. rioting, assault, theft, vandalism, fire setting, or other serious misconduct related to a University-sponsored event, occurring on – or off-campus, that results in harm to persons or property or otherwise poses a threat to the stability of the campus or campus community may result in disciplinary action regardless of the existence, status, or outcome of any criminal charges in a court of law related to misconduct associated with a University-sponsored event.
 - (e) Knowingly violating the terms of any disciplinary sanction imposed in accordance with this *Code*.
 - (f) Intentionally or recklessly misusing or damaging fire safety equipment.
 - (g) Unauthorized distribution or possession for purposes of distribution of any controlled substance or illegal drug¹¹ on University premises or at University-sponsored activities.
 - (h) Use or possession of any controlled substance or illegal drug on University premises or at University-sponsored activities.¹²
 - (i) Intentionally furnishing false information to the University.
 - (j) Making, possessing, or using any forged, altered, or falsified instrument of identification on University premises, or at University-sponsored activities; making, possessing, or using any forged, altered, or falsified University document, on or off-campus.

- (k) Intentionally and substantially interfering with the freedom of expression of others on University premises or at University-sponsored activities.¹³
- (l) Theft of property or of services on University premises or at University-sponsored activities; knowing possession of stolen property on University premises or at University-sponsored activities.
- (m) Intentionally or recklessly destroying or damaging the property of others on University premises or at University-sponsored activities.
- (n) Engaging in disorderly or disruptive conduct on University premises or at University-sponsored activities which interferes with the activities of others, including studying, teaching, research, and University administration.*
- (o) Failure to comply with the directions of University officials, including campus police officers, acting in performance of their duties.
- (p) Violation of published University regulations or policies, as approved and compiled by the Vice President for Student Affairs.¹⁴ Such regulations or policies may include the residence hall contract, as well as those regulations relating to entry and use of University facilities, sale of alcoholic beverages, use of vehicles** and amplifying equipment, campus demonstrations, and misuse of identification cards.
- (q) Use or possession of any alcoholic beverage under the age of 21 on University premises or at University-sponsored activities; knowingly providing alcoholic beverages to a person known to be under the age of 21 on University premises or University-sponsored activities. ***
- (r) Unauthorized use or possession of fireworks on University premises.

* The response of fire, police, or emergency personnel to a non-frivolous call, or action taken by them on their own initiative pursuant or non-pursuant to policy is not considered a disruption or reckless action within the meaning of this section.

** Parking and traffic violations may be processed in accordance with procedures established by the Vice President for Student Affairs.

*** This charge may be deferred under Part 29 of this *Code* consistent with procedures outlined in the *Promoting Responsible Action in Medical Emergencies Policy*.

SANCTIONS

10. Sanctions for violations of disciplinary regulations consist of:

- (a) **EXPULSION:** permanent separation of the student from the University. Notification will appear on the student's transcript. The student will also be barred from the University premises (expulsion requires administrative review and approval by the President and may be altered, deferred or withheld).

- (b) **SUSPENSION:** separation of the student from the University for a specified period of time. Permanent notification will appear on the student's transcript. The student shall not participate in any University-sponsored activity and may be barred from University premises. Suspended time will not count against any time limits of the Graduate School for completion of a degree. (Suspension requires administrative review and approval by the Vice President for Student Affairs and may be altered, deferred or withheld).
 - (c) **DISCIPLINARY PROBATION:** the student shall not represent the University in any extracurricular activity or run for or hold office in any student group or organization. Additional restrictions or conditions may also be imposed. Notification will be sent to appropriate University offices, including the Office of Campus Programs.
 - (d) **DISCIPLINARY REPRIMAND:** the student is warned that further misconduct may result in more severe disciplinary action.
 - (e) **RESTITUTION:** the student is required to make payment to the University or to other persons, groups, or organizations for damages incurred as a result of a violation of this *Code*.
 - (f) **OTHER SANCTIONS:** other sanctions may be imposed instead of or in addition to those specified in sections (a) through (e) of this part. For example, students may be subject to dismissal from University housing for disciplinary violations which occur in the residence halls. Likewise, students may be subject to restrictions upon or denial of driving privileges for disciplinary violations involving the use or registration of motor vehicles. Work or research projects may also be assigned.
11. Violations of sections (a) through (g) in Part 9 of this *Code* may result in expulsion from the University¹⁵, unless specific and significant mitigating factors are present. Factors to be considered in mitigation shall be the present demeanor and past disciplinary record of the offender, as well as the nature of the offense and the severity of any damage, injury, or harm resulting from it.
 12. Violations of sections (h) through (l) in Part 9 of this *Code* may result in suspension from the University, unless specific and significant mitigating factors as specified in Part 11 are present.
 13. Repeated or aggravated violations of any section of this *Code* may also result in expulsion or suspension or in the imposition of such lesser penalties as may be appropriate.
 14. Any decision to impose a sanction less than suspension or expulsion for University-sponsored event-related misconduct as defined in Part 9(d)(ii) of this *Code* must be supported by written findings signed by the Vice President for Student Affairs. A student suspended under this section shall not be admitted to any other institution in the University of Maryland System during the term of the suspension. A student expelled under this section shall not be admitted to any

other institution in the System for at least one year from the effective date of the expulsion.

15. Attempts to commit acts prohibited by this *Code* shall be punished to the same extent as completed violations.¹⁶
16. Penalties for off-campus misconduct shall not be more severe than for similar on-campus conduct.

INTERIM SUSPENSION¹⁷

17. The Vice President for Student Affairs or a designee may suspend a student for an interim period pending disciplinary proceedings or medical evaluation, such interim suspension to become immediately effective without prior notice, whenever there is evidence that the continued presence of the student on the University campus poses a substantial threat to him or herself or to others or to the stability and continuance of normal University functions.
18. A student suspended on an interim basis shall be given an opportunity to appear personally before the Vice President for Student Affairs or a designee within five business days from the effective date of the interim suspension in order to discuss the following issues only:
 - (a) the reliability of the information concerning the student's conduct, including the matter of his or her identity;
 - (b) whether the conduct and surrounding circumstances reasonably indicate that the continued presence of the student on the University campus poses a substantial threat to him or herself or to others or the stability and continuance of normal University functions.

OFFICE OF STUDENT CONDUCT

19. The Office of Student Conduct directs the efforts of students and staff members in matters involving student discipline. The responsibilities of the office include:
 - (a) Determination of the disciplinary charges to be filed pursuant to this *Code*.
 - (b) Interviewing and advising parties¹⁸ involved in disciplinary proceedings.
 - (c) Supervising, training, and advising all conduct boards.
 - (d) Reviewing the decisions of all conduct boards.¹⁹
 - (e) Maintenance of all student disciplinary records.
 - (f) Development of procedures for conflict resolution.
 - (g) Resolution of cases of student misconduct, as specified in Parts 33 and 34 of this *Code*.
 - (h) Collection and dissemination of research and analysis concerning student conduct.

- (i) Submission of a statistical report each semester to the campus community, reporting the number of cases referred to the office, the number of cases resulting in disciplinary action, and the range of sanctions imposed.²⁰

CONDUCT PANELS

- 20. Hearings or other proceedings as provided in the *Code* may be held before the following boards or committees:
 - (a) **CONFERENCE BOARDS**, as appointed in accordance with Part 34 of this *Code*.
 - (b) **RESIDENCE BOARDS**, as established and approved by the Vice President for Student Affairs.²¹ Students residing in group living units owned, leased, operated or supervised by the University may petition the Vice President for authority to establish conduct boards. Such boards may be empowered to hear cases involving violations of the *Code*, as prescribed by the Vice President for Student Affairs.
 - (c) **THE CENTRAL BOARD** hears cases involving disciplinary violations which are not referred to Residence Boards or resolved in accordance with Parts 33 and 34 of this *Code*. The Central Board is composed of five students, including at least two graduate students when a graduate student case is being heard.
 - (d) **THE APPELLATE BOARD** hears appeals from Residence Boards, the Central Board, and ad hoc boards, in accordance with Part 43 of this *Code*. The Appellate Board is composed of five full-time students, including at least two graduate students.
 - (e) **AD HOC BOARDS** may be appointed by the Director of Student Conduct when a Conference Board, a Residence Board, the Central Board, the Appellate Board or the Senate Adjunct Committee are unable to obtain a quorum or are otherwise unable to hear a case.²² Each ad hoc board shall be composed of three members, including at least one student.
 - (f) **THE SENATE COMMITTEE ON STUDENT CONDUCT** hears appeals as specified in Part 42 of this *Code*. The committee also approves the initial selection of all conduct board members, except members of conference and ad hoc boards.²³
- 21. The presiding officer of each conduct board and of the Senate Adjunct Committee on Student Conduct may develop bylaws which are not inconsistent with any provision in this *Code*. Bylaws must be approved by the Director of Student Conduct.²⁴

SELECTION AND REMOVAL OF BOARD MEMBERS

- 22. Members of the various conduct boards are selected in accordance with procedures developed by the Director of Student Conduct.

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23. Members of conference and ad hoc boards are selected in accordance with Parts 34 and 20(e), respectively.
24. Prospective members of the Central Board and the Appellate Board are subject to confirmation by the Senate Committee on Student Conduct.
25. Members of the Senate Committee on Student Conduct are selected in accordance with the bylaws of the University Senate.
26. Prior to participating in board or committee deliberations, new members of the Senate Committee on Student Conduct and all conduct boards, except conference and ad hoc boards, will participate in one orientation session by the Office of Student Conduct.
27. Student members of any conduct board or committee who are charged with any violation of this *Code* or with a criminal offense²⁵ may be suspended from their judicial positions by the Director of Student Conduct during the pendency of the charges against them. Students convicted for any such violation or offense may be disqualified from any further participation in the University judicial system by the Director of Student Conduct. Additional grounds and procedures for removal may also be set forth in the bylaws of the various conduct panels.

CASE REFERRALS

28. Any person²⁶ may refer a student or a student group or organization suspected of violating this *Code* to the Office of Student Conduct. Allegations of off-campus event-related misconduct must be supported by a report, statement, or accusation from a law enforcement agency in whose jurisdiction the misconduct is alleged to have occurred. Persons making such referrals are required to provide information pertinent to the case and will normally be expected to appear before a conduct board as the complainant.²⁷

DEFERRAL OF PROCEEDINGS

29. The Director of Student Conduct may defer disciplinary proceedings for alleged violations of this *Code* for a period not to exceed 90 days. Pending charges may be withdrawn thereafter, dependent upon the good behavior of the respondent. Students subject to conditional relief from disciplinary charges under the *Promoting Responsible Action in Medical Emergencies Policy* may also be required to successfully complete an approved alcohol intervention program prior to the withdrawal of charges.

HEARING REFERRALS

30. Staff members in the Office of Student Conduct will review referrals to determine whether the alleged misconduct might result in expulsion, suspension, or

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disciplinary removal from University housing.²⁸ Students subject to those sanctions shall be accorded a hearing before the appropriate conduct board. All other cases shall be resolved in the Office of Student Conduct after an informal disciplinary conference, as set forth in Part 33 and 34 of this *Code*.

31. Students referred to a conduct board hearing may elect instead to have their case resolved in accordance with Parts 33 and 34. The full range of sanctions authorized by this *Code* may be imposed, although the right of appeal shall not be applicable.

BURDEN OF PROOF²⁹

32. Except as provided below, the burden of proof shall be upon the complainant, who must establish the guilt of the respondent by clear and convincing evidence³⁰. In disciplinary conferences and hearings under section 9(p) of this *Code* which allege violation of VI-1.30(A) UMCP Procedures on Sexual Assault and/or VI-1.20(A) University of Maryland Policy and Procedures on Sexual Harassment, the burden of proof shall be upon the complainant, who must establish the guilt of the respondent by a preponderance of the evidence³¹.

Comment [AG1]: This section was added to reflect the OCR compliance

DISCIPLINARY CONFERENCES³²

33. Students subject to or electing to participate in a disciplinary conference in the Office of Student Conduct are accorded the following procedural protections:
 - (a) Written notice of charges at least three days prior to the scheduled conference.
 - (b) Reasonable access to the case file³³ prior to and during the conference.
 - (c) An opportunity to respond to the evidence against them and to call appropriate witnesses on their behalf.
 - (d) The option to be accompanied and assisted by a representative, who may be an attorney. Representatives have the right to make opening and closing statements, to advise their clients during the course of the proceedings, and to petition for recesses. All representatives are subject to the restrictions of Parts 36 and 37 of this *Code*.
34. Disciplinary conferences shall be conducted by the Director of Student Conduct or a designee.³⁴ Complex or contested cases may be referred by the Director to a conference board, consisting of one member of the Central Board, one member of the Appellate Board, and a staff member in the Division of Student Affairs. Conference Board members shall be selected on a rotating basis by the Director of Student Conduct.

HEARING PROCEDURES

35. The following procedural guidelines shall be applicable in disciplinary hearings:

- (a) Respondents shall be given notice of the hearing date and the specific charges against them at least five days in advance and shall be accorded reasonable access to the case file, which will be retained in the Office of Student Conduct.
- (b) The presiding officer of any board may subpoena witnesses upon the motion of any board member or of either party and shall subpoena witnesses upon request of the board advisor. Subpoenas must be approved by the Director of Student Conduct and shall be personally delivered or sent by certified mail, return receipt requested. University students and employees are expected to comply with subpoenas issued pursuant to this procedure, unless compliance would result in significant and unavoidable personal hardship or substantial interference with normal University activities.³⁵

If the Director of Student Conduct or his or her designee determines that a fair hearing cannot be held without the testimony of a particular witness, and, after good faith attempts are made, the witness either fails to or refuses to appear, the disciplinary hearing will be postponed until the witness agrees to appear or the charges will be dismissed.
- (c) Respondents who fail to appear after proper notice will be deemed to have pleaded guilty to the charges pending against them.
- (d) Hearings will be closed to the public, except for the immediate members of the parties' families and their representatives, if applicable. An open hearing may be held, at the discretion of the presiding officer, if requested by both parties.
- (e) The presiding officer of each board shall exercise control over the proceedings to avoid needless consumption of time and to achieve the orderly completion of the hearing. Except as provided in section (o) of this Part, any person, including the respondent, who disrupts a hearing may be excluded by the presiding officer or by the board advisor.
- (f) Hearings may be tape recorded or transcribed. If a recording or transcription is not made, the decision of the board must include a summary of the testimony and shall be sufficiently detailed to permit review by appellate bodies and by staff members in the Office of Student Conduct.
- (g) Any party or the board advisor may challenge a board member on the grounds of personal bias. Board members may be disqualified upon majority vote of the remaining members of the board, conducted by secret ballot,³⁶ or by the Director of Student Conduct.
- (h) Witnesses shall be asked to affirm that their testimony is truthful and may be subject to charges of perjury, pursuant to Part 9(i) of this *Code*.
- (i) Prospective witnesses, other than the complainant and the respondent, may be excluded from the hearing during the testimony of other witnesses. All parties, the witnesses, and the public shall be excluded during board deliberations.

- (j) Formal rules of evidence shall not be applicable in disciplinary proceedings conducted pursuant to this *Code*.³⁷ The presiding officer of each board shall give effect to the rules of confidentiality and privilege, but shall otherwise admit all matters into evidence which reasonable persons would accept as having probative value in the conduct of their affairs. Unduly repetitious or irrelevant evidence may be excluded.³⁸
- (k) Both parties shall be accorded an opportunity to question those witnesses who testify at the hearing.
- (l) Affidavits shall not be admitted into evidence unless signed by the affiant and witnessed by a University employee, or by a person designated by the Director of Student Conduct.
- (m) Board members may take judicial notice of matters which would be within the general experience of University students.³⁹
- (n) Board advisors may comment on questions of procedure and admissibility of evidence and will otherwise assist in the conduct of the hearing. Advisors will be accorded all the privileges of board members, and the additional responsibilities set forth in this *Code*, but shall not vote. All advisors are responsible to the Director of Student Conduct and shall not be excluded from hearings or board deliberations by any board or by the presiding officer of any board.
- (o) The Director of Student Conduct may appoint a special presiding officer to any board in complex cases or in any case in which the respondent is represented by an attorney. Special presiding officers may participate in board deliberations, but shall not vote.⁴⁰
- (p) A determination of guilt shall be followed by a supplemental proceeding in which either party and the board advisor may submit evidence or make statements concerning the appropriate sanction to be imposed. The past disciplinary record⁴¹ of the respondent shall not be supplied to the board by the advisor prior to the supplementary proceeding.
- (q) Final decisions of all conduct panels shall be by majority vote of the members present and voting. A tie vote will result in a recommended acquittal in an original proceeding. A tie vote in an appellate proceeding will result in an affirmation of the original decision.
- (r) Final decisions of all boards, except conference boards, shall be accompanied by a brief written opinion.

ATTORNEYS AND REPRESENTATIVES

36. Representatives of both complainants and respondents in hearings pursuant to this *Code* have the right to call witnesses to testify, to question in person all witnesses who appear at the hearing, to voice timely objections, to make opening and closing statements, to petition for recesses in the proceedings and to zealously and lawfully assert their client's position under the *Code of Student Conduct*.⁴² All presenters and representatives who participate in disciplinary hearings and disciplinary conferences shall not:

- (a) Intentionally engage in conduct to disrupt a hearing;
 - (b) Intentionally attempt to improperly influence an officer of the Office of Student Conduct, a hearing advisor or member of a conduct board;
 - (c) Intentionally fail to obey a reasonably definite and specific order by a presiding officer;
 - (d) Knowingly make a false statement of material fact, law or representation of the *Code* to other participants in a hearing;
 - (e) Knowingly fail to disclose a material fact in a hearing when disclosure is necessary to avoid assisting a future criminal or fraudulent act;
 - (f) Knowingly offer false evidence, falsify evidence, counsel or induce witnesses to testify falsely, or offer improper inducements to testify;
 - (g) Recklessly and unlawfully obstruct another party's access to evidence, or alter, destroy or conceal material not protected by privilege having potential evidentiary value;
 - (h) If the representative is an attorney, otherwise fail to follow any obligations under relevant standards of professional responsibility in matters pertaining to the representation.
37. (a) Any participant in a hearing may refer complaints about suspected violations of the provisions of Part 36 of this *Code* to the Senate Committee on Student Conduct.
- (b) Within a reasonable time after such referral, the chairperson of the Senate Committee on Student Conduct will review the complaint. After review the chairperson shall dismiss complaints which are anonymous, manifestly frivolous, which cannot be reasonably construed to allege a violation of Part 36, or are based on hearsay alone. Those which are not dismissed will be referred to the full Committee which will convene a hearing no sooner than 10 business days after sending a copy of the evidence presented to the representative named in the complaint. The hearing shall be held under the relevant rules and procedures governing disciplinary hearings outlined in Parts 35-37 of this *Code*.
- (c) A client shall not be compelled either directly or through their representative to waive the attorney-client privilege.
- (d) Representatives found responsible for violations of the provisions of Part 36 may be suspended from the privilege of representation for such time as the Committee may deem appropriate. In addition, the Committee may refer their findings to the Attorney Grievance Commission, or other appropriate disciplinary body.
- (e) Appeals from decisions of the Senate Committee on Student Conduct regarding violations under Part 36 may be made by parties found responsible. Appeals should be made in writing to the Senate Campus Affairs Committee within 10 business days of receipt of the letter notifying the party of the decision. Appeals will be conducted in accordance with the standards for the hearing of student disciplinary appeals. Decisions of the Campus Affairs Committee regarding these appeals shall be final.

STUDENT GROUPS AND ORGANIZATIONS

- 38. Student groups and organizations may be charged with violations of this *Code*.
- 39. A student group or organization and its officers may be held collectively⁴³ or individually responsible when violations of this *Code* by those associated with⁴⁴ the group or organization have received the tacit or overt consent or encouragement of the group or organization or of the group's or organization's leaders, officers, or spokespersons.
- 40. The officers or leaders or any identifiable spokespersons⁴⁵ for a student group or organization may be directed by the Vice President for Student Affairs or a designee to take appropriate action designed to prevent or end violations of this *Code* by the group or organization or by any persons associated with the group or organization who can reasonably be said to be acting in the group's or organization's behalf. Failure to make reasonable efforts to comply with the Vice President's directive shall be considered a violation of Part 9(o) of this *Code*, both by the officers, leaders or spokespersons for the group or organization and by the group or organization itself.
- 41. Sanctions for group or organization misconduct may include revocation or denial of recognition or registration, as well as other appropriate sanctions, pursuant to Part 10(f) of this *Code*.

APPEALS

- 42. Except as provided below, any determination made pursuant to this *Code* resulting in expulsion or suspension⁴⁶ may be appealed by the respondent to the Senate Committee on Student Conduct. Appeals regarding violations of VI-1.30(A) UMCP Procedures on Sexual Assault and/or VI-1.20(A) University of Maryland Policy and Procedures on Sexual Harassment may be made by either party.⁴⁷ The Senate Committee shall also hear appeals from denials of petitions to void disciplinary records, pursuant to Part 52 of this *Code*.
- 43. Except as provided below, final decisions of residence boards, the Central Board and ad hoc boards, not involving the sanctions specified in Part 42, may be appealed by the respondent to the Appellate Board.⁴⁸ Appeals regarding violations of VI-1.30(A) UMCP Procedures on Sexual Assault and/or VI-1.20(A) University of Maryland Policy and Procedures on Sexual Harassment may be made by either party.⁴⁹
- 44. Requests for appeals must be submitted in writing to the Office of Student Conduct within seven business days from the date of the letter providing notice of the original decision. Failure to appeal within the allotted time will render the original decision final and conclusive.⁵⁰

Comment [AG2]: This section has been added to comply with OCR

Comment [AG3]: This section has been added to comply with OCR

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45. A written brief in support of the appeal must be submitted to the Office of Student Conduct within 10 business days from the date of the letter providing notice of the original decision. Failure to submit a written brief within the allotted time will render the decision of the lower board final and conclusive.⁵¹
46. Appeals shall be decided upon the record of the original proceeding and upon written briefs submitted by the parties. De novo hearings shall not be conducted.
47. Appellate bodies may:
 - (a) Affirm the finding and the sanction imposed by the original board.
 - (b) Affirm the finding and reduce, but not eliminate, the sanction, in accordance with Parts 48 and 48(a).
 - (c) Remand the case to the original board, in accordance with Parts 47 and 47(b).
 - (d) Dismiss the case, in accordance with Parts 48 and 48(c).
48. Deference shall be given to the determinations of lower boards.⁵²
 - (a) Sanctions may only be reduced if found to be grossly disproportionate to the offense.
 - (b) Cases may be remanded to the original board if specified procedural errors or errors in interpretation of University regulations were so substantial as to effectively deny the respondent a fair hearing, or if new and significant evidence became available which could not have been discovered by a properly diligent respondent before or during the original hearing.⁵³ On remand, no indication or record of the previous conduct hearing will be introduced or provided to members of the new conduct panel, except to impeach contradictory testimony at the discretion of the presiding officer. The board will be directed by the committee not to repeat the specified errors that caused the remand.
 - (c) Cases may be dismissed only if the finding is held to be arbitrary and capricious.⁵⁴
 - (d) Decisions of the Appellate Board shall be recommendations to the Director of Student Conduct.⁵⁵ Decisions of the Senate Committee on Student Conduct shall be recommendations to the Vice President for Student Affairs. Decisions altering the determinations of all hearing boards and the Senate Committee on Student Conduct shall be accompanied by a brief written opinion.
49. The imposition of sanctions will normally be deferred during the pendency of appellate proceedings, at the discretion of the Director of Student Conduct.

DISCIPLINARY FILES AND RECORDS

50. Case referrals may result in the development of a disciplinary file in the name of the respondent, which shall be voided if the respondent is found innocent of the charges.⁵⁶ The files of respondents found guilty of any of the charges against them will be retained as a disciplinary record for three years from the date of the letter providing notice of final disciplinary action.⁵⁷ Disciplinary records may be retained for longer periods of time or permanently, if so specified in the sanction.
51. Disciplinary records may be voided⁵⁸ by the Director of Student Conduct for good cause, upon written petition of respondents. Factors to be considered in review of such petitions shall include:
 - (a) the present demeanor of the respondent.
 - (b) the conduct of the respondent subsequent to the violation.
 - (c) the nature of the violation and the severity of any damage, injury, or harm resulting from it.
52. Denials of petitions to void disciplinary records shall be appealable to the Senate Committee on Student Conduct, which will apply the standard of review specified in Part 48 and 48(c). The requirements for appeals as set forth in Part 44 and 45 shall be applicable.⁵⁹
53. Disciplinary records retained for less than 90 days or designated as “permanent” shall not be voided without unusual and compelling justification.⁶⁰

ANNOTATIONS

1. The University is not designed or equipped to rehabilitate or incapacitate persons who pose a substantial threat to themselves or to others. It may be necessary, therefore, to remove those individuals from the campus and to sever the institutional relationship with them, as provided in this *Code of Student Conduct* and by other University regulations.*

Any punishment imposed in accordance with the *Code* may have the value of discouraging the offender and others from engaging in future misbehavior. In cases of minor disciplinary violations, the particular form of punishment may also be designed to draw upon the educational resources of the University in order to bring about a lasting and reasoned change in behavior. The underlying rationale for punishment need not rest on deterrence or “reform” alone, however. A just punishment may also be imposed because it is “deserved” and because punishment for willful offenses affirms the autonomy and integrity of the offender. The latter concept was expressed by D.J.B. Hawkins in his essay “Punishment and Moral Responsibility” in *7 Modern Law Review* 205:

The vice of regarding punishment entirely from the points of view of reformation and deterrence lies precisely in forgetting that a just punishment is deserved. The punishment of men then ceases to be essentially different from the training of animals, and the way is open for the totalitarian state to undertake the forcible improvement of its citizens without regard to whether their conduct has made them morally liable to social coercion or not. But merit and demerit, reward and punishment, have a different significance as applied to men and as applied to animals. A dog may be called a good dog or a bad dog, but his goodness or badness can be finally explained in terms of heredity and environment. A man, however, is a person, and we instinctively recognize that he has a certain ultimate personal responsibility for at least some of his actions. Hence merit and demerit, reward and punishment, have an irreducible individual significance as applied to men. This is the dignity and the tragedy of the human person.

A similar view was expressed by Justice Powell, dissenting in *Goss v. Lopez* (42 L. Ed. 2d 725, 745):

Education in any meaningful sense includes the inculcation of an understanding in each pupil of the necessity of rules and obedience thereto. This understanding is no less important than learning to read and write. One who does not comprehend the meaning and necessity of discipline is handicapped not merely in his education but throughout his subsequent life. In an age when the home and church play a diminishing role in shaping the character and value judgments of the young, a heavier responsibility falls upon the schools. When an immature student merits censure for his conduct, he is rendered a disservice if appropriate sanctions are not applied.

2. An effort is made in the *Code* to use a simplified numbering and lettering system, without use of Roman numerals or subsets of letters and numbers. Any part of the *Code* can be found by reference to one number and one letter [e.g., Part 10a explains the meaning of expulsion].
3. Culpable conduct should include conscious acts posing a substantial risk or harm to others (e.g. throwing a heavy object out a tenth floor window above a sidewalk). If the act itself, however, is unintended (e.g. one is distracted by a noise while climbing a flight of stairs and drops a heavy object) the individual may have failed to use reasonable care, but is not normally deserving of the moral stigma associated with a “conviction” for a disciplinary offense.
4. Former students may be charged for violations which allegedly occurred during their enrollment at the University.

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5. Colleges and universities are not expected to develop disciplinary regulations which are written with the scope of precision of a criminal *Code*. Rare occasions may arise when conduct is so inherently and patently dangerous to the individual or to others that extraordinary action not specifically authorized in the rules must be taken.
6. The terms “suspension” and “interim suspension” are to be distinguished throughout the *Code* and are not interchangeable.
7. Disciplinary removal from University housing should be distinguished from administrative removal for violations of the residence contract. The latter does not leave students with a disciplinary record and does not come under the purview of this *Code*.
8. The standard set forth here represents the minimal procedural protection to be accorded to students charged with most disciplinary violations. Students who are subject to lengthy suspensions or to expulsion may be entitled to more formal procedures, including a hearing with a right to cross-examine the witnesses against them. *Goss v. Lopez*, 419 U.S. 565 (1975).
9. The Supreme Court has recently rejected the theory that state schools are bound by principles of federal administrative law requiring agencies to follow their own regulations. *Board of Curators, University of Missouri v. Horowitz* 55 L.Ed 2d 124, 136. See, generally, “Violation by Agencies of Their Own Regulations” 87 *Harvard Law Review* 629 (1974).
10. Respondents in disciplinary proceedings may be directed to answer questions concerning their conduct. Students who refuse to answer on grounds of the Fifth Amendment privilege may be informed that the hearing panel could draw negative inferences from their refusal which might result in their suspension or dismissal. If the student then elects to answer, his/her statements could not be used against him/her in either state or federal court. *Garrity v. New Jersey*, 385 U.S 493 (1967). See also *Furutani v. Ewigleben*, 297 F. Supp. 1163 (N.D.Cal. 1969).
11. The “controlled substances” or “illegal drugs” prohibited in this section are set forth in Schedules I through V in the Maryland Criminal Law Article 5-401 through 5-406 and 5-708 (Inhalants).
12. See Annotation 11.
13. Colleges and universities should be a forum for the free expression of ideas. In the recent past, however, unpopular speakers have been prevented from addressing campus audiences by students who effectively “shouted them down.” Both Yale and Stanford Universities have treated such actions (which are to be distinguished from minor and occasional heckling) as serious disciplinary violations. See the

“Report from the Committee on Freedom of Expression at Yale University” which is available in the Office of Student Conduct.

The following language from the Yale report may be used to elaborate upon the intent and scope of Part 9(k) of this *Code*.

- A. “There is no right to protest within a University building in such a way that any University activity is disrupted. The administration, however, may wish to permit some symbolic dissent within a building but outside the meeting room, for example, a single picket or a distributor of handbills.”
 - B. “[A] member of the audience may protest in silent, symbolic fashion, for example, by wearing a black arm band. More active forms of protest may be tolerated such as briefly booing, clapping hands or heckling. But any disruptive activity must stop [and not be repeated] when the chair or an appropriate University official requests silence.
 - C. “Nor are racial insults or any other ‘fighting words’ a valid ground for disruption or physical attack... The banning or obstruction of lawful speech can never be justified on such grounds as that the speech or the speaker is deemed irresponsible, offensive, unscholarly, or untrue.”
14. A compilation of published regulations which have been reviewed and approved by the Vice President shall be available for public inspection during normal business hours in the Office of Student Conduct.
 15. This Part and Parts 12 and 13 represent an attempt to give needed guidance to those who are assessing penalties. Moreover the direction of the guidance is toward imposition of more severe disciplinary sanctions in serious cases. Nonetheless, the language concerning “mitigating factors” is broad enough to give decision-makers considerable leeway to “do justice,” depending upon the facts in each case. The burden of establishing facts in mitigation should, of course, be upon the respondent.
 16. There does not seem to be any rational basis for imposing less severe penalties for attempts than for completed violations. The authors of the *Model Penal Code*, for example, have written that:

To the extent that sentencing depends upon the antisocial disposition of the actor and the demonstrated need for a corrective action, there is likely to be little difference in the gravity of the required measures depending on the consummation or the failure of the plan.
See LaFave, *Criminal Law Treatise* p. 453.
 17. These procedures are analogous to those found in the “emergency” disciplinary rules adopted by the Board of Regents in 1971 and are consistent with the formal

opinion of the Maryland Attorney General on this subject, dated January 23, 1969. See also *Goss v. Lopez*, 419 U.S. 565 (1975).

Nothing in this provision would prohibit the Vice President from modifying the terms of an interim suspension, so long as the hearing requirement specified in Part 18 was met. For example, a suspended student might be allowed to enter University premises solely for the purpose of attending classes.

18. Staff members in the Office of Student Conduct should endeavor to arrange a balanced presentation before the various conduct boards and may assist both complainants and respondents.
19. This language does not effect any change in previous policy concerning the powers of conduct boards. All board decisions, including those rendered by Conference Boards, shall be treated as recommendations.
20. See Annotation 1, *supra*. The deterrent effect of punishment is diminished if the community is unaware of the number and general nature of sanctions imposed. The Director of Student Conduct may, for example, arrange for publication of the statistical report in the campus press each semester.
21. Boards established pursuant to this section might include modified versions of the present “Greek” or residence hall boards.
22. It is intended that a quorum will consist of three members (out of five). The authority to appoint ad hoc boards should be broadly construed and might be especially useful, for example, when a conduct board or the Senate Committee is charged with hearing a case involving one of its own members. The final determination as to whether a panel is “unable to hear a case” should be within the discretion of the Director of Student Conduct.
23. The power of confirmation represents a significant grant of authority to the Senate Committee. Moreover, confirmation procedures will give committee members direct contact with board members and will also allow the committee to exercise more control over the quality of Conduct Board decisions.
24. Proposed bylaws must be submitted to the Attorney General for review.
25. It could be a public embarrassment for the University to have a student charged with or convicted of a serious crime sit in judgment over other students in disciplinary proceedings. The various state criminal *Codes* are usually so broad and archaic, however, that automatic suspension or removal should not result from any violation of any law (e.g., New York makes it a criminal misdemeanor for anyone “to dance continuously in a dance contest for 12 or more hours without respite”).

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26. Case referrals should not be limited to members of the “campus community.” A student who assaults another person on campus should not escape University judicial action merely because the person assaulted was a visitor (or, as in a recent case, a former student who had just withdrawn from the University).
27. The Director of Student Conduct may appoint a trained volunteer from the campus community to serve as the complainant. It would be preferable, however, to employ a “community advocate” to present all disciplinary cases.

Several measures in the *Code* are designed to restore balance in disciplinary proceedings, even in those cases in which the complainant is inexperienced with administrative adjudication:

- (a) A hearing officer may be appointed in complex or serious cases. See Part 35(o).
 - (b) The role of attorneys or advisors may be restricted. See Parts 36 and 37, and Annotation 42.
 - (c) The “disciplinary conference” procedure is designed to eliminate adversary proceedings in minor cases. See Parts 33-34 and Annotation 32.
28. Staff members may consider the mitigating factors specified in Part 11 to determine the permissible sanction to be imposed if the respondent is found guilty of charges. For example, a student involved in a minor altercation might be charged pursuant to Part 9(a), but referred to a disciplinary conference, thereby precluding the possibility of expulsion or suspension for the alleged misconduct.

29. On April 4, 2011, the United States Department of Education, Office of Civil Rights issued a “significant guidance document” to provide universities with information to assist them in meeting their obligations under Title IX of the Education Amendments of 1972 (“Title IX”). This document is known as the “OCR Dear Colleague Letter”. According to the OCR Dear Colleague Letter, Title IX requires that the burden of proof in sexual harassment cases, including sexual assault, be “preponderance of the evidence.” Prior to the issuance of the OCR Dear Colleague Letter, the burden of proof under the Code was “clear and convincing evidence”. According to the OCR Dear Colleague Letter, Title IX also requires that both parties in disciplinary hearings in sexual harassment cases, including sexual assault, be provided the same appeal rights, if any.

Comment [AG4]: Added to reflect OCR compliance

30. “Clear and convincing” means “the evidence should be ‘clear’ in the sense that it is certain, plain to the understanding and unambiguous, and ‘convincing’ in the sense that it is so reasonable and persuasive as to cause [one] to believe it.” Wills v. State of Maryland, 329 Md. 370, 374 (1993), quoting Maryland Civil Practice Jury Instruction Section 1:8b (1984). It does not call for “unanswerable” or “conclusive” evidence. Attorney Grievance Commission v. Harris, 366 Md. 376, 389 (2001). To be clear and convincing means that it is substantially more likely than not that the allegations are in fact true but that it “need not be established

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with absolute certainty". *Vogel v. State*, 315 Md. 458, 473 (1989). The burden is "more than a mere preponderance of the evidence [the burden of proof in ordinary civil cases] but not beyond a reasonable doubt [the standard in criminal cases]. *Berkey v. Delia*, 287 Md. 302, 319-20 (1980).

31. "Preponderance of the evidence" means it is "more likely than not" that the violation occurred as alleged. To meet a burden of proof by a preponderance of the evidence, means that "the scales tipped in the direction" of one of the parties. "When the scales are 'in a state of even balance,' the party with the burden of proving its case by a preponderance of the evidence loses. *Wills v. State of Maryland*, 329 Md. 370, 374 (1993), quoting *Potts v. Armour & Co.*, 183 Md 483, 490 (1944). See Maryland Civil Pattern Jury Instructions Section 1:8a (1984).

Comment [AG5]: All of these sections are new to comply with OCR

32. The hearing procedures specified at Part 35 need not be followed in disciplinary conferences. Instead a disciplinary conference would normally consist of an informal, nonadversarial meeting between the respondent and a staff member in the Office of Student Conduct. Complainants would not be required to participate, unless their personal testimony was essential to the resolution of a dispositive factual issue in the case. Documentary evidence and written statements could be relied upon, so long as respondents are given access to them in advance and allowed to respond to them at the conference. Respondents would also be allowed to bring appropriate witnesses with them and might be accompanied by a representative, who may participate in discussions, although not in lieu of participation by the respondent.

The conference procedure is designed to reduce the steady growth of unnecessary legalism in disciplinary proceedings. The worst features of the adversary system (including the concept that judicial proceedings are a "contest" to be "won by clever manipulation of procedural rules) undermine respect for the rule of law. Colleges and universities can and should be a testing ground for development of carefully reasoned alternatives to current procedural excesses in the larger society.**

Procedures comparable to the disciplinary conference (referred to as "structured conversations") are suggested by David L. Kirp in his 1976 article "Proceduralism and Bureaucracy: Due Process in the School Setting" 38 *Stanford Law Review* 841.

The benefits of such conversations in the school setting may better be appreciated by contrasting them with the typical due process hearing. Hearings are designed to determine the facts of a particular controversy, and apply predetermined rules to the facts thus found. At that point, the function of the hearing is at an end. The wisdom of the underlying substantive rules has no relevance, nor is broader discussion of grievances generally encouraged, unless it is somehow pertinent to the dispute at hand.

Conversation knows no such limits. It too serves as a vehicle for resolving what are likely to be factually uncomplicated disputes, but it does more than that. It enables students to feel that they are being listened to and may encourage them to raise underlying grievances. It provides administrators with a relatively inexpensive vehicle for monitoring, and hence a basis for reshaping institutional relationships. The outcome of these 'orderly thoughtful conversations' may well be decisions different in their particulars from what might otherwise have been anticipated; repeated conversations which touch upon similar student grievances may ultimately lead disciplinarians to reassess whether control is so vital, and collaboration so improbable, as a means of assuring institutional order.

The conference procedure would not be used in any case which might result in any form of separation from the University. Accordingly, the procedure appears to meet or exceed the due process requirements set forth by the United States Supreme Court for cases involving suspensions of ten days or less. In *Goss v. Lopez* the Court held:

[W]e stop short of construing the Due Process Clause to require, countrywide, that hearings in connection with short suspensions must afford the student the opportunity to secure counsel, to confront and cross-examine witnesses supporting the charge, or to call his own witnesses to verify his version of the incident. Brief disciplinary suspensions are almost countless. To impose in each such case even truncated trial-type procedures might well overwhelm administrative facilities in many places and, by diverting resources, cost more than it would save in educational effectiveness. Moreover, further formalizing the suspension process and escalating its formality and adversary nature may not only make it too costly as a regular disciplinary tool but also destroy its effectiveness as part of the teaching process.

On the other hand, requiring effective notice and an informal hearing permitting the student to give his version of the events will provide a meaningful hedge against erroneous action. At least the disciplinarian will be alerted to the existence of disputes about facts and arguments about cause and effect. He may then determine himself to summon the accuser, permit cross-examination, and allow the student to present his own witnesses. In more difficult cases, he may permit counsel. In any event, his discretion will be more informed and we think the risk of error substantially reduced (42 L. Ed. 725, 740).

33. The case file consists of materials which would be considered "education records," pursuant to the Family Educational Rights and Privacy Act. Personal notes of University staff members or complainants are not included.

34. Determinations made in accordance with Parts 33 and 34 are not appealable.
35. Internal subpoenas may be desirable, since cases have arisen in which complainants or respondents were unable to present an effective case due to the indifference and lethargy of potential witnesses. A student who refused to respond to a subpoena may be charged with a violation of Part 9(o) of the *Code*. The Director of Student Conduct should not approve a subpoena unless the expected testimony would be clearly relevant. Likewise, a subpoena designed to embarrass or harass a potential witness should not be authorized. The subpoena power specified here is not designed to reach documents or other materials.
36. Board members should be disqualified on a case basis only; permanent removal should be accomplished in accordance with Part 27. Board members should not be readily disqualified. The term “personal bias” involves animosity toward a party or favoritism toward the opposite party. See, generally, Davis, *Administrative Law Treatise* “Bias” Section 12.03.
37. The exclusionary rule generally does not apply to civil administrative proceedings. Furthermore, the University of Maryland is exempted by statute from the applicable portions of the Administrative Procedure Act. The Maryland Court of Appeals, however, has barred evidence from administrative proceedings where a respondent establishes that officials were improperly motivated to illegally seize the evidence. See *Sheetz v. City of Baltimore*, 315 Md. 208 (1989).
38. Testimony containing hearsay may be heard, if relevant. A final determination should not be based on hearsay alone.
39. Every statement or assertion need not be proven. For example, board members may take notice that many students commute to the University.
40. Student presiding officers are often at a disadvantage when the respondent is represented by an attorney. The proceedings might progress more rapidly and efficiently if a special presiding officer were appointed. Generally, a staff member in the Office of Student Conduct would be selected for such a responsibility, although other University employees with legal training might also be called upon.
41. Information pertaining to prior findings of disciplinary and residence hall violations might be reported, as well as relevant criminal convictions. Prior allegations of misconduct should not be disclosed.
42. The dynamics of a judicial hearing in a University setting are not the same as those of a courtroom. Strict adherence to the conventions of courtroom advocacy may not be in the best interest of clients in University judicial proceedings.

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The presiding officer and the board advisor are authorized to take reasonable measures to maintain control over the proceedings in order to elicit relevant facts, to prevent the harassment of participants, to insure that proceedings are not disrupted and the interests of fairness are served. This may include regulating the timing, length and manner of presentations and objections, declaring recesses in the proceedings, and other appropriate actions. Presiding officers should have training and experience appropriate to the demands of the office.

Before hearings, presenters for both complainants and respondents shall be presented with a written statement approved by the Senate Committee on Student Conduct regarding their rights and obligations during hearings and the powers of the presiding officer to control behavior in hearings.

43. Punishment of one or several individuals for the acts of others should be avoided if the identities of the specific offenders can be readily ascertained.
44. Association does not require formal membership. Individuals who might reasonably be regarded as regular participants in group or organization activities may be held to be associated with the group or organization.
45. Leaders or spokespersons need not be officially designated or elected. For example, if a group or organization accepted or acquiesced in the act or statement of an individual associated with it, that individual might reasonably be regarded as a leader or a spokesman for the group or organization.
46. "Suspension" includes deferred suspension but not interim suspension or suspension which is withheld. See Annotation 6.
47. See Annotation 29.
48. Students left with a disciplinary record after a disciplinary conference may request that their record be voided, in accordance with Part 50. Denials may be appealed, pursuant to Part 52.
49. See Annotation 29.
50. The decision will be "final and conclusive" on the part of the conduct board, but will remain a recommendation to the Director of Student Conduct.
51. This Part is intended to discourage frivolous appeals. Respondents who are genuinely interested in pursuing an appeal can reasonably be expected to prepare a written brief.
52. Appellate bodies which do not give deference (i.e., a presumption of validity) to lower board decisions will distort the entire disciplinary system. Respondents would be encouraged to "test their strategy" and "perfect their technique" before

lower boards, since the matter would simply be heard again before a “real” board with final authority.

Lower board members usually have the best access to the evidence, including an opportunity to observe the witnesses and to judge their demeanor. Members of appellate bodies should be especially careful not to modify a sanction or to remand or dismiss a case simply because they may personally disagree with the lower board’s decision.

The opportunity to appeal adverse decisions has not been determined to be a requirement of constitutional “due process” in student disciplinary cases.*** There is presently no legal obstacle to adopting an amendment to the Code which would eliminate the appellate system altogether.

53. Respondents who obtain information at the hearing which might lead to new evidence are required to request an adjournment rather than wait to raise the matter for the first time on appeal.
54. An arbitrary and capricious decision would be a decision “unsupported by any evidence.” The cited language has been adopted by the Federal Courts as the proper standard of judicial review, under the due process clause, of disciplinary determinations made by the state boards or agencies. *See McDonald v. Board of Trustees of the University of Illinois*, 375 F. Supp. 95, 108 (N.D. Ill., 1974).
55. See Annotation 19.
56. Voided files will be so marked, shall not be kept with active disciplinary records, and shall not leave any student with a disciplinary record.
57. Disciplinary records may be reported to third parties, in accordance with University regulations and applicable state and federal law.
58. Void records shall be treated in the manner set forth in Annotation 56.
59. The scope of review shall be limited to the factors specified at Part 51. An inquiry into the initial determination of guilt or innocence is not permitted. For example, when considering the “nature” of the violation, pursuant to Part 51 (c), it is to be assumed that the violation occurred and that the respondent was responsible for it.
60. Some discretion must be retained to void even “permanent” disciplinary records. It may be unnecessary, for example, to burden a graduating senior with a lifelong stigma for an act committed as a freshman. Social norms also change rapidly. “Unacceptable” conduct in one generation may become permissible and commonplace in the next.

- * See the procedures for mandatory medical withdrawal developed by the Vice President for Student Affairs
- ** See Macklin Fleming, *The Price of Perfect Justice*: “in our pursuit of . . . perfectibility, we necessarily neglect other elements of an effective procedure, notably the resolution of controversies within a reasonable time at a reasonable cost, with reasonable uniformity . . . we impair the capacity of the legal order to achieve the basic values for which it is created, that is, to settle disputes promptly and peaceably, to restrain the strong, to protect the weak, and to conform the conduct of all the settled rules of law.”
- *** See the due process standard set forth in *Dixon v. Alabama*, 294 F.2nd 150, 158-159 (Fifth Cir., 1961), Cert. den 368 U.S. 930.

Appendix Two

Peer Institution Review – Standards of Evidence

School	Institution Type	Standard of Evidence
Berkeley	4 year-Public	Preponderance of Evidence
College of Charleston	4 year- Public	Preponderance of Evidence for all violations
Emory University	4 year- Private	Preponderance of Evidence for all violations
Florida Atlantic University	4 year-Public	Preponderance of Evidence for all violations
Georgia Tech	4 year- Public	Preponderance of Evidence for all violations
Illinois	4 year-Public	Preponderance of Evidence
James Madison University	4 year- Public	Preponderance of Evidence for all violations
Montclair State University	4 year- Public	Preponderance of Evidence for all violations
Northern Illinois University	4 year- Public	Preponderance of Evidence for all violations
Portland State University	4 year-Public	Preponderance of Evidence for all violations
Purdue University	4 year- Public	Preponderance of Evidence for all violations
UCLA	4 Year-Public	Preponderance of Evidence
UNC-Chapel Hill	4 year-Public	Beyond a reasonable doubt
Union College, NY	4 year -Private	Preponderance of Evidence
University of Delaware	4 year- Public	Preponderance of Evidence for all violations
University of Florida	4 year- Public	Preponderance of Evidence for all violations
University of Miami	4 year-Private	Preponderance of Evidence for all violations
University of Michigan-Ann Arbor	4 year-Public	Preponderance of the evidence for all community living standard violations in Housing; Clear and Convincing for statement violations
University of North Carolina- Charlotte	4 year- Public	Preponderance of Evidence for all violations
University of Texas at Arlington	4 year- Public	Preponderance of Evidence for all violations
University of Wisconsin- Madison	4 year- Public	Preponderance of Evidence for suspension, expulsion, sexual assault
Worcester State University	4 year -Public	Preponderance of Evidence for all violations
Wright State University	4 Year- Public	Preponderance of Evidence



**University Senate
CHARGE**

Date:	October 3, 2011
To:	Nan Ratner Chair, Student Conduct Committee
From:	Eric Kasischke  Chair, University Senate
Subject:	Updates to Procedural Requirements Pertaining to Sexual Harassment and Sexual Violence
Senate Document #:	11-12-10
Deadline:	March 30, 2012

The Senate Executive Committee (SEC) requests that the Student Conduct Committee review the attached proposal “Updates to Procedural Requirements Pertaining to Sexual Harassment and Sexual Violence” and make recommendations on whether the University of Maryland Code of Student Conduct V-1.00(B) should be revised.

The University’s Code of Student Conduct defines prohibited conduct by students and the review process for violations. Recently, the US Department of Education’s Office of Civil Rights (OCR) distributed a letter providing guidance to institutions regarding sexual harassment and sexual violence disciplinary proceedings and appeals processes. As a recipient of Federal financial assistance, we must comply with the directives issued in the letter. In order to be in compliance, our burden of proof requirement and appeals process must be revised in our Code of Student Conduct to include “preponderance of the evidence” instead of “clear and convincing” as the evidentiary standard in our proceedings. The SEC requests that the Student Conduct Committee review the proposal and recommend appropriate changes to the Code of Student Conduct.

Specifically, we ask that you:

1. Consult with the Office of Student Conduct and the subcommittee charged with proposing revisions to the Code of Student Conduct.
2. Consult with the University’s Office of Legal Affairs.
3. Consult with the Senate’s Equity, Diversity, and Inclusion (EDI) Committee on the impact that any changes to the Code of Student Conduct might have on the

University's Sexual Harassment Policy and the University of Maryland Code on Equity, Diversity, and Inclusion.

4. Review how our peer institutions have implemented the changes suggested in the OCR letter.
5. Consider whether the proposed evidentiary standard should apply to all violations of the Code of Student Conduct in addition to complaints of sexual harassment or violence.

We ask that you submit your report and recommendations to the Senate Office no later than March 30, 2012. If you have questions or need assistance, please contact Reka Montfort in the Senate Office, extension 5-5804.



University Senate PROPOSAL FORM

Name:	Andrea Goodwin
Date:	9/12/11
Title of Proposal:	Code of Student Conduct Revisions
Phone Number:	301-314-8206
Email Address:	agoodwin@umd.edu
Campus Address:	2118 Mitchell Building
Unit/Department/College:	Director, Office of Student Conduct
Constituency (faculty, staff, undergraduate, graduate):	Staff
Description of issue/concern/policy in question:	<p>In April, 2011, the US Department of Education's Office of Civil Rights issued a "Dear Colleague Letter" (attached) providing guidance to schools, including colleges and universities, regarding sexual harassment and sexual violence. Recipients of Federal financial assistance must comply with the directives issued in the letter including directives that pertain to disciplinary proceedings. In reviewing the <i>Code of Student Conduct</i>, it is clear that our policies, as currently stated, do not meet the procedural requirements outlined in the "Dear Colleague Letter." Specifically we are not in compliance with two major requirements:</p> <p style="padding-left: 40px;">1) Burden of Proof in University Disciplinary Proceedings</p> <p>In order for a grievance procedure to be consistent with the Office of Civil Rights requirements, the school must use a Preponderance of the Evidence Standard (<i>i.e.</i>, it is more likely than not that the sexual harassment or violence occurred.) Currently the University <i>Code of Student Conduct</i> requires us to utilize the "clear and convincing standard" (<i>i.e.</i>, it is highly probably or reasonably certain that that the sexual assault occurred) in all discipline cases.</p> <p style="padding-left: 40px;">2) Appeals</p> <p>OCR recommends that schools provide an appeals process and if a school provides for appeal of findings or remedy, it must do so for both parties. Currently, the University's <i>Code of Student Conduct</i> provides an appeal to the respondent (accused student) only.</p>

<p>Description of action/changes you would like to see implemented and why:</p>	<p>In order for the University of Maryland to be in compliance with the Office of Civil Rights, the <i>Code of Student Conduct</i> must be amended to reflect the requirements made explicit in the "Dear Colleague Letter." Attached is a draft revision of the changes to the <i>Code</i> that would be required to be in compliance with the Office of Civil Rights.</p> <p>I request that the Campus Senate Committee on Student Conduct approve changes to the <i>Code of Student Conduct</i> so that the University is in compliance with the Office of Civil Rights.</p>
<p>Suggestions for how your proposal could be put into practice:</p>	<p>The <i>Code of Student Conduct</i> can be amended.</p>
<p>Additional Information:</p>	<p>Attached is a copy of the "Dear Colleague Letter." Revisions to the <i>Code of Student Conduct</i> are currently being drafted and can be provided to the Campus Senate Committee on Student Conduct for review.</p>

Please send your completed form and any supporting documents to senate-admin@umd.edu or University of Maryland Senate Office, 1100 Marie Mount Hall, College Park, MD 20742-7541. Thank you!

U.S. Department of Education
Office for Civil Rights



Dear Colleague Letter: Sexual Violence
Background, Summary, and Fast Facts
April 4, 2011

Sexual Violence Statistics and Effects

- Acts of sexual violence are vastly under-reported.¹ Yet, data show that our nation's young students suffer from acts of sexual violence early and the likelihood that they will be assaulted by the time they graduate is significant. For example:
 - Recent data shows nearly 4,000 reported incidents of sexual battery and over 800 reported rapes and attempted rapes occurring *in our nation's public high schools*.² Indeed, by the time girls graduate from high school, more than one in ten will have been physically forced to have sexual intercourse in or out of school.³
 - When young women get to *college*, nearly 20% of them will be victims of attempted or actual sexual assault, as will about 6% of undergraduate men.⁴
- Victims of sexual assault are more likely to suffer academically and from depression, post-traumatic stress disorder, to abuse alcohol and drugs, and to contemplate suicide.⁵

Why is ED Issuing the Dear Colleague letter (DCL)?

Title IX of the Education Amendments of 1972 ("Title IX"), 20 U.S.C. Sec.1681, *et seq.*, prohibits discrimination on the basis of sex in any federally funded education program or activity. ED is issuing the DCL to explain that the requirements of Title IX cover sexual violence and to remind schools⁶ of their responsibilities to take immediate and effective steps to respond to sexual violence in accordance with the requirements of Title IX. In the context of the letter, sexual violence means physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. A number of acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, and sexual coercion.

¹ For example, see HEATHER M. KARJANE ET AL. SEXUAL ASSAULT ON CAMPUS: WHAT COLLEGES AND UNIVERSITIES ARE DOING ABOUT IT 3 (Nat'l. Institute of Justice, Dec. 2005).

² SIMONE ROBERS ET AL. INDICATORS OF SCHOOL CRIME AND SAFETY 104 (U.S. Dep't of Education & U.S. Dep't of Justice, Nov. 2010), *available at* <http://nces.ed.gov/pubs2011/2011002.pdf>.

³ EATON, D. K., KANN, L., KINCHEN, S., SHANKLIN, S., ROSS, J., HAWKINS, J., ET AL., YOUTH RISK BEHAVIOR SURVEILLANCE-UNITED STATES 2009, *Morbidity and Mortality Weekly Report*, 1-148.

⁴ CHRISTOPHER P. KREBS ET AL., THE CAMPUS SEXUAL ASSAULT STUDY FINAL REPORT xiii, 5-5. (Nat'l. Criminal Justice Reference Service, Oct. 2007), *available at* <http://www.ncjrs.gov/pdffiles1/nij/grants/221153.pdf>.

⁵ For example, see WORLD HEALTH ORGANIZATION, WORLD REPORT ON VIOLENCE AND HEALTH 162-164 (Etienne G. Krug, et al. eds., 2002), *available at* http://whqlibdoc.who.int/publications/2002/9241545615_eng.pdf; CENTERS FOR DISEASE CONTROL, UNDERSTANDING SEXUAL VIOLENCE: FACT SHEET 1 (2011), *available at* http://www.cdc.gov/violenceprevention/pdf/SV_factsheet_2011-a.pdf.

⁶ "Schools" includes all recipients of federal funding and includes school districts, colleges, and universities.

What does the DCL do?

- Provides guidance on the unique concerns that arise in sexual violence cases, such as the role of criminal investigations and a school's independent responsibility to investigate and address sexual violence.
- Provides guidance and examples about key Title IX requirements and how they relate to sexual violence, such as the requirements to publish a policy against sex discrimination, designate a Title IX coordinator, and adopt and publish grievance procedures.
- Discusses proactive efforts schools can take to prevent sexual violence.
- Discusses the interplay between Title IX, FERPA, and the Clery Act⁷ as it relates to a complainant's right to know the outcome of his or her complaint, including relevant sanctions facing the perpetrator.
- Provides examples of remedies and enforcement strategies that schools and the Office for Civil Rights (OCR) may use to respond to sexual violence.

What are a school's obligations under Title IX regarding sexual violence?

- Once a school knows or reasonably should know of possible sexual violence, it must take immediate and appropriate action to investigate or otherwise determine what occurred.
- If sexual violence has occurred, a school must take prompt and effective steps to end the sexual violence, prevent its recurrence, and address its effects, whether or not the sexual violence is the subject of a criminal investigation.
- A school must take steps to protect the complainant as necessary, including interim steps taken prior to the final outcome of the investigation.
- A school must provide a grievance procedure for students to file complaints of sex discrimination, including complaints of sexual violence. These procedures must include an equal opportunity for both parties to present witnesses and other evidence and the same appeal rights.
- A school's grievance procedures must use the preponderance of the evidence standard to resolve complaints of sex discrimination.
- A school must notify both parties of the outcome of the complaint.

How can I get help from OCR?

OCR offers technical assistance to help schools achieve voluntary compliance with the civil rights laws it enforces and works with schools to develop approaches to preventing and addressing discrimination. A school should contact the OCR enforcement office serving its jurisdiction for technical assistance. For contact information, please visit ED's website at <http://wdcrocolp01.ed.gov/CFAPPS/OCR/contactus.cfm>.

A complaint of discrimination can be filed by anyone who believes that a school that receives Federal financial assistance has discriminated against someone on the basis of race, color, national origin, sex, disability, or age. The person or organization filing the complaint need not be a victim of the alleged discrimination, but may complain on behalf of another person or group. For information on how to file a complaint with OCR, visit <http://www2.ed.gov/about/offices/list/ocr/complaintintro.html> or contact OCR's Customer Service Team at 1-800-421-3481.

⁷ The Family Educational Rights and Privacy Act is at 20 U.S.C. Sec. 1232g, and the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act is at 20 U.S.C. Sec 1092(f).



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

April 4, 2011

Dear Colleague:

Education has long been recognized as the great equalizer in America. The U.S. Department of Education and its Office for Civil Rights (OCR) believe that providing all students with an educational environment free from discrimination is extremely important. The sexual harassment of students, including sexual violence, interferes with students' right to receive an education free from discrimination and, in the case of sexual violence, is a crime.

Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 *et seq.*, and its implementing regulations, 34 C.F.R. Part 106, prohibit discrimination on the basis of sex in education programs or activities operated by recipients of Federal financial assistance. Sexual harassment of students, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title IX. In order to assist recipients, which include school districts, colleges, and universities (hereinafter "schools" or "recipients") in meeting these obligations, this letter¹ explains that the requirements of Title IX pertaining to sexual harassment also cover sexual violence, and lays out the specific Title IX requirements applicable to sexual violence.² Sexual violence, as that term is used in this letter, refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability. A number of different acts fall into the category of sexual violence, including rape,

¹ The Department has determined that this Dear Colleague Letter is a "significant guidance document" under the Office of Management and Budget's Final Bulletin for Agency Good Guidance Practices, 72 Fed. Reg. 3432 (Jan. 25, 2007), *available at*:

http://www.whitehouse.gov/sites/default/files/omb/assets/regulatory_matters_pdf/012507_good_guidance.pdf. OCR issues this and other policy guidance to provide recipients with information to assist them in meeting their obligations, and to provide members of the public with information about their rights, under the civil rights laws and implementing regulations that we enforce. OCR's legal authority is based on those laws and regulations. This letter does not add requirements to applicable law, but provides information and examples to inform recipients about how OCR evaluates whether covered entities are complying with their legal obligations. If you are interested in commenting on this guidance, please send an e-mail with your comments to OCR@ed.gov, or write to us at the following address: Office for Civil Rights, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, DC 20202.

² Use of the term "sexual harassment" throughout this document includes sexual violence unless otherwise noted. Sexual harassment also may violate Title IV of the Civil Rights Act of 1964 (42 U.S.C. § 2000c), which prohibits public school districts and colleges from discriminating against students on the basis of sex, among other bases. The U.S. Department of Justice enforces Title IV.

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sexual assault, sexual battery, and sexual coercion. All such acts of sexual violence are forms of sexual harassment covered under Title IX.

The statistics on sexual violence are both deeply troubling and a call to action for the nation. A report prepared for the National Institute of Justice found that about 1 in 5 women are victims of completed or attempted sexual assault while in college.³ The report also found that approximately 6.1 percent of males were victims of completed or attempted sexual assault during college.⁴ According to data collected under the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act (Clery Act), 20 U.S.C. § 1092(f), in 2009, college campuses reported nearly 3,300 forcible sex offenses as defined by the Clery Act.⁵ This problem is not limited to college. During the 2007-2008 school year, there were 800 reported incidents of rape and attempted rape and 3,800 reported incidents of other sexual batteries at public high schools.⁶ Additionally, the likelihood that a woman with intellectual disabilities will be sexually assaulted is estimated to be significantly higher than the general population.⁷ The Department is deeply concerned about this problem and is committed to ensuring that all students feel safe in their school, so that they have the opportunity to benefit fully from the school's programs and activities.

This letter begins with a discussion of Title IX's requirements related to student-on-student sexual harassment, including sexual violence, and explains schools' responsibility to take immediate and effective steps to end sexual harassment and sexual violence. These requirements are discussed in detail in OCR's *Revised Sexual Harassment Guidance* issued in 2001 (*2001 Guidance*).⁸ This letter supplements the *2001 Guidance* by providing additional guidance and practical examples regarding the Title IX requirements as they relate to sexual violence. This letter concludes by discussing the proactive efforts schools can take to prevent sexual harassment and violence, and by providing examples of remedies that schools and OCR may use to end such conduct, prevent its recurrence, and address its effects. Although some examples contained in this letter are applicable only in the postsecondary context, sexual

³ CHRISTOPHER P. KREBS ET AL., *THE CAMPUS SEXUAL ASSAULT STUDY: FINAL REPORT* xiii (Nat'l Criminal Justice Reference Serv., Oct. 2007), available at <http://www.ncjrs.gov/pdffiles1/nij/grants/221153.pdf>. This study also found that the majority of campus sexual assaults occur when women are incapacitated, primarily by alcohol. *Id.* at xviii.

⁴ *Id.* at 5-5.

⁵ U.S. Department of Education, Office of Postsecondary Education, Summary Crime Statistics (data compiled from reports submitted in compliance with the Clery Act), available at <http://www2.ed.gov/admins/lead/safety/criminal2007-09.pdf>. Under the Clery Act, forcible sex offenses are defined as any sexual act directed against another person, forcibly and/or against that person's will, or not forcibly or against the person's will where the victim is incapable of giving consent. Forcible sex offenses include forcible rape, forcible sodomy, sexual assault with an object, and forcible fondling. 34 C.F.R. Part 668, Subpt. D, App. A.

⁶ SIMONE ROBERS ET AL., *INDICATORS OF SCHOOL CRIME AND SAFETY: 2010* at 104 (U.S. Dep't of Educ. & U.S. Dep't of Justice, Nov. 2010), available at <http://nces.ed.gov/pubs2011/2011002.pdf>.

⁷ ERIKA HARRELL & MICHAEL R. RAND, *CRIME AGAINST PEOPLE WITH DISABILITIES, 2008* (Bureau of Justice Statistics, U.S. Dep't of Justice, Dec. 2010), available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/capd08.pdf>.

⁸ The *2001 Guidance* is available on the Department's Web site at <http://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>. This letter focuses on peer sexual harassment and violence. Schools' obligations and the appropriate response to sexual harassment and violence committed by employees may be different from those described in this letter. Recipients should refer to the *2001 Guidance* for further information about employee harassment of students.

harassment and violence also are concerns for school districts. The Title IX obligations discussed in this letter apply equally to school districts unless otherwise noted.

Title IX Requirements Related to Sexual Harassment and Sexual Violence

Schools' Obligations to Respond to Sexual Harassment and Sexual Violence

Sexual harassment is unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual violence is a form of sexual harassment prohibited by Title IX.⁹

As explained in OCR's *2001 Guidance*, when a student sexually harasses another student, the harassing conduct creates a hostile environment if the conduct is sufficiently serious that it interferes with or limits a student's ability to participate in or benefit from the school's program. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the harassment is physical. Indeed, a single or isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe. For instance, a single instance of rape is sufficiently severe to create a hostile environment.¹⁰

Title IX protects students from sexual harassment in a school's education programs and activities. This means that Title IX protects students in connection with all the academic, educational, extracurricular, athletic, and other programs of the school, whether those programs take place in a school's facilities, on a school bus, at a class or training program

⁹ Title IX also prohibits gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature. The Title IX obligations discussed in this letter also apply to gender-based harassment. Gender-based harassment is discussed in more detail in the *2001 Guidance*, and in the 2010 Dear Colleague letter on Harassment and Bullying, which is available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>.

¹⁰ See, e.g., *Jennings v. Univ. of N.C.*, 444 F.3d 255, 268, 274 n.12 (4th Cir. 2006) (acknowledging that while not an issue in this case, a single incident of sexual assault or rape could be sufficient to raise a jury question about whether a hostile environment exists, and noting that courts look to Title VII cases for guidance in analyzing Title IX sexual harassment claims); *Vance v. Spencer Cnty. Pub. Sch. Dist.*, 231 F.3d 253, 259 n.4 (6th Cir. 2000) ("[w]ithin the context of Title IX, a student's claim of hostile environment can arise from a single incident" (quoting *Doe v. Sch. Admin. Dist. No. 19*, 66 F. Supp. 2d 57, 62 (D. Me. 1999))); *Soper v. Hoben*, 195 F.3d 845, 855 (6th Cir. 1999) (explaining that rape and sexual abuse "obviously qualify as...severe, pervasive, and objectively offensive sexual harassment"); see also *Berry v. Chi. Transit Auth.*, 618 F.3d 688, 692 (7th Cir. 2010) (in the Title VII context, "a single act can create a hostile environment if it is severe enough, and instances of uninvited physical contact with intimate parts of the body are among the most severe types of sexual harassment"); *Turner v. Saloon, Ltd.*, 595 F.3d 679, 686 (7th Cir. 2010) (noting that "[o]ne instance of conduct that is sufficiently severe may be enough," which is "especially true when the touching is of an intimate body part" (quoting *Jackson v. Cnty. of Racine*, 474 F.3d 493, 499 (7th Cir. 2007))); *McKinnis v. Crescent Guardian, Inc.*, 189 F. App'x 307, 310 (5th Cir. 2006) (holding that "the deliberate and unwanted touching of [a plaintiff's] intimate body parts can constitute severe sexual harassment" in Title VII cases (quoting *Harvill v. Westward Commc'ns, L.L.C.*, 433 F.3d 428, 436 (5th Cir. 2005))).

sponsored by the school at another location, or elsewhere. For example, Title IX protects a student who is sexually assaulted by a fellow student during a school-sponsored field trip.¹¹

If a school knows or reasonably should know about student-on-student harassment that creates a hostile environment, Title IX requires the school to take immediate action to eliminate the harassment, prevent its recurrence, and address its effects.¹² Schools also are required to publish a notice of nondiscrimination and to adopt and publish grievance procedures. Because of these requirements, which are discussed in greater detail in the following section, schools need to ensure that their employees are trained so that they know to report harassment to appropriate school officials, and so that employees with the authority to address harassment know how to respond properly. Training for employees should include practical information about how to identify and report sexual harassment and violence. OCR recommends that this training be provided to any employees likely to witness or receive reports of sexual harassment and violence, including teachers, school law enforcement unit employees, school administrators, school counselors, general counsels, health personnel, and resident advisors.

Schools may have an obligation to respond to student-on-student sexual harassment that initially occurred off school grounds, outside a school's education program or activity. If a student files a complaint with the school, regardless of where the conduct occurred, the school must process the complaint in accordance with its established procedures. Because students often experience the continuing effects of off-campus sexual harassment in the educational setting, schools should consider the effects of the off-campus conduct when evaluating whether there is a hostile environment on campus. For example, if a student alleges that he or she was sexually assaulted by another student off school grounds, and that upon returning to school he or she was taunted and harassed by other students who are the alleged perpetrator's friends, the school should take the earlier sexual assault into account in determining whether there is a sexually hostile environment. The school also should take steps to protect a student who was assaulted off campus from further sexual harassment or retaliation from the perpetrator and his or her associates.

Regardless of whether a harassed student, his or her parent, or a third party files a complaint under the school's grievance procedures or otherwise requests action on the student's behalf, a school that knows, or reasonably should know, about possible harassment must promptly investigate to determine what occurred and then take appropriate steps to resolve the situation. As discussed later in this letter, the school's Title IX investigation is different from any law enforcement investigation, and a law enforcement investigation does not relieve the school of its independent Title IX obligation to investigate the conduct. The specific steps in a school's

¹¹ Title IX also protects third parties from sexual harassment or violence in a school's education programs and activities. For example, Title IX protects a high school student participating in a college's recruitment program, a visiting student athlete, and a visitor in a school's on-campus residence hall. Title IX also protects employees of a recipient from sexual harassment. For further information about harassment of employees, see *2001 Guidance* at n.1.

¹² This is the standard for administrative enforcement of Title IX and in court cases where plaintiffs are seeking injunctive relief. See *2001 Guidance* at ii-v, 12-13. The standard in private lawsuits for monetary damages is actual knowledge and deliberate indifference. See *Davis v. Monroe Cnty. Bd. of Ed.*, 526 U.S. 629, 643, 648 (1999).

investigation will vary depending upon the nature of the allegations, the age of the student or students involved (particularly in elementary and secondary schools), the size and administrative structure of the school, and other factors. Yet as discussed in more detail below, the school's inquiry must in all cases be prompt, thorough, and impartial. In cases involving potential criminal conduct, school personnel must determine, consistent with State and local law, whether appropriate law enforcement or other authorities should be notified.¹³

Schools also should inform and obtain consent from the complainant (or the complainant's parents if the complainant is under 18 and does not attend a postsecondary institution) before beginning an investigation. If the complainant requests confidentiality or asks that the complaint not be pursued, the school should take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If a complainant insists that his or her name or other identifiable information not be disclosed to the alleged perpetrator, the school should inform the complainant that its ability to respond may be limited.¹⁴ The school also should tell the complainant that Title IX prohibits retaliation, and that school officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs.

As discussed in the *2001 Guidance*, if the complainant continues to ask that his or her name or other identifiable information not be revealed, the school should evaluate that request in the context of its responsibility to provide a safe and nondiscriminatory environment for all students. Thus, the school may weigh the request for confidentiality against the following factors: the seriousness of the alleged harassment; the complainant's age; whether there have been other harassment complaints about the same individual; and the alleged harasser's rights to receive information about the allegations if the information is maintained by the school as an "education record" under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 C.F.R. Part 99.¹⁵ The school should inform the complainant if it cannot ensure confidentiality. Even if the school cannot take disciplinary action against the alleged harasser because the complainant insists on confidentiality, it should pursue other steps to limit the effects of the alleged harassment and prevent its recurrence. Examples of such steps are discussed later in this letter.

Compliance with Title IX, such as publishing a notice of nondiscrimination, designating an employee to coordinate Title IX compliance, and adopting and publishing grievance procedures, can serve as preventive measures against harassment. Combined with education and training programs, these measures can help ensure that all students and employees recognize the

¹³ In states with mandatory reporting laws, schools may be required to report certain incidents to local law enforcement or child protection agencies.

¹⁴ Schools should refer to the *2001 Guidance* for additional information on confidentiality and the alleged perpetrator's due process rights.

¹⁵ For example, the alleged harasser may have a right under FERPA to inspect and review portions of the complaint that directly relate to him or her. In that case, the school must redact the complainant's name and other identifying information before allowing the alleged harasser to inspect and review the sections of the complaint that relate to him or her. In some cases, such as those where the school is required to report the incident to local law enforcement or other officials, the school may not be able to maintain the complainant's confidentiality.

nature of sexual harassment and violence, and understand that the school will not tolerate such conduct. Indeed, these measures may bring potentially problematic conduct to the school's attention before it becomes serious enough to create a hostile environment. Training for administrators, teachers, staff, and students also can help ensure that they understand what types of conduct constitute sexual harassment or violence, can identify warning signals that may need attention, and know how to respond. More detailed information and examples of education and other preventive measures are provided later in this letter.

Procedural Requirements Pertaining to Sexual Harassment and Sexual Violence

Recipients of Federal financial assistance must comply with the procedural requirements outlined in the Title IX implementing regulations. Specifically, a recipient must:

- (A) Disseminate a notice of nondiscrimination;¹⁶
- (B) Designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX;¹⁷ and
- (C) Adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee sex discrimination complaints.¹⁸

These requirements apply to all forms of sexual harassment, including sexual violence, and are important for preventing and effectively responding to sex discrimination. They are discussed in greater detail below. OCR advises recipients to examine their current policies and procedures on sexual harassment and sexual violence to determine whether those policies comply with the requirements articulated in this letter and the *2001 Guidance*. Recipients should then implement changes as needed.

(A) Notice of Nondiscrimination

The Title IX regulations require that each recipient publish a notice of nondiscrimination stating that the recipient does not discriminate on the basis of sex in its education programs and activities, and that Title IX requires it not to discriminate in such a manner.¹⁹ The notice must state that inquiries concerning the application of Title IX may be referred to the recipient's Title IX coordinator or to OCR. It should include the name or title, office address, telephone number, and e-mail address for the recipient's designated Title IX coordinator.

The notice must be widely distributed to all students, parents of elementary and secondary students, employees, applicants for admission and employment, and other relevant persons. OCR recommends that the notice be prominently posted on school Web sites and at various

¹⁶ 34 C.F.R. § 106.9.

¹⁷ *Id.* § 106.8(a).

¹⁸ *Id.* § 106.8(b).

¹⁹ *Id.* § 106.9(a).

locations throughout the school or campus and published in electronic and printed publications of general distribution that provide information to students and employees about the school's services and policies. The notice should be available and easily accessible on an ongoing basis.

Title IX does not require a recipient to adopt a policy specifically prohibiting sexual harassment or sexual violence. As noted in the *2001 Guidance*, however, a recipient's general policy prohibiting sex discrimination will not be considered effective and would violate Title IX if, because of the lack of a specific policy, students are unaware of what kind of conduct constitutes sexual harassment, including sexual violence, or that such conduct is prohibited sex discrimination. OCR therefore recommends that a recipient's nondiscrimination policy state that prohibited sex discrimination covers sexual harassment, including sexual violence, and that the policy include examples of the types of conduct that it covers.

(B) *Title IX Coordinator*

The Title IX regulations require a recipient to notify all students and employees of the name or title and contact information of the person designated to coordinate the recipient's compliance with Title IX.²⁰ The coordinator's responsibilities include overseeing all Title IX complaints and identifying and addressing any patterns or systemic problems that arise during the review of such complaints. The Title IX coordinator or designee should be available to meet with students as needed. If a recipient designates more than one Title IX coordinator, the notice should describe each coordinator's responsibilities (*e.g.*, who will handle complaints by students, faculty, and other employees). The recipient should designate one coordinator as having ultimate oversight responsibility, and the other coordinators should have titles clearly showing that they are in a deputy or supporting role to the senior coordinator. The Title IX coordinators should not have other job responsibilities that may create a conflict of interest. For example, serving as the Title IX coordinator and a disciplinary hearing board member or general counsel may create a conflict of interest.

Recipients must ensure that employees designated to serve as Title IX coordinators have adequate training on what constitutes sexual harassment, including sexual violence, and that they understand how the recipient's grievance procedures operate. Because sexual violence complaints often are filed with the school's law enforcement unit, all school law enforcement unit employees should receive training on the school's Title IX grievance procedures and any other procedures used for investigating reports of sexual violence. In addition, these employees should receive copies of the school's Title IX policies. Schools should instruct law enforcement unit employees both to notify complainants of their right to file a Title IX sex discrimination complaint with the school in addition to filing a criminal complaint, and to report incidents of sexual violence to the Title IX coordinator if the complainant consents. The school's Title IX coordinator or designee should be available to provide assistance to school law enforcement unit employees regarding how to respond appropriately to reports of sexual violence. The Title IX coordinator also should be given access to school law enforcement unit investigation notes

²⁰ *Id.* § 106.8(a).

and findings as necessary for the Title IX investigation, so long as it does not compromise the criminal investigation.

(C) Grievance Procedures

The Title IX regulations require all recipients to adopt and publish grievance procedures providing for the prompt and equitable resolution of sex discrimination complaints.²¹ The grievance procedures must apply to sex discrimination complaints filed by students against school employees, other students, or third parties.

Title IX does not require a recipient to provide separate grievance procedures for sexual harassment and sexual violence complaints. Therefore, a recipient may use student disciplinary procedures or other separate procedures to resolve such complaints. Any procedures used to adjudicate complaints of sexual harassment or sexual violence, including disciplinary procedures, however, must meet the Title IX requirement of affording a complainant a prompt and equitable resolution.²² These requirements are discussed in greater detail below. If the recipient relies on disciplinary procedures for Title IX compliance, the Title IX coordinator should review the recipient's disciplinary procedures to ensure that the procedures comply with the prompt and equitable requirements of Title IX.²³

Grievance procedures generally may include voluntary informal mechanisms (e.g., mediation) for resolving some types of sexual harassment complaints. OCR has frequently advised recipients, however, that it is improper for a student who complains of harassment to be required to work out the problem directly with the alleged perpetrator, and certainly not without appropriate involvement by the school (e.g., participation by a trained counselor, a trained mediator, or, if appropriate, a teacher or administrator). In addition, as stated in the *2001 Guidance*, the complainant must be notified of the right to end the informal process at any time and begin the formal stage of the complaint process. Moreover, in cases involving allegations of sexual assault, mediation is not appropriate even on a voluntary basis. OCR recommends that recipients clarify in their grievance procedures that mediation will not be used to resolve sexual assault complaints.

²¹ *Id.* § 106.8(b). Title IX also requires recipients to adopt and publish grievance procedures for employee complaints of sex discrimination.

²² These procedures must apply to all students, including athletes. If a complaint of sexual violence involves a student athlete, the school must follow its standard procedures for resolving sexual violence complaints. Such complaints must not be addressed solely by athletics department procedures. Additionally, if an alleged perpetrator is an elementary or secondary student with a disability, schools must follow the procedural safeguards in the Individuals with Disabilities Education Act (at 20 U.S.C. § 1415 and 34 C.F.R. §§ 300.500-300.519, 300.530-300.537) as well as the requirements of Section 504 of the Rehabilitation Act of 1973 (at 34 C.F.R. §§ 104.35-104.36) when conducting the investigation and hearing.

²³ A school may not absolve itself of its Title IX obligations to investigate and resolve complaints of sexual harassment or violence by delegating, whether through express contractual agreement or other less formal arrangement, the responsibility to administer school discipline to school resource officers or "contract" law enforcement officers. See 34 C.F.R. § 106.4.

Prompt and Equitable Requirements

As stated in the *2001 Guidance*, OCR has identified a number of elements in evaluating whether a school's grievance procedures provide for prompt and equitable resolution of sexual harassment complaints. These elements also apply to sexual violence complaints because, as explained above, sexual violence is a form of sexual harassment. OCR will review all aspects of a school's grievance procedures, including the following elements that are critical to achieve compliance with Title IX:

- Notice to students, parents of elementary and secondary students, and employees of the grievance procedures, including where complaints may be filed;
- Application of the procedures to complaints alleging harassment carried out by employees, other students, or third parties;
- Adequate, reliable, and impartial investigation of complaints, including the opportunity for both parties to present witnesses and other evidence;
- Designated and reasonably prompt time frames for the major stages of the complaint process;
- Notice to parties of the outcome of the complaint;²⁴ and
- An assurance that the school will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.

As noted in the *2001 Guidance*, procedures adopted by schools will vary in detail, specificity, and components, reflecting differences in the age of students, school sizes and administrative structures, State or local legal requirements, and past experiences. Although OCR examines whether all applicable elements are addressed when investigating sexual harassment complaints, this letter focuses on those elements where our work indicates that more clarification and explanation are needed, including:

(A) Notice of the grievance procedures

The procedures for resolving complaints of sex discrimination, including sexual harassment, should be written in language appropriate to the age of the school's students, easily understood, easily located, and widely distributed. OCR recommends that the grievance procedures be prominently posted on school Web sites; sent electronically to all members of the school community; available at various locations throughout the school or campus; and summarized in or attached to major publications issued by the school, such as handbooks, codes of conduct, and catalogs for students, parents of elementary and secondary students, faculty, and staff.

(B) Adequate, Reliable, and Impartial Investigation of Complaints

OCR's work indicates that a number of issues related to an adequate, reliable, and impartial investigation arise in sexual harassment and violence complaints. In some cases, the conduct

²⁴ "Outcome" does not refer to information about disciplinary sanctions unless otherwise noted. Notice of the outcome is discussed in greater detail in Section D below.

may constitute both sexual harassment under Title IX and criminal activity. Police investigations may be useful for fact-gathering; but because the standards for criminal investigations are different, police investigations or reports are not determinative of whether sexual harassment or violence violates Title IX. Conduct may constitute unlawful sexual harassment under Title IX even if the police do not have sufficient evidence of a criminal violation. In addition, a criminal investigation into allegations of sexual violence does not relieve the school of its duty under Title IX to resolve complaints promptly and equitably.

A school should notify a complainant of the right to file a criminal complaint, and should not dissuade a victim from doing so either during or after the school's internal Title IX investigation. For instance, if a complainant wants to file a police report, the school should not tell the complainant that it is working toward a solution and instruct, or ask, the complainant to wait to file the report.

Schools should not wait for the conclusion of a criminal investigation or criminal proceeding to begin their own Title IX investigation and, if needed, must take immediate steps to protect the student in the educational setting. For example, a school should not delay conducting its own investigation or taking steps to protect the complainant because it wants to see whether the alleged perpetrator will be found guilty of a crime. Any agreement or Memorandum of Understanding (MOU) with a local police department must allow the school to meet its Title IX obligation to resolve complaints promptly and equitably. Although a school may need to delay temporarily the fact-finding portion of a Title IX investigation while the police are gathering evidence, once notified that the police department has completed its gathering of evidence (not the ultimate outcome of the investigation or the filing of any charges), the school must promptly resume and complete its fact-finding for the Title IX investigation.²⁵ Moreover, nothing in an MOU or the criminal investigation itself should prevent a school from notifying complainants of their Title IX rights and the school's grievance procedures, or from taking interim steps to ensure the safety and well-being of the complainant and the school community while the law enforcement agency's fact-gathering is in progress. OCR also recommends that a school's MOU include clear policies on when a school will refer a matter to local law enforcement.

As noted above, the Title IX regulation requires schools to provide equitable grievance procedures. As part of these procedures, schools generally conduct investigations and hearings to determine whether sexual harassment or violence occurred. In addressing complaints filed with OCR under Title IX, OCR reviews a school's procedures to determine whether the school is using a preponderance of the evidence standard to evaluate complaints. The Supreme Court has applied a preponderance of the evidence standard in civil litigation involving discrimination under Title VII of the Civil Rights Act of 1964 (Title VII), 42 U.S.C. §§ 2000e *et seq.* Like Title IX,

²⁵ In one recent OCR sexual violence case, the prosecutor's office informed OCR that the police department's evidence gathering stage typically takes three to ten calendar days, although the delay in the school's investigation may be longer in certain instances.

Title VII prohibits discrimination on the basis of sex.²⁶ OCR also uses a preponderance of the evidence standard when it resolves complaints against recipients. For instance, OCR's Case Processing Manual requires that a noncompliance determination be supported by the preponderance of the evidence when resolving allegations of discrimination under all the statutes enforced by OCR, including Title IX.²⁷ OCR also uses a preponderance of the evidence standard in its fund termination administrative hearings.²⁸ Thus, in order for a school's grievance procedures to be consistent with Title IX standards, the school must use a preponderance of the evidence standard (*i.e.*, it is more likely than not that sexual harassment or violence occurred). The "clear and convincing" standard (*i.e.*, it is highly probable or reasonably certain that the sexual harassment or violence occurred), currently used by some schools, is a higher standard of proof. Grievance procedures that use this higher standard are inconsistent with the standard of proof established for violations of the civil rights laws, and are thus not equitable under Title IX. Therefore, preponderance of the evidence is the appropriate standard for investigating allegations of sexual harassment or violence.

Throughout a school's Title IX investigation, including at any hearing, the parties must have an equal opportunity to present relevant witnesses and other evidence. The complainant and the alleged perpetrator must be afforded similar and timely access to any information that will be used at the hearing.²⁹ For example, a school should not conduct a pre-hearing meeting during which only the alleged perpetrator is present and given an opportunity to present his or her side of the story, unless a similar meeting takes place with the complainant; a hearing officer or disciplinary board should not allow only the alleged perpetrator to present character witnesses at a hearing; and a school should not allow the alleged perpetrator to review the complainant's

²⁶ See, e.g., *Desert Palace, Inc. v. Costa*, 539 U.S. 90, 99 (2003) (noting that under the "conventional rule of civil litigation," the preponderance of the evidence standard generally applies in cases under Title VII); *Price Waterhouse v. Hopkins*, 490 U.S. 228, 252-55 (1989) (approving preponderance standard in Title VII sex discrimination case) (plurality opinion); *id.* at 260 (White, J., concurring in the judgment); *id.* at 261 (O'Connor, J., concurring in the judgment). The 2001 Guidance noted (on page vi) that "[w]hile *Gebser* and *Davis* made clear that Title VII agency principles do not apply in determining liability for money damages under Title IX, the *Davis* Court also indicated, through its specific references to Title VII caselaw, that Title VII remains relevant in determining what constitutes hostile environment sexual harassment under Title IX." See also *Jennings v. Univ. of N.C.*, 482 F.3d 686, 695 (4th Cir. 2007) ("We look to case law interpreting Title VII of the Civil Rights Act of 1964 for guidance in evaluating a claim brought under Title IX.").

²⁷ OCR's Case Processing Manual is available on the Department's Web site, at <http://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.html>.

²⁸ The Title IX regulations adopt the procedural provisions applicable to Title VI of the Civil Rights Act of 1964. See 34 C.F.R. § 106.71 ("The procedural provisions applicable to Title VI of the Civil Rights Act of 1964 are hereby adopted and incorporated herein by reference."). The Title VI regulations apply the Administrative Procedure Act to administrative hearings required prior to termination of Federal financial assistance and require that termination decisions be "supported by and in accordance with the reliable, probative and substantial evidence." 5 U.S.C. § 556(d). The Supreme Court has interpreted "reliable, probative and substantial evidence" as a direction to use the preponderance standard. See *Steadman v. SEC*, 450 U.S. 91, 98-102 (1981).

²⁹ Access to this information must be provided consistent with FERPA. For example, if a school introduces an alleged perpetrator's prior disciplinary records to support a tougher disciplinary penalty, the complainant would not be allowed access to those records. Additionally, access should not be given to privileged or confidential information. For example, the alleged perpetrator should not be given access to communications between the complainant and a counselor or information regarding the complainant's sexual history.

statement without also allowing the complainant to review the alleged perpetrator’s statement.

While OCR does not require schools to permit parties to have lawyers at any stage of the proceedings, if a school chooses to allow the parties to have their lawyers participate in the proceedings, it must do so equally for both parties. Additionally, any school-imposed restrictions on the ability of lawyers to speak or otherwise participate in the proceedings should apply equally. OCR strongly discourages schools from allowing the parties personally to question or cross-examine each other during the hearing. Allowing an alleged perpetrator to question an alleged victim directly may be traumatic or intimidating, thereby possibly escalating or perpetuating a hostile environment. OCR also recommends that schools provide an appeals process. If a school provides for appeal of the findings or remedy, it must do so for both parties. Schools must maintain documentation of all proceedings, which may include written findings of facts, transcripts, or audio recordings.

All persons involved in implementing a recipient’s grievance procedures (*e.g.*, Title IX coordinators, investigators, and adjudicators) must have training or experience in handling complaints of sexual harassment and sexual violence, and in the recipient’s grievance procedures. The training also should include applicable confidentiality requirements. In sexual violence cases, the fact-finder and decision-maker also should have adequate training or knowledge regarding sexual violence.³⁰ Additionally, a school’s investigation and hearing processes cannot be equitable unless they are impartial. Therefore, any real or perceived conflicts of interest between the fact-finder or decision-maker and the parties should be disclosed.

Public and state-supported schools must provide due process to the alleged perpetrator. However, schools should ensure that steps taken to accord due process rights to the alleged perpetrator do not restrict or unnecessarily delay the Title IX protections for the complainant.

(C) Designated and Reasonably Prompt Time Frames

OCR will evaluate whether a school’s grievance procedures specify the time frames for all major stages of the procedures, as well as the process for extending timelines. Grievance procedures should specify the time frame within which: (1) the school will conduct a full investigation of the complaint; (2) both parties receive a response regarding the outcome of the complaint; and (3) the parties may file an appeal, if applicable. Both parties should be given periodic status updates. Based on OCR experience, a typical investigation takes approximately 60 calendar days following receipt of the complaint. Whether OCR considers complaint resolutions to be timely, however, will vary depending on the complexity of the investigation and the severity and extent of the harassment. For example, the resolution of a complaint involving multiple incidents with multiple complainants likely would take longer than one involving a single incident that

³⁰ For instance, if an investigation or hearing involves forensic evidence, that evidence should be reviewed by a trained forensic examiner.

occurred in a classroom during school hours with a single complainant.

(D) Notice of Outcome

Both parties must be notified, in writing, about the outcome of both the complaint and any appeal,³¹ *i.e.*, whether harassment was found to have occurred. OCR recommends that schools provide the written determination of the final outcome to the complainant and the alleged perpetrator concurrently. Title IX does not require the school to notify the alleged perpetrator of the outcome before it notifies the complainant.

Due to the intersection of Title IX and FERPA requirements, OCR recognizes that there may be confusion regarding what information a school may disclose to the complainant.³² FERPA generally prohibits the nonconsensual disclosure of personally identifiable information from a student's "education record." However, as stated in the *2001 Guidance*, FERPA permits a school to disclose to the harassed student information about the sanction imposed upon a student who was found to have engaged in harassment when the sanction directly relates to the harassed student. This includes an order that the harasser stay away from the harassed student, or that the harasser is prohibited from attending school for a period of time, or transferred to other classes or another residence hall.³³ Disclosure of other information in the student's "education record," including information about sanctions that do not relate to the harassed student, may result in a violation of FERPA.

Further, when the conduct involves a crime of violence or a non-forcible sex offense,³⁴ FERPA permits a postsecondary institution to disclose to the alleged victim the final results of a

³¹ As noted previously, "outcome" does not refer to information about disciplinary sanctions unless otherwise noted.

³² In 1994, Congress amended the General Education Provisions Act (GEPA), of which FERPA is a part, to state that nothing in GEPA "shall be construed to affect the applicability of title VI of the Civil Rights Act of 1964, title IX of Education Amendments of 1972, title V of the Rehabilitation Act of 1973, the Age Discrimination Act, or other statutes prohibiting discrimination, to any applicable program." 20 U.S.C. § 1221(d). The Department interprets this provision to mean that FERPA continues to apply in the context of Title IX enforcement, but if there is a direct conflict between the requirements of FERPA and the requirements of Title IX, such that enforcement of FERPA would interfere with the primary purpose of Title IX to eliminate sex-based discrimination in schools, the requirements of Title IX override any conflicting FERPA provisions. *See 2001 Guidance* at vii.

³³ This information directly relates to the complainant and is particularly important in sexual harassment cases because it affects whether a hostile environment has been eliminated. Because seeing the perpetrator may be traumatic, a complainant in a sexual harassment case may continue to be subject to a hostile environment if he or she does not know when the perpetrator will return to school or whether he or she will continue to share classes or a residence hall with the perpetrator. This information also directly affects a complainant's decision regarding how to work with the school to eliminate the hostile environment and prevent its recurrence. For instance, if a complainant knows that the perpetrator will not be at school or will be transferred to other classes or another residence hall for the rest of the year, the complainant may be less likely to want to transfer to another school or change classes, but if the perpetrator will be returning to school after a few days or weeks, or remaining in the complainant's classes or residence hall, the complainant may want to transfer schools or change classes to avoid contact. Thus, the complainant cannot make an informed decision about how best to respond without this information.

³⁴ Under the FERPA regulations, crimes of violence include arson; assault offenses (aggravated assault, simple assault, intimidation); burglary; criminal homicide (manslaughter by negligence); criminal homicide (murder and

disciplinary proceeding against the alleged perpetrator, regardless of whether the institution concluded that a violation was committed.³⁵ Additionally, a postsecondary institution may disclose to anyone—not just the alleged victim—the final results of a disciplinary proceeding if it determines that the student is an alleged perpetrator of a crime of violence or a non-forcible sex offense, and, with respect to the allegation made, the student has committed a violation of the institution’s rules or policies.³⁶

Postsecondary institutions also are subject to additional rules under the Clery Act. This law, which applies to postsecondary institutions that participate in Federal student financial aid programs, requires that “both the accuser and the accused must be informed of the outcome³⁷ of any institutional disciplinary proceeding brought alleging a sex offense.”³⁸ Compliance with this requirement does not constitute a violation of FERPA. Furthermore, the FERPA limitations on redisclosure of information do not apply to information that postsecondary institutions are required to disclose under the Clery Act.³⁹ Accordingly, postsecondary institutions may not require a complainant to abide by a nondisclosure agreement, in writing or otherwise, that would prevent the redisclosure of this information.

Steps to Prevent Sexual Harassment and Sexual Violence and Correct its Discriminatory Effects on the Complainant and Others

Education and Prevention

In addition to ensuring full compliance with Title IX, schools should take proactive measures to prevent sexual harassment and violence. OCR recommends that all schools implement preventive education programs and make victim resources, including comprehensive victim services, available. Schools may want to include these education programs in their (1) orientation programs for new students, faculty, staff, and employees; (2) training for students who serve as advisors in residence halls; (3) training for student athletes and coaches; and (4) school assemblies and “back to school nights.” These programs should include a

non-negligent manslaughter); destruction, damage or vandalism of property; kidnapping/abduction; robbery; and forcible sex offenses. Forcible sex offenses are defined as any sexual act directed against another person forcibly or against that person’s will, or not forcibly or against the person’s will where the victim is incapable of giving consent. Forcible sex offenses include rape, sodomy, sexual assault with an object, and forcible fondling. Non-forcible sex offenses are incest and statutory rape. 34 C.F.R. Part 99, App. A.

³⁵ 34 C.F.R. § 99.31(a)(13). For purposes of 34 C.F.R. §§ 99.31(a)(13)-(14), disclosure of “final results” is limited to the name of the alleged perpetrator, any violation found to have been committed, and any sanction imposed against the perpetrator by the school. 34 C.F.R. § 99.39.

³⁶ 34 C.F.R. § 99.31(a)(14).

³⁷ For purposes of the Clery Act, “outcome” means the institution’s final determination with respect to the alleged sex offense and any sanctions imposed against the accused. 34 C.F.R. § 668.46(b)(11)(vi)(B).

³⁸ 34 C.F.R. § 668.46(b)(11)(vi)(B). Under the Clery Act, forcible sex offenses are defined as any sexual act directed against another person forcibly or against that person’s will, or not forcibly or against the person’s will where the person is incapable of giving consent. Forcible sex offenses include forcible rape, forcible sodomy, sexual assault with an object, and forcible fondling. Non-forcible sex offenses include incest and statutory rape. 34 C.F.R. Part 668, Subpt. D, App. A.

³⁹ 34 C.F.R. § 99.33(c).

discussion of what constitutes sexual harassment and sexual violence, the school's policies and disciplinary procedures, and the consequences of violating these policies.

The education programs also should include information aimed at encouraging students to report incidents of sexual violence to the appropriate school and law enforcement authorities. Schools should be aware that victims or third parties may be deterred from reporting incidents if alcohol, drugs, or other violations of school or campus rules were involved.⁴⁰ As a result, schools should consider whether their disciplinary policies have a chilling effect on victims' or other students' reporting of sexual violence offenses. For example, OCR recommends that schools inform students that the schools' primary concern is student safety, that any other rules violations will be addressed separately from the sexual violence allegation, and that use of alcohol or drugs never makes the victim at fault for sexual violence.

OCR also recommends that schools develop specific sexual violence materials that include the schools' policies, rules, and resources for students, faculty, coaches, and administrators. Schools also should include such information in their employee handbook and any handbooks that student athletes and members of student activity groups receive. These materials should include where and to whom students should go if they are victims of sexual violence. These materials also should tell students and school employees what to do if they learn of an incident of sexual violence. Schools also should assess student activities regularly to ensure that the practices and behavior of students do not violate the schools' policies against sexual harassment and sexual violence.

Remedies and Enforcement

As discussed above, if a school determines that sexual harassment that creates a hostile environment has occurred, it must take immediate action to eliminate the hostile environment, prevent its recurrence, and address its effects. In addition to counseling or taking disciplinary action against the harasser, effective corrective action may require remedies for the complainant, as well as changes to the school's overall services or policies. Examples of these actions are discussed in greater detail below.

Title IX requires a school to take steps to protect the complainant as necessary, including taking interim steps before the final outcome of the investigation. The school should undertake these steps promptly once it has notice of a sexual harassment or violence allegation. The school should notify the complainant of his or her options to avoid contact with the alleged perpetrator and allow students to change academic or living situations as appropriate. For instance, the school may prohibit the alleged perpetrator from having any contact with the complainant pending the results of the school's investigation. When taking steps to separate the complainant and alleged perpetrator, a school should minimize the burden on the

⁴⁰ The Department's Higher Education Center for Alcohol, Drug Abuse, and Violence Prevention (HEC) helps campuses and communities address problems of alcohol, other drugs, and violence by identifying effective strategies and programs based upon the best prevention science. Information on HEC resources and technical assistance can be found at www.higheredcenter.org.

complainant, and thus should not, as a matter of course, remove complainants from classes or housing while allowing alleged perpetrators to remain. In addition, schools should ensure that complainants are aware of their Title IX rights and any available resources, such as counseling, health, and mental health services, and their right to file a complaint with local law enforcement.⁴¹

Schools should be aware that complaints of sexual harassment or violence may be followed by retaliation by the alleged perpetrator or his or her associates. For instance, friends of the alleged perpetrator may subject the complainant to name-calling and taunting. As part of their Title IX obligations, schools must have policies and procedures in place to protect against retaliatory harassment. At a minimum, schools must ensure that complainants and their parents, if appropriate, know how to report any subsequent problems, and should follow-up with complainants to determine whether any retaliation or new incidents of harassment have occurred.

When OCR finds that a school has not taken prompt and effective steps to respond to sexual harassment or violence, OCR will seek appropriate remedies for both the complainant and the broader student population. When conducting Title IX enforcement activities, OCR seeks to obtain voluntary compliance from recipients. When a recipient does not come into compliance voluntarily, OCR may initiate proceedings to withdraw Federal funding by the Department or refer the case to the U.S. Department of Justice for litigation.

Schools should proactively consider the following remedies when determining how to respond to sexual harassment or violence. These are the same types of remedies that OCR would seek in its cases.

Depending on the specific nature of the problem, remedies for the complainant might include, but are not limited to:⁴²

- providing an escort to ensure that the complainant can move safely between classes and activities;
- ensuring that the complainant and alleged perpetrator do not attend the same classes;
- moving the complainant or alleged perpetrator to a different residence hall or, in the case of an elementary or secondary school student, to another school within the district;
- providing counseling services;
- providing medical services;
- providing academic support services, such as tutoring;

⁴¹ The Clery Act requires postsecondary institutions to develop and distribute a statement of policy that informs students of their options to notify proper law enforcement authorities, including campus and local police, and the option to be assisted by campus personnel in notifying such authorities. The policy also must notify students of existing counseling, mental health, or other student services for victims of sexual assault, both on campus and in the community. 20 U.S.C. §§ 1092(f)(8)(B)(v)-(vi).

⁴² Some of these remedies also can be used as interim measures before the school's investigation is complete.

- arranging for the complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the complainant's academic record; and
- reviewing any disciplinary actions taken against the complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the complainant being disciplined.⁴³

Remedies for the broader student population might include, but are not limited to:

Counseling and Training

- offering counseling, health, mental health, or other holistic and comprehensive victim services to all students affected by sexual harassment or sexual violence, and notifying students of campus and community counseling, health, mental health, and other student services;
- designating an individual from the school's counseling center to be "on call" to assist victims of sexual harassment or violence whenever needed;
- training the Title IX coordinator and any other employees who are involved in processing, investigating, or resolving complaints of sexual harassment or sexual violence, including providing training on:
 - the school's Title IX responsibilities to address allegations of sexual harassment or violence
 - how to conduct Title IX investigations
 - information on the link between alcohol and drug abuse and sexual harassment or violence and best practices to address that link;
- training all school law enforcement unit personnel on the school's Title IX responsibilities and handling of sexual harassment or violence complaints;
- training all employees who interact with students regularly on recognizing and appropriately addressing allegations of sexual harassment or violence under Title IX; and
- informing students of their options to notify proper law enforcement authorities, including school and local police, and the option to be assisted by school employees in notifying those authorities.

Development of Materials and Implementation of Policies and Procedures

- developing materials on sexual harassment and violence, which should be distributed to students during orientation and upon receipt of complaints, as well as widely posted throughout school buildings and residence halls, and which should include:
 - what constitutes sexual harassment or violence
 - what to do if a student has been the victim of sexual harassment or violence
 - contact information for counseling and victim services on and off school grounds
 - how to file a complaint with the school
 - how to contact the school's Title IX coordinator

⁴³ For example, if the complainant was disciplined for skipping a class in which the harasser was enrolled, the school should review the incident to determine if the complainant skipped the class to avoid contact with the harasser.

- what the school will do to respond to allegations of sexual harassment or violence, including the interim measures that can be taken
- requiring the Title IX coordinator to communicate regularly with the school’s law enforcement unit investigating cases and to provide information to law enforcement unit personnel regarding Title IX requirements;⁴⁴
- requiring the Title IX coordinator to review all evidence in a sexual harassment or sexual violence case brought before the school’s disciplinary committee to determine whether the complainant is entitled to a remedy under Title IX that was not available through the disciplinary committee;⁴⁵
- requiring the school to create a committee of students and school officials to identify strategies for ensuring that students:
 - know the school’s prohibition against sex discrimination, including sexual harassment and violence
 - recognize sex discrimination, sexual harassment, and sexual violence when they occur
 - understand how and to whom to report any incidents
 - know the connection between alcohol and drug abuse and sexual harassment or violence
 - feel comfortable that school officials will respond promptly and equitably to reports of sexual harassment or violence;
- issuing new policy statements or other steps that clearly communicate that the school does not tolerate sexual harassment and violence and will respond to any incidents and to any student who reports such incidents; and
- revising grievance procedures used to handle sexual harassment and violence complaints to ensure that they are prompt and equitable, as required by Title IX.

School Investigations and Reports to OCR

- conducting periodic assessments of student activities to ensure that the practices and behavior of students do not violate the school’s policies against sexual harassment and violence;
- investigating whether any other students also may have been subjected to sexual harassment or violence;
- investigating whether school employees with knowledge of allegations of sexual harassment or violence failed to carry out their duties in responding to those allegations;
- conducting, in conjunction with student leaders, a school or campus “climate check” to assess the effectiveness of efforts to ensure that the school is free from sexual harassment and violence, and using the resulting information to inform future proactive steps that will be taken by the school; and

⁴⁴ Any personally identifiable information from a student’s education record that the Title IX coordinator provides to the school’s law enforcement unit is subject to FERPA’s nondisclosure requirements.

⁴⁵ For example, the disciplinary committee may lack the power to implement changes to the complainant’s class schedule or living situation so that he or she does not come in contact with the alleged perpetrator.

- submitting to OCR copies of all grievances filed by students alleging sexual harassment or violence, and providing OCR with documentation related to the investigation of each complaint, such as witness interviews, investigator notes, evidence submitted by the parties, investigative reports and summaries, any final disposition letters, disciplinary records, and documentation regarding any appeals.

Conclusion

The Department is committed to ensuring that all students feel safe and have the opportunity to benefit fully from their schools' education programs and activities. As part of this commitment, OCR provides technical assistance to assist recipients in achieving voluntary compliance with Title IX.

If you need additional information about Title IX, have questions regarding OCR's policies, or seek technical assistance, please contact the OCR enforcement office that serves your state or territory. The list of offices is available at <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm>. Additional information about addressing sexual violence, including victim resources and information for schools, is available from the U.S. Department of Justice's Office on Violence Against Women (OVW) at <http://www.ovw.usdoj.gov/>.⁴⁶

Thank you for your prompt attention to this matter. I look forward to continuing our work together to ensure that all students have an equal opportunity to learn in a safe and respectful school climate.

Sincerely,

/s/

Russlynn Ali
Assistant Secretary for Civil Rights

⁴⁶ OVW also administers the Grants to Reduce Domestic Violence, Dating Violence, Sexual Assault, and Stalking on Campus Program. This Federal funding is designed to encourage institutions of higher education to adopt comprehensive, coordinated responses to domestic violence, dating violence, sexual assault, and stalking. Under this competitive grant program, campuses, in partnership with community-based nonprofit victim advocacy organizations and local criminal justice or civil legal agencies, must adopt protocols and policies to treat these crimes as serious offenses and develop victim service programs and campus policies that ensure victim safety, offender accountability, and the prevention of such crimes. OVW recently released the first solicitation for the Services, Training, Education, and Policies to Reduce Domestic Violence, Dating Violence, Sexual Assault and Stalking in Secondary Schools Grant Program. This innovative grant program will support a broad range of activities, including training for school administrators, faculty, and staff; development of policies and procedures for responding to these crimes; holistic and appropriate victim services; development of effective prevention strategies; and collaborations with mentoring organizations to support middle and high school student victims.