

**Technical and Legal Updates to VI-1.00(B) University of Maryland Non-Discrimination Policy and Procedures (Senate Document #23-24-15)****TO Darryll J. Pines | President****FROM Jordan Sly | Chair, University Senate**

I am pleased to forward the accompanying legislation for your consideration and approval. Yasmeen Faroqi-Shah, Equity, Diversity, and Inclusion (EDI) Committee presented the Technical and Legal Updates to VI-1.00(B) University of Maryland Non-Discrimination Policy and Procedures (Senate Document #23-24-15), which the University Senate Executive Committee approved at its meeting on January 22, 2025. Please inform the Senate of your decision and any administrative action related to your conclusion.

**Approved:****Darryll J. Pines  
President****Date:****03-10-2025**

Copies of this approval and the accompanying legislation will be forwarded to:

**Jennifer King Rice**, Senior Vice President and Provost  
**Veronica Marin**, Executive Secretary and Director, University Senate  
**Jay Rosselló**, Vice President for Legal Affairs and General Counsel  
**Dylan Baker**, Associate Vice President for Finance and Personnel  
**John Bertot**, Associate Provost for Faculty Affairs  
**Elizabeth Beise**, Associate Provost for Academic Planning & Programs  
**Rhonda Smith**, Director, Division of Academic Affairs  
**Michele Eastman**, Assistant President and Chief of Staff  
**Georgina Dodge**, Vice President for Diversity and Inclusion  
**Sarah Dammeyer**, Chair-Elect, University Senate  
**Christopher Jarzynski**, Past Chair, University Senate  
**Angela Nastase**, Director and Title IX Coordinator, Office of Civil Rights & Sexual Misconduct  
**Yasmeen Faroqi-Shah**, Chair, Equity, Diversity, and Inclusion (EDI) Committee



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

**PRESENTED BY** Yasmeen Farooqi Shah, Chair

**REVIEW DATES** SEC – January 22, 2025 | University Senate – February 5, 2025

**VOTING METHOD** In a single vote

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

**NECESSARY APPROVALS** University Senate, President

### **ISSUE**

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

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

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

Due to on-going lawsuits the new Title IX regulations were not implemented. It was requested by the Office of Civil Rights & Sexual Misconduct, that the committee approve the original proposed changes and resolve long-overdue technical and legal updates necessary to ensure compliance.

### **RECOMMENDATIONS**

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The Equity, Diversity, and Inclusion Committee recommends that the University Senate approve the proposed technical and legal changes to the University of Maryland Non-Discrimination Policy and Procedures.

## **COMMITTEE WORK**

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The Equity, Diversity, and Inclusion Committee approved previously proposed Non-Discrimination policy and produces updates focused on technical compliance and legal alignment, due to new federal regulations remaining unimplemented due to ongoing lawsuits.

## **ALTERNATIVES**

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The Senate could decide not to approve the recommendation.

## **RISKS**

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

## **FINANCIAL IMPLICATIONS**

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There are no financial implications in approving these recommendations.



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

### 2024-2025 Committee

**Yasmeen Farooqi Shah** (Chair)  
**Felicia Bidgell** (Exempt Staff)  
**Lacey Curry** (Faculty)  
**Anna Emenheiser** (Graduate Student)  
**Jack Garrard** (Exempt Staff)  
**Dannielle Glaros** (Ex-Officio VP & Chief Administrative Officer Rep)  
**Dalton Greene** (Graduate Student)  
**Caroline Griffith** (Undergraduate Student)  
**Joanne Klossner** (Faculty)  
**Yvette Lerma Jones** (Ex-Officio VP Student Affairs Rep)  
**b.a Medina** (Ex-Officio VP Diversity & Inclusion Rep)

**Lauren Miles** (Non-Exempt Staff)  
**Ashely Monrone** (Non-Exempt Staff)  
**Angela Nastase** (Ex-Officio OCRSM Rep)  
**Thu Nguyen** (Faculty)  
**Chinaza Ofor** (Undergraduate Student)  
**Laura Rosenthal** (Ex-Officio Provost's Rep)  
**Delida Sanchez** (Faculty)  
**Shane Walsh** (Faculty)

### Date of Submission

**January 2025**

## BACKGROUND

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

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

The EDI Committee worked on the charge assigned from February 2024 to May 2024. It was learned that the revisions were intended to align the University’s policy and procedures with federal law. Additionally, the revisions reduced ambiguities within the practices of the policy and updated titles and addresses of policy recourses. Due to the U.S Department of Education issuance of final federal regulations regarding sex- based discrimination under Title IX on April 19, 2024, the committee moved to submit its reports and recommendations to the Office of General Counsel, Office of Civil Rights & Sexual Misconduct, and the Office of the President to consider the committee’s work in their development of the interim sexual misconduct policy. The SEC voted to approve the committee’s recommendations on May 17, 2024.

## COMMITTEE WORK

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At its meeting on November 18, 2024, an update regarding new Title IX regulations announced in April 2023 was given to the EDI Committee. It was discussed that due to on-going lawsuits the new Title IX regulations have not been implemented and the Office of Civil Rights and Sexual Misconduct requested, that the committee approve the original proposed changes and resolve long-overdue technical and legal updates necessary to ensure compliance.

Angela Nastase, Director, and Title IX Coordinator from the Office of Civil Rights & Sexual Misconduct provided additional context sharing that the proposed changes included updating titles and addresses of policy resources and aligning the University's policy and procedures with federal law. The report of the previous 2023-2024 academic year EDI Committee was included for review in the materials for the meeting. (Appendix 2)

The EDI Committee voted to approve the previous work and recommendations of the committee and move the proposed technical and legal changes forward.

## **RECOMMENDATIONS**

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The Equity, Diversity, and Inclusion Committee recommends that the University Senate approve the proposed technical and legal changes to the University of Maryland Non-Discrimination Policy and Procedures.

## **APPENDICES**

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- Appendix 1 – Charge from the Senate Executive Committee
- Appendix 2 – Finalized Report of Work Completed in the 23-24 Academic Year
- Appendix 3 – Proposed Red-lined Version of Changes to the Policy
- Appendix 4 – Red-lined Version of Changes to the Policy



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

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

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

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

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



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

**PRESENTED BY** Kim Coles, Chair

**REVIEW DATES** SEC – May 17, 2024

**VOTING METHOD** In a single vote

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

**NECESSARY APPROVALS** Senate Executive Committee

### ISSUE

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

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

### RECOMMENDATIONS

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

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

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



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

## **COMMITTEE WORK**

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

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

## **ALTERNATIVES**

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The Senate could decide not to approve the recommendation.

## **RISKS**

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

## **FINANCIAL IMPLICATIONS**

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There are no financial implications in approving these recommendations.



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

### 2023-2024 Committee

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

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

### Date of Submission

May 2024

## BACKGROUND

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

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

## COMMITTEE WORK

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

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

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

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

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

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

## RECOMMENDATIONS

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

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

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

## APPENDICES

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Appendix 1 – Charge from the Senate Executive Committee

Appendix 2 – Proposed Redlined version of changes to the Policy

Appendix 3 – Redlined version of changes to the Policy



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

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

**I. POLICY STATEMENT**

The University of Maryland is committed to creating and maintaining an educational, working, and living environment that is free from discrimination and harassment. This Policy prohibits discrimination on grounds protected under Federal and Maryland law and Board of Regents policies. University programs, activities, and facilities are available to all without regard to race, color, ~~sex~~<sup>1</sup>, gender identity or expression, sexual orientation, marital status, age, national origin, political affiliation, physical or mental disability<sup>2</sup>, religion, protected veteran status, genetic information, personal appearance, or any other legally protected class. Retaliation against any individual who files a complaint or participates in an investigation under this Policy is strictly prohibited. In furtherance of the University's commitment to equal opportunity, this Policy and associated procedures are established to address and remedy complaints of discrimination, harassment, and retaliation based on a protected class.

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

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

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

**Office of Civil Rights & Sexual Misconduct (OCRSM)**

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

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

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

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

## II. APPLICABILITY

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

This Policy applies to discrimination, harassment, or retaliation:

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

## III. DEFINITIONS

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

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

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

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

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

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

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

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

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

“**Retaliation**” refers to action that is taken against an individual because they reported Discrimination, filed a complaint of Discrimination, or participated in an investigation or proceeding concerning a Discrimination complaint.

~~“**Sexual Harassment**” is a form of Discrimination that encompasses conduct that consists of unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature. Sexual Harassment does not need to be severe or pervasive and includes the presence of one of the following three circumstances:~~

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

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

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

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

#### IV. COMPLAINT PROCEDURES

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

##### A. Reporting

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

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

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

#### **B. Timeliness**

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

#### **C. Initial Assessment**

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

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

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

#### **D. Alternative Resolution Process**

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

#### **E. Investigation**

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

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

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

The OCRSM will assign an investigator<sup>3</sup> who will conduct an adequate, reliable, and impartial investigation of the complaint. As part of the investigation, the investigator will interview the Complainant and the Respondent and any other available relevant witnesses, and review available relevant documents.

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

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



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

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

1. Standard of Review

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

2. Expectation of Cooperation

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

3. Investigation Timeline

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

4. False Information

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

5. Written Investigation Report and Findings

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

## **F. Confidentiality and Privacy**

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

## V. APPEAL

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

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

### A. Grounds for Appeal

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

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

### B. Review

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

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

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

### C. Outcome

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

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

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

## VI. RECOMMENDATIONS FOR CORRECTIVE ACTION

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

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

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

## **VII. DISCIPLINARY ACTION**

### **A. Students**

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

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

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

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

### **B. Staff**

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

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

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

### C. Faculty

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

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

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

### D. Records Retention

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

## VIII. EXTERNAL GOVERNMENT AGENCIES THAT ADDRESS DISCRIMINATION COMPLAINTS

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

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

### **Equal Employment Opportunity Commission (EEOC)**

[GH Fallon Federal Building 31 Hopkins Plaza, Suite 1432](#)

[Baltimore, MD 21201](#)

[Telephone: 1-800-669-4000](#)

[Fax: 443-992-7880](#)

[TTY: 1-800-669-6820](#)

[Website: https://www.eeoc.gov/](https://www.eeoc.gov/)

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

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**Field Code Changed**

**Maryland Commission on Civil Rights (MCCR)**

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

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

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

**Office for Civil Rights – U.S. Department of Education**

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

**Maryland Commission on Civil Rights**

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

**Equal Employment Opportunity Commission**

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

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

## Appendix 4 - Red-lined Version of Changes to the Policy



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

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

#### I. POLICY STATEMENT

The University of Maryland is committed to creating and maintaining an educational, working, and living environment that is free from discrimination and harassment. This Policy prohibits discrimination on grounds protected under Federal and Maryland law and Board of Regents policies. University programs, activities, and facilities are available to all without regard to race, color, sex<sup>1</sup>, gender identity or expression, sexual orientation, marital status, age, national origin, political affiliation, physical or mental disability<sup>2</sup>, religion, protected veteran status, genetic information, personal appearance, or any other legally protected class. Retaliation against any individual who files a complaint or participates in an investigation under this Policy is strictly prohibited. In furtherance of the University's commitment to equal opportunity, this Policy and associated procedures are established to address and remedy complaints of discrimination, harassment, and retaliation based on a protected class.

The **Office of Civil Rights & Sexual Misconduct (OCRSM)** shall receive all complaints of discrimination and harassment made pursuant to this Policy. Complaints may also be filed online using the

[Discrimination Complaint Form](#)

#### Office of Civil Rights & Sexual Misconduct (OCRSM)

University of Maryland  
4113 Susquehanna Hall  
4200 Lehigh Road  
College Park, MD 20742-5031  
E-mail: [civilrights@umd.edu](mailto:civilrights@umd.edu)  
Phone: 301-405-1142 | Fax: 301-405-2837  
<http://www.ocrsmd.edu>

#### II. APPLICABILITY

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

This Policy applies to discrimination, harassment, or retaliation:

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

### III. DEFINITIONS

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

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

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

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

- conduct, whether verbal, physical, written, graphic, or electronic that threatens, intimidates, offends, belittles, denigrates, or shows an aversion toward an individual or group;
- epithets, slurs, or negative stereotyping, jokes, or nicknames;
- written, printed, or graphic material that contains offensive, denigrating, or demeaning comments, or pictures; and
- the display of offensive, denigrating, or demeaning objects, e-mails, text messages, or cell phone pictures.

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

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

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

“**Retaliation**” refers to action that is taken against an individual because they reported Discrimination, filed a complaint of Discrimination, or participated in an investigation or proceeding concerning a Discrimination complaint.

~~“**Sexual Harassment**” is a form of Discrimination that encompasses conduct that consists of unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature. Sexual Harassment does not need to be severe or pervasive and includes the presence of one of the following three circumstances:~~

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

### IV. COMPLAINT PROCEDURES



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

### **A. Reporting**

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

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

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

### **B. Timeliness**

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

### **C. Initial Assessment**

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

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

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

### **D. Alternative Resolution Process**

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

### **E. Investigation**

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

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

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

The OCRSM will assign an investigator<sup>3</sup> who will conduct an adequate, reliable, and impartial investigation of the complaint. As part of the investigation, the investigator will interview the Complainant and the Respondent and any other available relevant witnesses, and review available relevant documents.

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

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

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

#### 1. Standard of Review

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

#### 2. Expectation of Cooperation

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

#### 3. Investigation Timeline

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

#### 4. False Information

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

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

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

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

#### 1. Substantial Procedural Error

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

#### 2. New Evidence

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

### B. Review

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

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- ♦ appeals involving a Staff Respondent shall be reviewed by the Vice President & Chief Administrative Officer or designee;
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- ♦ appeals that do not directly involve a faculty, staff, or student Respondent shall be reviewed by the Vice President & Chief Administrative Officer or designee.

### C. Outcome

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

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

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

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### A. Students

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

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

### **C. Faculty**

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

- ♦ reassignment of duties;
- ♦ mandatory training;
- ♦ verbal reminders;
- ♦ written reminders/letters of reprimand;
- ♦ suspension with or without pay; and
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Faculty may grieve discipline imposed as a result of a violation of this Policy in accordance with their respective grievance rights.

### **D. Records Retention**

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

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William Donald Schaefer Tower

6 Saint Paul Street, Suite 900

Baltimore, MD 21202-1631

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

E-mail: [mccr@maryland.gov](mailto:mccr@maryland.gov)

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

The Wanamaker Building

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

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

Philadelphia Office (Regional Office for Maryland)

The Wanamaker Building

100 Penn Square East, Suite 515

Philadelphia, PA 19107-3323

Phone: 215-656-8541

FAX: 215-656-8605

TDD: 800-877-8339

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

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

**Maryland Commission on Civil Rights**

Phone: 410-767-8600

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

**Equal Employment Opportunity Commission**

Phone: 800-669-4000

TTY: 800-669-6820

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

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

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

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

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