

April 21, 2016

MEMORANDUM

TO: University Senate Members

FROM: Willie Brown
Chair of the University Senate

SUBJECT: University Senate Meeting on Thursday, April 28, 2016

The next meeting of the University Senate will be held on Thursday, April 28, 2016. The meeting will run from **3:15 p.m. – 5:00 p.m.**, in the **0220 Jimenez Hall**. (***Please note the new location***) If you are unable to attend, 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 website. 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 April 20, 2016 Senate Minutes (Action)
3. Report of the Chair
4. Review of the Interim University of Maryland Non-Discrimination Policy and Procedures (Senate Doc. No. 15-16-28) (Action)
5. Review of the University of Maryland Disability & Accessibility Policy and Procedures (Senate Doc. No. 15-16-29) (Action)
6. Revisions to the University of Maryland Sexual Misconduct Policy (Senate Doc. No. 15-16-30) (Action)
7. Review of the Interim Sexual Misconduct Faculty Procedures (Senate Doc. No. 14-15-27) (Action)

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

8. Review of the Interim Sexual Misconduct Staff Procedures (Senate Doc. No. 14-15-26) (Action)
9. Review of the Interim Sexual Misconduct Student Procedures (Senate Doc. No. 14-15-16) (Action)
10. Proposed Policy on Excused Absence (Senate Doc. No. 14-15-21) (Action)
11. Revisions to the Smith School of Business (BMGT) Plan of Organization (Senate Doc. No. 14-15-37) (Action)
12. New Business
13. Adjournment

University Senate

April 20, 2016

Members Present

Members present at the meeting: 94

Call to Order

Senate Chair Brown called the meeting to order at 3:17 p.m.

Special Order: Presidential Briefing

President Loh spoke about the Review of Shared Governance Procedure Implementation report and noted that American universities are unique in that they have shared governance. He expressed his commitment to shared governance and asked how it can be made stronger. He explained that shared governance means the sharing of the governance of the institution with all of its stakeholder and noted that the more informed the senators are, the deeper the input is.

President Loh added that shared governance also includes meeting with students, department chairs, faculty, and staff and that the University Senate is not the only part of shared governance. He explained that the primary governance body is the Board of Regents (BOR) which delegates authority to the President. The President then delegates authority to the vice presidents, the deans, etc. The people in leadership roles need to engage in shared governance with all constituents. The Senate has the primary, but not sole, responsibility to engage with constituents. Shared governance is not shared management, and no single group has the primary responsibility for the entire process.

President Loh noted that the Senate looks at University-wide issues and that governance should be from a university-wide perspective. He spoke about the senator orientation program at the University of Washington and suggested that the Senate consider implementing a similar model. He also expressed the importance of relationships in shared governance.

Brown opened the floor to questions.

Senator Egan, faculty, School of Public Policy, asked President Loh for a recent example of a challenge related to shared governance.

President Loh responded that changing the name of Byrd Stadium was challenging. He stated that the representative working group gave pros and cons, but no recommendation. He noted the criticism of the issue not being brought to the Senate and commented on the sensitivity of the matter. He gave a second example of the role of shared governance on how the Athletics Department uses Big Ten revenue. He stated that he was not sure that it was the role of the Senate or even the President. He added that it is not just about

governance but also about leadership. He noted the importance of an orientation for senators on University processes and administrative leadership.

Chair Brown thanked President Loh for his remarks and reminded Senators that they would receive a link following the meeting to provide feedback.

Approval of the April 7, 2016, Senate Minutes (Action)

Chair Brown asked for additions or corrections to the minutes of the April 7, 2016, meeting; hearing none, he declared the minutes approved as distributed.

Report of the Chair

Committee Volunteer Period

Chair Brown explained that the volunteer period for Senate standing committees had recently opened. He encouraged senators to reach out to the campus community about participating in shared governance and encourage volunteers to serve on a committee by going to the Senate website: www.senate.umd.edu. He especially encouraged faculty to volunteer and engage their colleagues as well. The deadline to volunteer is April 30, 2016.

Remaining Senate Meetings

Chair Brown reminded Senators that there are now two more Senate meetings this academic year. Our next meeting will be held on April 28th and will be held in 0220 Jimenez Hall. This will now be the last business meeting of the semester for any outgoing Senators. He noted that the Senate would have several time-sensitive issues presented at this meeting and expressed importance of a quorum to conduct business. He stated that he hoped that many of the senators would be able to attend this important meeting.

The May 5th Transition Senate Meeting will be for all continuing and incoming senators. On May 5th, the Senate will elect its next Chair-Elect, Jordan Goodman will take over as Chair, and the Senate will then vote for the elected committees of the Senate. Brown noted that the names of candidates running for the various committees and their candidacy statements would be distributed on April 21st.

Review of Shared Governance Procedure Implementation (Senate Doc. No. 15-16-09) (Information)

Chair Brown presented the Review of Shared Governance Procedure Implementation (Senate Doc. No. 15-16-09). He reminded Senators that the Senate leadership developed a series of actionable procedures to increase communication, inclusiveness, transparency, engagement, awareness, and trust. These procedures were intended to improve not only communication and relationships between the Senate, SEC, and the administration, but also to improve our working efficiencies and enhance the awareness of the campus community on the impact that the Senate's activities have on their daily lives and the importance of shared governance. At the October 10, 2015, Senate meeting, the University Senate approved a motion to charge the SEC with reviewing the implementation of these procedures and reporting back to the Senate on their findings no later than the April 2016 Senate meeting. Specifically, the SEC should be charged with determining:

- Is there improved engagement with the President and Provost?

- Is there improved opportunity to provide informed input and feedback for substantive issues that impact faculty, staff, and students?
- Is there is an improvement in awareness and communication within the campus, colleges, schools, and units regarding the activities of the Senate? Has this led to increased engagement?

The report included in your materials is an information item that details the results of that review. While engagement between the Senate and the administration, and between the Senate and the campus community, has improved over the past year, more work still needs to be done. The procedures put in place this year should be reviewed, revised, and expanded to meet the needs of the campus and its constituents. The Senate leadership should continue to work with the administration to improve procedures to enhance shared governance at the University and continue to develop new ways to engage the campus community in the work of the Senate.

PCC Proposal to Establish a Bachelor of Arts in Public Policy (Senate Doc. No. 15-16-27) (Action)

Andrew Harris, Chair of the Programs, Curricula, and Courses (PCC) Committee, presented the PCC Proposal to Establish a Bachelor of Arts in Public Policy and provided background information.

Chair Brown opened the floor for discussion of the proposal.

Dean Orr, School of Public Policy, stated that the proposal is more than just creating an undergraduate program. It recognizes the growth and vibrancy of the discipline.

Patrick Ronk, Student Government Association President, applauded the merits of the proposal and noted that he was drawn to the University because of the existing five-year program and added that a full undergraduate degree would make the University more attractive to students. He was in full support of the proposal and added that it would be good for both prospective and current students.

Dean Orr introduced Natalie Tran, undergraduate student, Robert H. Smith School of Business. She noted that she wanted to major in Public Policy, but still chose to attend UMD and wished the option had been available to her. She attempted to combine Business and Government and Politics, but that did not fulfill what she was looking for. She said the Public Policy program would have enhanced her experience and believes it is important.

Senator Egan introduced Katherine Swanson, undergraduate student, College of Behavioral and Social Sciences. She noted her disappointment in the lack of a Public Policy program and added that she was involved in the Rawlings Fellowship program and other courses in public policy.

Senator Soltan, faculty, College of Behavioral and Social Sciences, stated that he supports a public policy program, but his issue was with the kind of major that this proposal provides. He read a statement from Christopher Morris, Chair, Department of Philosophy, who expressed concern over the department's lack of inclusion in the discussion of the proposal.

Senator Egan noted that there is interest in future collaboration and an interdisciplinary approach. He added that a program has been implemented with the Schools and Colleges to encourage this. He stated his appreciation for the outreach and enthusiasm for continued efforts.

Irwin Morris, Chair of the Department of Government and Politics, stated he was excited about the opportunity for a joint major, which did not work out. He noted that other ideas were considered and added that there were other examples of joint appointments between other departments and Public Policy. He felt that it is more important to have core programs and not just focus areas. He added that it is more important for the program to be good than for it to be done fast and expressed his want for more collaboration in the core classes focused on government and politics.

Senator Egan introduced Phil Joyce, Senior Associate Dean, School of Public Policy, and the chair of the PCC committee in the School. He spoke about the process for the development of the proposal and stressed the importance of doing it now to stay competitive. He added that the benefit of delaying the proposal is not worth the cost. He added that Public Policy has been around for 50 years as a discipline and the School has existed for 35. The School has nationally recognized faculty that represent 12 disciplines and stressed the School's commitment to interdisciplinary education. The program was unanimously approved by the faculty and the need to cooperate with Government and Politics should not be a reason to delay the proposal. The School has met with the College of Behavioral and Social Sciences and Government and Politics leaders extensively. There will be future collaboration between the School and Government and Politics.

Harris responded that PCC had considered the issues carefully and noted that many proposals have overlap, and that there is value in having some, but not too much, overlap.

Dean Ball, College of Behavioral and Social Sciences, stated that he supports the development of the Public Policy program and noted that he and Dean Orr are dedicated to working together to increase choice in the program. He stated that a specialization in policy and politics might be interesting and urged Dean Orr to collaborate on the support of the new program.

Senator Kaplan, faculty, College of Behavioral and Social Sciences, supported Dean Ball and noted that he would like to see more collaboration and cooperative relationships in departments with overlap, such as Economics, going forward.

Dean Orr introduced Nathan Hultman, Associate Professor, School of Public Policy. He spoke to his interdisciplinary background of physics, climate, and policy and underscored that the diversity of faculty attracts a diversity of students from many fields.

Hearing no further discussion, Brown called for a vote on the proposal. The result Was 66 in favor, 14 opposed, and 7 abstentions. **The motion to approve the proposal passed.**

**Suggested Revision to the Academic Clemency Policy (Senate Doc. No. 14-15-29)
(Action)**

Charles Delwiche, Chair of the Academic Procedures and Standards (APAS) Committee, presented the Suggested Revision to the Academic Clemency Policy and provided background information.

Chair Brown opened the floor for discussion of the proposal; hearing none, he called for a vote on the proposal. The result was 77 in favor, 3 opposed, and 5 abstentions. **The motion to approve the proposal passed.**

**Revision of the University of Maryland Undergraduate Student Grievance Procedure
(Senate Doc. No. 14-15-22) (Action)**

Chair Brown reminded Senators that this item was brought to the December 9, 2015, Senate meeting and was recommitted to the Educational Affairs Committee for further review.

Madlen Simon, Chair of the Educational Affairs Committee, presented the Revision to the University of Maryland Undergraduate Student Grievance Procedure and provided background information.

Chair Brown opened the floor for discussion of the proposal.

Senator Berger, undergraduate student, School of Engineering, stated the importance of the policy and gave perspective from the Student Affairs Committee survey.

Senator Englehart, part-time graduate students, raised concerns about removing section B.1.e. There shall be a reasonable approach to the subject that attempts to make the student aware of the existence of different points of view. He added that nothing should be required but should be allowable.

Simon responded that the Office of the General Counsel advised that the statement should be removed from the policy because it limits academic freedom for faculty. She gave examples of evolution and climate change and noted that the policy does not remove the ability for students to bring different perspectives.

Senator Blase, undergraduate student, School of Agriculture and Natural Resources, proposed an amendment to when reading day is allowed.

Chair Brown clarified that the limitation is outlined in the BOR policy and thus could not be amended.

Ann Smith, Assistant Dean, Office of Undergraduate Studies, noted that section 1.h provides information regarding course syllabus grievance.

Hearing no further discussion, Brown called for a vote on the proposal. The result

was 78 in favor, 3 opposed, and 2 abstentions. **The motion to approve the proposal passed.**

Review of the Maryland Fire and Rescue Institute (MFRI) Plan of Organization (Senate Doc. No. 10-11-56) (Action)

Jess Jacobson, Chair of the Elections, Representation, and Governance (ERG) Committee, presented the Review of the Maryland Fire and Rescue Institute (MFRI) Plan of Organization and provided background information.

Chair Brown opened the floor for discussion of the proposal; hearing none, he called for a vote on the proposal. The result was 71 in favor, 2 opposed, and 4 abstentions. **The motion to approve the proposal passed.**

New Business

There was no new business.

Adjournment

The meeting was adjourned at 4:44 p.m.



University Senate TRANSMITTAL FORM

Senate Document #:	15-16-28
PCC ID #:	N/A
Title:	Review of Interim University of Maryland Non-Discrimination Policy and Procedures
Presenter:	Stacey Sickels Locke, Chair of the Equity, Diversity, & Inclusion (EDI) Committee
Date of SEC Review:	April 19, 2016
Date of Senate Review:	April 28, 2016
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 4. For information only
Statement of Issue:	<p>In fall 2015, the University Senate Office received a copy of the University of Maryland Non-Discrimination Policy and Procedures, which had been approved on an interim basis by the University President on October 1, 2015. The administration requested that the Senate review the interim policy and procedures, which had been created by a working group as a replacement for Policy VI-1.00(B) University of Maryland Code on Equity, Diversity, and Inclusion (previously known as the Human Relations Code).</p> <p>In November 2015, the Senate Executive Committee (SEC) charged the Equity, Diversity, & Inclusion (EDI) Committee with review of the interim policy and procedures. The SEC originally charged the EDI Committee with joint review of this policy and the interim Disability & Accessibility Policy and Procedures document, as well. However, in order to more efficiently facilitate the reviews during the spring 2016 semester, the SEC decided to separate out the original charge (Senate Doc. 15-16-08) into two separate charges, so that one review would not adversely affect the other. The University President also approved an amended version of the interim Non-Discrimination Policy and Procedures effective March 22, 2016. EDI received an updated, separated charge with the amended version of the policy and procedures on March 23, 2016.</p>

Relevant Policy # & URL:	VI-1.00(B) University of Maryland Non-Discrimination Policy and Procedures http://umd.edu/policies/2014-VI-100b.html
Recommendation:	The EDI Committee recommends that the Senate approve the recommended revised version of the VI-1.00(B) University of Maryland Non-Discrimination Policy and Procedures, which immediately follows the committee’s report.
Committee Work:	<p>The EDI Committee (EDI) began reviewing the original joint charge at the end of the fall 2015 semester. EDI reviewed similar policies and procedures on non-discrimination at peer institutions. EDI found that many of the institutions have policies in place regarding non-discrimination that are also related to their policies prohibiting sexual misconduct and other inappropriate conduct.</p> <p>On March 1, 2016, EDI met with the Title IX Officer from the Office of Civil Rights & Sexual Misconduct (OCRSM) and a representative of the Office of General Counsel, to discuss the pending amendments to the interim policy, before the amended version was approved by the President. EDI discussed the rationale behind the changes to the interim policy and identified other areas of concern to the committee.</p> <p>EDI also reviewed the previous Code on Equity, Diversity, and Inclusion and noticed that it had a statement affirming the University’s commitments to a policy of eliminating discrimination on the basis of a number of protected categories, but it also included “personal appearance.” A majority of committee members felt strongly that personal appearance should be included in a policy that prohibits discrimination at the University. The committee initially wanted to include a broad definition of personal appearance in the Policy Statement. The committee subsequently learned that Prince George’s County Code covers personal appearance on the basis of hairstyle, beards, or manner of dress. Therefore, the committee decided to recommend that the list of protected grounds in the Policy Statement be revised to include personal appearance as defined by Prince George’s County Code. In addition, the committee developed a number of other minor modifications and technical changes to the proposed policy.</p> <p>On April 11, 2016, EDI voted in favor of forwarding its recommended revised version of the Non-Discrimination Policy and Procedures to the Senate for consideration.</p>
Alternatives:	To not approve the EDI Committee’s recommended revisions to the VI-1.00(B) University of Maryland Non-Discrimination Policy and Procedures.

Risks:	There are no associated risks.
Financial Implications:	There are no financial implications.
Further Approvals Required:	Senate approval, Presidential approval.

Senate Equity, Diversity, & Inclusion (EDI) Committee

Report on Senate Document # 15-16-28

Review of Interim University of Maryland Non-Discrimination Policy & Procedures

April 2016

2015-2016 EDI Committee Members

Stacey Sickels Locke, Chair

Shaunna Payne Gold, Ex-Officio, Director of the Office of Diversity & Inclusion Rep

Kumea Shorter-Gooden, Ex-Officio, Provost's Rep

Anne Martens, Ex-Officio, VP Administration & Finance Rep

Steve Petkas, Ex-Officio, VP Student Affairs Rep

Jennifer Dindinger, Faculty

Typhanye Dyer, Faculty

John Stevenson, Faculty

Yukako Tatsumi, Faculty

Wendy Peer, Faculty

Tim Tormoen, Exempt Staff

Syndy Shilling, Exempt Staff

Maya Aduba, Exempt Staff

Jordan Carter-Reich, Non-Exempt Staff

Amir Mojtahedi, Non-Exempt Staff

Rishvi Jayathilake, Graduate Student

Ashlee Wilkins, Graduate Student

Damon King, Undergraduate Student

Sumayyah Milstein, Undergraduate Student

BACKGROUND

In the fall of 2015, the University Senate Office received a copy of the University of Maryland Non-Discrimination Policy and Procedures, which had been approved on an interim basis by the University President on October 1, 2015. The administration requested that the Senate review the interim policy and procedures, which had been created by a working group as a replacement for Policy VI-1.00(B) University of Maryland Code on Equity, Diversity, and Inclusion (previously known as the Human Relations Code).

In November 2015, the Senate Executive Committee (SEC) charged the Equity, Diversity, & Inclusion (EDI) Committee with review of the interim policy and procedures. The SEC originally charged the EDI Committee with joint review of this policy and the interim Disability & Accessibility Policy and Procedures document, as well. However, in order to more efficiently facilitate the reviews during the spring 2016 semester, the SEC decided to separate out the original charge (Senate Doc. 15-16-08) into two separate charges, so that one review would not adversely affect the other. The University President also approved an amended version of the interim Non-Discrimination Policy and Procedures effective March 22, 2016. The EDI Committee received an updated, separated charge with the amended version of the policy and procedures on March 23, 2016 (Appendix 1).

COMMITTEE WORK

The EDI Committee began reviewing the original joint charge at the end of the fall 2015 semester. As instructed by the charge, the committee reviewed a sampling of similar policies and procedures on non-discrimination at peer institutions, including the University of Illinois at Urbana-Champaign, Indiana University, the University of Iowa, the University of Michigan, Michigan State University, the University of Minnesota-Twin Cities, the University of Nebraska-Lincoln, Northwestern University, Ohio State University, Pennsylvania State University, Purdue University, the University of Wisconsin-Madison, Rutgers University, the University of North Carolina, Chapel Hill, the University of California, Berkeley, and the University of California, Los Angeles (Appendix 2). The committee found that many of the institutions have policies in place regarding non-discrimination that are also related to their policies prohibiting sexual misconduct and other inappropriate conduct.

On March 1, 2016, the committee met with the Title IX Officer from the Office of Civil Rights & Sexual Misconduct (OCRSM) and a representative of the Office of General Counsel (OGC), to discuss the pending amendments to the interim policy, before the amended version was approved by the President. The committee discussed the rationale behind the changes to the interim policy and identified other areas of concern to the committee. During the meeting, it was explained that the definition of harassment had been slightly modified and made clear that harassment is a form of discrimination (section III). In addition, it was noted that changes had been made to the section regarding the "Initial Assessment" (IV.C), to encourage a written complaint and, where there is none, to require the OCRSM to prepare a written statement of verbal allegations and obtain the Complainant's written acknowledgement of the verbal allegations. Also, it was noted that the OCRSM will notify the Complainant after the Initial Assessment regarding whether or not an investigation will go forward, and if not, why. In

addition, the committee learned that the “Informal Resolution Process” had been renamed as the “Alternative Resolution Process” (IV.D), and a statement had been included that the OCRM will begin investigating if Alternative Resolution is not successful within 45 business days. The committee also learned that the Investigation section (IV.E) had been reorganized; the requirement to conduct an “adequate, impartial and thorough investigation” had been changed to an “impartial investigation,” and the parties’ right to have an advisor present was clarified (in particular, to clarify that the advisor cannot speak or act for a party). The definition of the Standard of Review was also inserted for clarification purposes. The committee learned that the “Refusal to Participate in Investigation” section (IV.E.2) had been renamed as “Expectation of Cooperation.” A statement saying, “Failure to cooperate is violation of policy...and may be subject to disciplinary action” had been deleted. It was also explained that the section called “Review of Draft Report” (IV.E.4) had been changed to “Written Investigation Report and Findings.” The committee learned that the parties’ opportunity to review the draft report had been removed, because it was deemed unnecessary and likely to contribute to delays in completing investigations. It was confirmed that the parties have a right to appeal the findings, and Respondents typically had a right to grieve if found in violation of the policy. The committee also learned that the “Appeal” section (VI) had been expanded to add specific procedures, and the grounds for appeal had been slightly revised. Lastly, it was explained that the section on “Disciplinary Action” (VIII.A) had been modified to reflect that disciplinary suspension and expulsion related to students is subject to approval by the Vice President of Student Affairs, and any reference to the President signing off on expulsions had been removed. The committee found the proposed changes discussed to be acceptable.

However, the committee also reviewed the previous Code on Equity, Diversity, and Inclusion, which was originally created in 1976, revised in 1998, and amended in 2010 and 2012 (Appendix 3). In particular, the committee noticed that the previous Code on Equity, Diversity, and Inclusion had a statement affirming the University’s commitments to a policy of eliminating discrimination on the basis of a number of protected categories, but it also included “personal appearance.” A majority of committee members felt strongly that personal appearance should be included in a policy that prohibits discrimination at the University of Maryland. The committee initially wanted to include a broad definition of personal appearance in the Policy Statement. The committee subsequently learned that Prince George’s County Code covers personal appearance on the basis of hairstyle, beards, or manner of dress. Therefore, the committee decided to recommend that the list of protected grounds in the Policy Statement be revised to include personal appearance as defined by Prince George’s County Code. In addition, the committee developed a number of other minor modifications and technical changes to the proposed policy.

On April 11, 2016, the EDI Committee voted in favor of forwarding its recommended revised version of the University of Maryland Non-Discrimination Policy and Procedures to the Senate for consideration.

RECOMMENDATIONS

The EDI Committee recommends that the Senate approve the recommended revised version of the VI-1.00(B) University of Maryland Non-Discrimination Policy and Procedures, which immediately follows this report.

If approved by the Senate and the President, all reference documents, including the Faculty Handbook, should likewise be updated to reflect the revised policy.

APPENDICES

Appendix 1 – Charge from the Senate Executive Committee (SEC), dated March 23, 2016

Appendix 2 – Sampling of Peer Institution Research, conducted in fall 2015

Appendix 3 – Previous University of Maryland Code on Equity, Diversity, and Inclusion

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

(Approved on an Interim Basis by the President October 1, 2015, amended March 22, 2016)

I. POLICY STATEMENT

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

The **Office of Civil Rights & Sexual Misconduct (OCRSM)** shall receive all complaints of discrimination and harassment made pursuant to this Policy. Complaints may also be filed online [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
Phone: 301-405-1142 | Fax: 301-405-2837
<http://www.umd.edu/ocrsm/>

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

¹ Complaints based on sexual misconduct will be addressed under the University's Sexual Misconduct Policy & **Procedures** VI-1.60(A) as appropriate. Complaints of discrimination based on sex or gender that do not involve misconduct of a sexual nature will be addressed under this Non-Discrimination Policy.

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

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;
- At any University sponsored, recognized, or approved program, visit, or activity, regardless of location;
- 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; or
- That otherwise threatens the health or safety of a member of the University community.

III. DEFINITIONS

“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. Harassment is 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:

- 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.

“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 **she/he they** reported discrimination, filed a complaint of discrimination, or participated in an investigation or proceeding concerning a discrimination complaint.

IV. COMPLAINT PROCEDURES

Generally, a complaint filed under another University **P**policy or Maryland statute 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.

B. Timeliness

Complaints must be made within ninety (90) business days of the incident(s). 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) business days of receipt. 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 or Maryland statute;
- **¶**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.

D. Alternative Resolution Process

When determined appropriate by **the** OCRSM, the Complainant may elect to resolve a complaint through **a**Alternative **r**Resolution. The purpose of **a**Alternative **r**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 **a**Alternative **r**Resolution. The OCRSM shall document efforts to resolve the complaint and whether or not those efforts were successful. When **a**Alternative **r**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 **a**Alternative **r**Resolution does not succeed within forty-five (45) business 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 advise the Complainant and Respondent of their rights under this Policy, including the following:

- **B**both parties have a right to an impartial investigation;
- **B**both parties have a right to produce relevant documents, witnesses, and other material they would like the investigation to include; and
- **B**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 ~~for~~ **on behalf of** the party.

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

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.

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

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) business 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 a summary of the allegations, evidence reviewed and witness statements, findings of material fact and an analysis of those facts, and 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.

V. APPEAL

The Complainant and/or Respondent may appeal the investigation finding within five (5) business days of the date of receipt of the *Notice of Findings* by submitting to the OCRSM at civilrights@umd.edu a written statement of their intent to appeal and 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) business days from the date of receipt of that notice to respond by submitting a written statement to the OCRSM at civilrights@umd.edu. All appeals and responses shall include the case name, number, and the party's name and contact information. Appeals filed by more than one party will be considered together in one appeal review process. All appeal documents submitted by a party will be shared with the other party.

If neither party submits an appeal, the decision will be considered final five (5) business days after the last date either party received the *Notice of Findings*. Appeals submitted after five (5) business 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 for Administration & Finance 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 for Administration & Finance 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) business days, the Vice President will issue a written determination stating whether the Appeal was granted or denied, including a summary of its rationale (the "Appeal Outcome"). The Appeal Outcome shall either:

- Affirm the Finding,
- Overturn and Reverse Finding, or
- Send the Case Back to the Special Investigator with specific directions to reconsider the Finding.

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

VI. RECOMMENDATIONS FOR CORRECTIVE ACTION

The OCRSM may provide the appropriate Vice President, ~~S~~supervisor, and ~~D~~department **chair** ~~Head/D~~ean with a *Recommendation for Corrective Action*. 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) business 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 **Student** 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 **Student** 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 ~~of~~ **for** Human Resources, the Director of the OCRSM, and other relevant administrators, as needed. This may include the following:

- ~~U~~**u**nit transfers;
- ~~R~~**r**eassignment of duties;
- ~~M~~**m**andatory training;
- ~~O~~**o**ral **verbal** reminders;
- ~~W~~**w**ritten reminders/~~L~~**l**etters of reprimand;
- ~~S~~**s**uspension without Pay;
- ~~S~~**s**uspension ~~P~~**p**ending ~~C~~**c**harges of ~~R~~**r**emoval; and
- ~~T~~**t**ermination.

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:

- ~~R~~**r**eassignment of duties;
- ~~M~~**m**andatory training;
- ~~O~~**o**ral **verbal** reminders;
- ~~W~~**w**ritten reminders/~~L~~**l**etters of reprimand;
- ~~S~~**s**uspension with or without ~~P~~**p**ay; **and**
- ~~T~~**t**ermination.

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.

Office for Civil Rights U.S. Department of Education

Philadelphia Office (Regional Office for Maryland)

The Wanamaker Building

100 Penn Square East, Suite 515

Philadelphia, PA 19107-3323

Phone: 215-656-8541

FAX: 215-656-8605

TDD: 800-877-8339

Email: OCR.Philadelphia@ed.gov

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

Maryland Commission on Civil Rights

Phone: 410-767-8600

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

Equal Employment Opportunity Commission

Phone: 800-669-4000

TTY: 800-669-6820

Website: <https://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.


Replacement for:

Policy VI-1.00(B) University of Maryland Code on Equity, Diversity and Inclusion

Appendix 1



University Senate CHARGE

Date:	March 23, 2016
To:	Stacey Locke Chair, Equity, Diversity, and Inclusion (EDI) Committee
From:	Willie Brown Chair, University Senate 
Subject:	Review of Interim University of Maryland Non-Discrimination Policy & Procedures
Senate Document #:	15-16-28
Deadline:	April 11, 2016

The Senate Executive Committee (SEC) requests that the Equity, Diversity, and Inclusion (EDI) Committee review the revised interim University of Maryland Non-Discrimination Policy and Procedures and make recommendations on whether it is appropriate or on needed revisions.

Specifically, we ask that you:

1. Review the interim University of Maryland Non-Discrimination Policy and Procedures ([VI-1.00\[B\]](#)).
2. Review similar policies and procedures for non-discrimination at peer institutions and other Big 10 institutions.
3. Consult with the University's Office of General Counsel on any recommended policy language.
4. If appropriate, recommend whether the interim policy should be revised and submit recommended revisions to the interim policy for Senate consideration.

We ask that you submit your report and recommendations to the Senate Office no later than April 11, 2016. If you have any questions or need assistance, please contact Reka Montfort in the Senate Office at 301-405-5804 or reka@umd.edu.

Attachment



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

(Approved on an Interim Basis by the President October 1, 2015, amended March 22, 2016)

I. POLICY STATEMENT

The University of Maryland is committed to creating and maintaining an educational, working and living environment that is free from discrimination and harassment. This Policy prohibits discrimination on grounds protected under Federal and Maryland law and Board of Regents policies. University programs, activities and facilities are available to all without regard to race, color, sex¹, gender identity or expression, sexual orientation, marital status, age, national origin, political affiliation, physical or mental disability², religion, protected veteran status, genetic information, 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 [here](#).

Office of Civil Rights & Sexual Misconduct

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

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

¹ Complaints based on sexual misconduct will be addressed under the University's Sexual Misconduct Policy VII.60(A) as appropriate. Complaints of discrimination based on sex or gender that do not involve misconduct of a sexual nature will be addressed under this Non-Discrimination Policy.

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

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;
- At any University sponsored, recognized or approved program, visit or activity, regardless of location;
- 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; or
- That otherwise threatens the health or safety of a member of the University community.

III. DEFINITIONS

“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. Harassment is 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:

- 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.

“Retaliation” refers to action that is taken against an individual because she/he reported discrimination, filed a complaint of discrimination, or participated in an investigation or proceeding concerning a discrimination complaint.

IV. COMPLAINT PROCEDURES

Generally, a complaint filed under another University Policy or Maryland statute 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 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.

B. Timeliness

Complaints must be made within ninety (90) business days of the incident(s). 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, 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) business days of receipt. 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. OCRSM will then notify the complainant whether:

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

If it is determined the complaint is not appropriately filed with the OCRSM, the Complainant will be informed of the reason.

D. Alternative Resolution Process

When determined appropriate by 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. OCRSM will also monitor implementation of the resolution agreement and/or close the case. When alternative resolution does not succeed within forty-five (45) business days of the date the complaint is filed, 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 OCRSM will investigate the complaint, OCRSM shall advise 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 for the party.

The OCRSM will then assign an investigator³ to conduct an impartial investigation of the complaint. The investigator will interview the Complainant and the Respondent and any other available relevant witnesses, and review available relevant documents.

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) business 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.

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

5. Written Investigation Report and Findings

The OCRSM shall complete a written report of its investigation, including a summary of the allegations, evidence reviewed and witness statements, findings of material fact and an analysis of those facts, and 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.

V. APPEAL

The Complainant and/or Respondent may appeal the investigation finding within five (5) business days of the date of receipt of the *Notice of Findings* by submitting to the OCRSM at civilrights@umd.edu a written statement of their intent to appeal and 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) business days from the date of receipt of that notice to respond by submitting a written statement to the OCRSM at civilrights@umd.edu. All appeals and responses shall include the case name, number, and the party's name and contact information. Appeals filed by more than one party will be considered together in one appeal review process. All appeal documents submitted by a party will be shared with the other party.

If neither party submits an appeal, the decision will be considered final five (5) business days after the last date either party received the *Notice of Findings*. Appeals submitted after five (5) business 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 for Administration & Finance 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 for Administration & Finance 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) business days, the Vice President will issue a written determination stating whether the Appeal was granted or denied, including a summary of its rationale (the "Appeal Outcome"). The Appeal Outcome shall either:

- Affirm the Finding,
- Overturn and Reverse Finding, or
- Send the Case Back to the Special Investigator with specific directions to reconsider the Finding.

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

VI. RECOMMENDATIONS FOR CORRECTIVE ACTION

The OCRSM may provide the appropriate Vice President, Supervisor, and Department Head/Dean with a *Recommendation for Corrective Action*. 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) business 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 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 Student Code of 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 Student Code of 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 of Human Resources, the Director of the OCRSM and other relevant administrators, as needed. This may include the following:

- Unit transfers;
- Reassignment of duties;
- Mandatory training;
- Oral 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;
- Oral reminders;
- Written reminders/Letters of reprimand;
- Suspension with or without Pay;
- 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. 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.

Office for Civil Rights U.S. Department of Education

Philadelphia Office (Regional Office for Maryland)

The Wanamaker Building 100 Penn Square East,

Suite 515

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Phone: 215-656-8541

FAX: 215-656-8605

TDD: 800-877-8339

Email: OCR.Philadelphia@ed.gov

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

Maryland Commission on Civil Rights

Phone: 410-767-8600

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

Equal Employment Opportunity Commission

Phone: 800-669-4000

TTY: 800-669-6820

Website: <https://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.

Replacement for:

Policy VI-1.00(B) University of Maryland Code on Equity, Diversity and Inclusion

Appendix 2

Non-Discrimination and Disability Accessibility Statements and Policies Peer Institution Research

University of Illinois at Urbana-Champaign

[University of Illinois at Urbana-Champaign Non-Discrimination Statement](#)

[Policy and Procedures for Addressing Discrimination and Harassment at the University of Illinois at Urbana-Champaign](#)

[Reasonable Accommodations Under the Americans with Disabilities Act \(ADA\)](#)

Indiana University

[Non-Discrimination Policy](#)

[Non-Discrimination/Equal Opportunity/Affirmative Action](#)

[University Non-Discrimination Policies](#)

[Americans with Disabilities Act \(ADA\) Policy](#)

University of Iowa

[Nondiscrimination Statement](#)

[Accessibility Statement](#)

[Disability Protection Policy and Accessibility Statement](#)

University of Michigan

[Discrimination and Harassment](#) (the website says that this applies to faculty and staff)

[The University of Michigan Procedural Guidelines for Handling Discrimination and Harassment Complaints](#)

[Nondiscrimination Policy Notice](#) (includes links to policies and procedures- some listed below)

[EEO Affirmative Action Policy for Individuals with Disabilities](#)

[Non-discrimination](#)

[Preventing Discrimination Based on Sexual Orientation](#)

Michigan State University

[Anti-Discrimination Policy](#) and [ADP Users Manual](#)

[Notice of Non-Discrimination](#)

[Anti-Discrimination Policy/Relationship Violence & Sexual Misconduct Policy Student Conduct Review Panel Procedures \(applies to cases filed by OIE with the Department of Student Life on 9/2/15 and after\)](#)

[Office of Institutional Equity Complaint Procedures](#)

[Discrimination/Harassment Formal Complaint Form](#)

Reasonable Accommodations Policy for University Applicants and Employees (see PDF)

[Resource Center for Persons with Disabilities](#)- various documents available

University of Minnesota- Twin Cities

[Discrimination Prohibition](#)

[Discrimination Complaint Information](#)

[Minnesota State Colleges and Universities Equal Opportunity and Nondiscrimination in Employment and Education](#)

[ADA Compliance Policy](#)

University of Nebraska- Lincoln

[Discrimination and Harassment Policies](#)

[Americans with Disabilities Act and Section 504 Grievance Procedure](#)

[Intake Form](#)

[Notice of Nondiscrimination Policy](#)

Northwestern University

[Policy on Discrimination and Harassment](#)

[Non-Discrimination Statement](#)

[Discrimination and Harassment Complaints](#) (procedures)

[Reasonable Accommodation Policy](#) (employees)

[AccessibleNU](#)- no official policy, but has a list of core mission and values

[Laws Pertaining to Accommodations](#)

[Documentation Guidelines](#)

[Eligibility for Services](#)

Ohio State University

[Nondiscrimination Notice](#)

[Affirmative Action, Equal Employment Opportunity & Non-Discrimination/Harassment, 1.10](#)

[Discrimination and Harassment Complaint](#)

[Reasonable Accommodation](#)

[Equal Employment for Individuals with Disabilities](#)

[Access for Individuals with Disabilities](#)

Pennsylvania State University

[Documentation Guidelines](#) (disabilities)

[Accessibility of Penn State Web Pages](#)

[University Faculty Senate Policy 43-00 Syllabus](#) (with syllabus disability statement)

[Policy AD85- Discrimination, Harassment, Sexual Harassment, and Related Inappropriate Conduct](#)

Purdue University

[Nondiscrimination Policy Statement](#)

[Reasonable Accommodation Process](#) and [Reasonable Accommodation Request Form](#)

[Student Success at Purdue- Accommodations and Services](#)

[Student Disability Grievance Procedures](#)

University of Wisconsin- Madison

[Statement of Non-Discrimination](#)

[Classified Staff Disability Accommodation Policy](#) and [Request Form](#)

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Rutgers University

[Policy Prohibiting Discrimination and Harassment](#) and [Complaint Process](#)

[Reasonable Accommodations \(Students\)](#)

[Grievance Procedure](#)

University of California, Berkeley

[Nondiscrimination Policy](#)

University of California System Policy- [Guidelines Applying to Nondiscrimination on the Basis of Disability](#) and [Request Services](#)

University of California, Los Angeles

Same disability guidelines apply as above.

[Student Grievance Procedures](#)

[Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment](#) (UC System Policy)

[ADA/504 Compliance Office Mission Statement](#)

University of North Carolina, Chapel Hill

[Policy Statement on Nondiscrimination](#)

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Appendix 3

VI-1.00(B) UNIVERSITY OF MARYLAND CODE ON EQUITY, DIVERSITY,
AND INCLUSION

Effective Date October 18, 1976; Revised
April 6, 1998; Approved by President,
May 6, 1998; Technical Change March 15, 2010;
Technical Changes September 17, 2010; Technical
Amendments July 18, 2012

ARTICLE I. PURPOSE

- A. The University of Maryland, College Park, affirms its commitments to a policy of eliminating discrimination on the basis of race, color, creed, sex, gender identity or expression, sexual orientation, marital status, personal appearance, age, national origin, political affiliation, physical or mental disability, or on the basis of the exercise of rights secured by the First Amendment of the United States Constitution. This Code is established to prevent or eradicate such discrimination in accordance with due process within the Campus community. In doing so, the Campus recognizes that it must strive actively and creatively to build a community in which opportunity is equalized.
- B. Accordingly, the College Park Senate of the University of Maryland establishes The Code on Equity, Diversity, and Inclusion to:
1. prohibit discrimination as defined in this document within the Campus community both by educational programs and, to the extent specified herein, by a formal grievance procedure;
 2. establish the responsibilities of the Senate Committee on Equity, Diversity, and Inclusion.
 3. establish the responsibilities of the Office of Diversity and Inclusion in connection with this Code;
 4. establish mediation and grievance vehicles within the units and colleges of the Campus, in conformity with the Campus Affirmative Action Plan;
 5. establish the responsibilities of Equal Education and Employment Opportunity (EEEE) Officers.

- C. Every effort will be made to make students and potential students, employees and potential employees, faculty members and potential faculty members aware of the opportunities that the Campus provides for every individual to develop and utilize his or her talents and skills. It is the intent of the Campus to enhance among its students and employees respect by each person for that person's own race, ethnic background, sex, gender identity or expression, or sexual orientation, as well as appreciation and respect for the race, ethnic background, sex, or sexual orientation of other individuals.

- D. Development of a positive and productive atmosphere of inclusion on the Campus shall be encouraged through effective dialogue and broadening of communications channels. The Senate Committee on Equity, Diversity, and Inclusion and the Office of Diversity and Inclusion shall provide support and assistance, as authorized, to any individual or group deemed by them to have a positive probable impact in working toward increased understanding among all individuals and groups on the Campus.

- E. The Senate Committee on Equity, Diversity, and Inclusion shall advise the Office of Diversity and Inclusion in recommending policies which fulfill the provisions of this Code. In particular:
 - 1. The Senate Committee on Equity, Diversity, and Inclusion shall be a general standing committee of the College Park Senate.

 - 2. The purpose of the Senate Committee on Equity, Diversity, and Inclusion shall be to foster better human interaction among all individuals and groups on the Campus, to advise in the development of positive and creative human relations programs, to advise in the prevention and eradication of all forms of discrimination prohibited by this Code, and to make regular assessments of the state of human relations within the purview of this Campus.

 - 3. The functions of the Senate Committee on Equity, Diversity, and Inclusion may include but are not limited to: requesting the Office of Diversity and Inclusion to conduct investigations of complaints of discrimination because of race, color, creed, sex, gender identity or expression, sexual orientation,

marital status, personal appearance, age, national origin, political affiliation, physical or mental disability, or on the basis of the exercise of rights secured by the First Amendment of the United States Constitution; providing an "open forum" for effective dialogue among all segments of the Campus community; recommending to appropriate Campus bodies educational programs and activities to promote equal rights and understanding; periodically reviewing such programs and activities; initiating studies of Campus-sponsored or recognized programs and activities to determine how improvements can be made in respect to human relations; continually reviewing progress toward these ends and making such further recommendations as experience may show to be needed; and participating to the extent set forth herein in formal grievance actions.

- F. There shall be an Office of Diversity and Inclusion directly responsible to the President. This Office shall plan, develop, give direction to and coordinate the overall Campus effort to prevent and eliminate discrimination based on race, color, creed, sex, gender identity or expression, sexual orientation, marital status, personal appearance, age, national origin, political affiliation, physical or mental disability, or on the basis of the exercise of rights secured by the First Amendment of the United States Constitution, in all areas of Campus life (this overall effort is referred to herein as Diversity and Inclusion Programs). The Office shall represent, and have direct access to, the President, and shall cooperate with the Senate Committee on Equity, Diversity, and Inclusion on substantive matters concerning human relations. The Office shall assist and coordinate the activities of the Equal Education and Employment Opportunity (EEEE) Officers and the Equity Administrators representing the various units of the Campus.

The duties and responsibilities of the Office of Diversity and Inclusion shall include but not be limited to the following: working with Vice Presidents, Deans, Directors and Department Chairs to ensure full compliance, in spirit as well as in letter, with laws relating to discrimination and with the Campus Code on Equity, Diversity, and Inclusion; advising Campus officers in their effort to assist personnel to recognize and take advantage of career opportunities within the Campus; working with appropriate offices in the surrounding community on such issues as off-campus housing practices affecting Campus students and employees,

transportation, etc.; recommending to the Off-Campus Housing Office removal from or reinstatement upon lists of off-campus housing, so as to ensure that listed housing is available on a nondiscriminatory basis. (N.B. any final action taken by the University shall be preceded by proper notice to the property owner involved, and an opportunity to be heard); conducting reviews of compliance with the Campus Affirmative Action Plan; initiating and carrying out programs for the elimination and prevention of racism and sexism on Campus; distributing this Code and informing the Campus community of the interpretations of its provisions; sending periodic reports to the President and to the Senate Committee on Equity, Diversity, and Inclusion concerning the Diversity and Inclusion Programs; and participating to the extent set forth herein in formal grievance actions.

- G. For each of the units and colleges of the Campus, the Office of Administrative Affairs, the Office of University Relations, and the Office of Student Affairs, there shall be an Equity Administrator, who is designated in accordance with the Affirmative Action Plan and who has the duties specified by the Campus Affirmative Action Plan and like duties with respect to the forms of discrimination prohibited by this Code.

ARTICLE II. COVERAGE

A. Kinds of Discrimination Prohibited:

1. Discrimination in employment, job placement, promotion, or other economic benefits on the basis of race, color, creed, sex, gender identity or expression, sexual orientation, marital status, personal appearance, age, national origin, political affiliation, physical or mental disability, or on the basis of the exercise of rights secured by the First Amendment of the United States Constitution.
2. Discrimination in criteria of eligibility for access to residence, or for admission to and otherwise in relation to educational, athletic, social, cultural or other activities of the Campus because of race, color, creed, sex, gender identity or expression, sexual orientation, marital status, personal appearance, age, national origin, political affiliation, physical or mental disability, or on the basis of the exercise of rights secured by the First Amendment of the United States

Constitution.

B. For the purposes of this Code:

1. "Personal appearance" means the outward appearance of any person, irrespective of sex, with regard to bodily condition or characteristics, manner or style of dress, and manner or style of personal grooming, including, but not limited to, hair style and beards. It shall not relate, however, to the requirement of cleanliness, uniforms, or prescribed standards, when uniformly applied for admittance to a campus facility, or when uniformly applied to a class of employees, or when such bodily conditions or characteristics, or manner or style of dress or personal grooming presents a danger to the health, welfare or safety of any individual.
2. "Sexual orientation" means the identification, perception, or status of an individual as to homosexuality, heterosexuality, or bisexuality.
3. "Gender identity or expression" is defined as a person's actual or perceived gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the person's gender at birth.

C. This Code shall apply to the Campus community. The term "Campus community" is limited to Campus students, faculty, and staff; and to departments, committees, offices and organizations under the supervision and control of the Campus administration.

D. Exceptions

1. The enforcement of Federal, State or County laws and regulations does not constitute prohibited discrimination for purposes of this Code. Separate housing or other facilities for men and women, separate athletic teams when required by athletic conference regulations and political, religious and ethnic/cultural clubs are not prohibited.
2. Discrimination is not prohibited where based on a bona fide job qualification or a qualification required for

the fulfillment of bona fide educational or other institutional goals. Complaints concerning the legitimacy of such qualifications may be the subject of grievance actions.

3. The provisions of this Code shall not apply to potential students or potential employees of the University. However, applicants for admission or employment who believe they have been discriminated against by any part of the Campus community may convey such belief together with all relevant facts to the Office of Diversity and Inclusion for informational purposes.
 4. The grievance procedures under this Code shall not apply to judgments concerning academic performance of students (e.g., grades, dissertation defenses), pending further study and action by the College Park Senate and University administration.
 5. The Campus, with the advice and approval of the Attorney General's Office, shall review on a continuing basis all new laws and regulations which apply to this Campus to determine if any shall require changes in the coverage or exceptions to coverage of this Code.
- E. This Code shall apply to the Campus community in relation to, but not only to, the following:
1. All educational, athletic, cultural and social activities occurring on the Campus or in another area under its jurisdiction;
 2. All services rendered by the Campus to students, faculty and staff, such as job placement and job recruitment programs and off-campus listings of housing;
 3. University-sponsored programs occurring off campus, including cooperative programs, adult education, athletic events, and any regularly scheduled classes;
 4. Housing supplied, regulated, or recommended by the Campus for students, staff and visitors, including fraternities and sororities;
 5. Employment relations between the Campus and all of its employees, including matters of promotion in academic rank, academic salary and termination of faculty status,

as limited in Article III.M.

ARTICLE III. EQUITY, DIVERSITY, AND INCLUSION ENFORCEMENT
PROCEDURES

- A. In order to identify policies or practices which may reflect discrimination, the Senate Committee on Equity, Diversity, and Inclusion may request the Office of Diversity and Inclusion to conduct periodic review of the operation of any unit of the Campus. Units shall provide the information necessary for carrying out such reviews. This information shall be submitted through the President's Office. Any such review under the authority granted in this statement of policy shall be undertaken only after specific authorization of the President. In the event that the President fails to authorize an investigation within a reasonable time of the request by the Senate Committee on Equity, Diversity, and Inclusion, the Chair of the Committee shall report that fact, together with reasons as he/she may have received from the President concerning the matter, to the Senate.
- B. The Office of Diversity and Inclusion, on its own motion, shall identify policies, practices or patterns of behavior which may reflect discrimination prohibited by this Code or which may conflict with any other Campus policy concerning equity, diversity, and inclusion or with the Campus Affirmative Action Plan, and shall call these to the attention of the appropriate officials of the unit involved and recommend appropriate action. Those subject to allegations of discrimination shall be afforded all the protection of due process. The Office shall endeavor by negotiation to eliminate the alleged discrimination. Where such efforts fail, the Office may on its own motion report the matter to the President and to the Senate Committee on Equity, Diversity, and Inclusion. Documentation of the recommendations by the Office in all such cases shall be maintained on file by the Office.
- C. To the maximum extent consistent with the purposes of this Code, the confidentiality of personal papers and other records and the principle of privileged communication shall be respected by all persons involved in the enforcement procedures of this Code. Nothing in this Code shall be construed so as to conflict with the requirements of Article 76A of the Maryland Annotated Code. Persons giving information in connection with the procedures described in this Code shall be advised by the person receiving such

information of the limits of confidentiality which may properly be observed in Code procedures and that all documents may be subject to subpoena in subsequent administrative or judicial proceedings.

- D. Any member of the Campus community who believes that he or she has been or is being discriminated against in ways prohibited by this Code may consult informally and confidentially with the unit EEO Officer and/or the Equity Administrator and/or the Office of Diversity and Inclusion prior to filing a formal complaint.
- E. The Office of Diversity and Inclusion shall receive formal complaints from any member or group within the Campus community claiming to be aggrieved by alleged discrimination prohibited by this Code and/or any other Campus document or policy relating to equity, diversity, and inclusion practices. Such complaints should give in writing the names of complainant(s) and respondent(s) and the time, the place, and a specific description of the alleged discrimination. Complaints shall be submitted to the Office of Diversity and Inclusion, or else to the unit EEO Officer or the Equity Administrator. Complaints must be submitted within ninety (90) days of the alleged discrimination act(s), or within ninety (90) days of the first date by which the complainant reasonably has knowledge thereof. Complaints not submitted directly to the Office of Diversity and Inclusion shall be forwarded to the Office of Diversity and Inclusion within five (5) working days of their receipt. Copies of the complaint shall be forwarded by the Office of Diversity and Inclusion to the respondent and to the appropriate unit Chair or Director, Dean, or Vice President.
- F. Complainants under this Code shall be required, as a condition precedent, to waive any alternative Campus administrative procedure that may then be available. A complaint which has been heard under some alternative Campus procedure cannot subsequently be heard under the procedure of this Code. In the case of a complaint heard under the Non-Exempt Employees Grievance Procedure, this restriction shall apply only when the complaint has entered Step II of that procedure.
- G. The Office of Diversity and Inclusion and/or the Equity Administrator shall ensure that each complainant is informed of his or her right to file the complaint with the appropriate State and Federal agencies. Forms for complaints

to State and Federal agencies will be provided or the complainant will be informed where they are available.

- H. All complaints of discrimination which are not connected with the official functions of the Campus or not falling within the scope of discrimination prohibited by this Code shall be referred to the appropriate Campus, Municipal, County, State, or Federal agencies by the Office of Diversity and Inclusion.
- I. After a complaint has been filed, the Office of Diversity and Inclusion shall promptly undertake an informal investigation in order to make a preliminary determination as to whether or not the subject matter of the complaint falls within the Code, and whether or not there is probable cause for the complaint. This finding shall be reported to the complainant, the respondent, the President and the Chair of the Senate Committee on Equity, Diversity, and Inclusion. The burden of proof in this investigation and throughout these enforcement procedures rests with the complainant.
- J. If the finding is that there is not probable cause to believe that discrimination has been or is being committed within the scope of this Code, the Office of Diversity and Inclusion may dismiss the complaint. Such dismissal shall be reported to the complainant, the respondent, the President and the Chair of the Senate Committee on Equity, Diversity, and Inclusion. The complainant in such a case may appeal the dismissal of the case to the Senate Committee on Equity, Diversity, and Inclusion, which may direct that an Equity, Diversity, and Inclusion Grievance Committee (formerly known as Human Relations Grievance Committee; referred to herein as Grievance Committee) conduct a grievance hearing according to the procedures set forth herein, if in the judgment of the Senate Committee on Equity, Diversity, and Inclusion there is probable cause to believe that discrimination has been or is being committed within the scope of this Code. The Senate Committee on Equity, Diversity, and Inclusion shall have access to the complaint file for this purpose. A record of its deliberations shall be placed in the file according to the procedures established by the Office of Diversity and Inclusion. If the Committee finds no probable cause, it may dismiss the complaint and report such dismissal to the complainant, the respondent, and the President.
- K. If the finding is that there is probable cause to believe that discrimination has been or is being committed within the scope of this Code, the Office of Diversity and Inclusion

shall endeavor to eliminate the alleged discrimination by conference, conciliation and persuasion. If by this process, an agreement is reached for elimination of the alleged discrimination, the agreement shall be reduced to writing and signed by the respondent, the complainant and the Director of the Office of Diversity and Inclusion. The agreement shall be available to the President, the Equity Administrator, and to the Chair of the Senate Committee on Equity, Diversity, and Inclusion upon request.

- L. If a finding of probable cause is made but no mutually satisfactory solution can be reached under the procedures outlined in Section K immediately preceding, the Office of Diversity and Inclusion shall initiate the following procedure: the Office shall notify the Senate Committee on Equity, Diversity, and Inclusion of the failure to reach a mutually satisfactory solution, whereupon providing the complainant requests in writing a Grievance Hearing, a Grievance Committee shall be selected according to the procedures described in Article IV following. A Grievance hearing shall be closed unless both parties to the dispute agree that the hearing, or any part thereof, shall be open to the public. All parties to the dispute shall be sent within five (5) working days of the written request of such a hearing, written notification of the time and place of the beginning of the hearing and a specific statement of the charges. Hearings shall be held as promptly as is consistent with allowing adequate time for the parties to prepare their cases. Continuances may be granted within the discretion of the Office of Diversity and Inclusion. All parties shall have ample opportunity to present their facts and arguments in full during the hearing. All findings, recommendations and conclusions by the Grievance Committee shall be based solely on the evidence presented during the hearing, and shall be based on a preponderance of the evidence having probative effect.

The burden of proof rests with the complainant. The Grievance Committee may be assisted by an adviser. All the parties to the dispute and the Grievance Committee may invite persons to testify during the hearing. Each side shall have the right to cross-examine witnesses. Each party has the right to be represented by counsel or other representative, but the University has no obligation to provide such counsel for any party to the dispute. If a party intends to be represented by legal counsel during the hearing, he/she shall inform the Office of Diversity and Inclusion of this fact no

later than 72 hours prior to the hearing, and that Office shall provide that information to the other party or parties. A verbatim record shall be kept of all sessions in which testimony and evidence is presented regarding the case, and this record shall be made available to all parties to the dispute at the conclusion of the proceedings. Upon request, the Chair of the Grievance Committee may, in his or her discretion, recess the hearing to permit review of the record by one or more parties in the conduct of their case.

The Chair of a Grievance Committee with the advice of the adviser, if there is one, shall rule on all matters of procedure and admissibility of evidence. Any member of the Committee not concurring in the ruling of the Chair may request a closed session of the Committee for debate on the point. A majority vote of the Committee will determine the final decision.

Formal rules of evidence shall not be applicable to any hearing before a Grievance Committee and any evidence or testimony which the Committee believes to be relevant to a fair determination of the complaint may be admitted. The Committee reserves the right to exclude incompetent, irrelevant, immaterial and repetitious evidence.

- M. In cases of allegations regarding prohibited discrimination concerning academic employment matters, a Grievance Committee shall not substitute its judgment of academic competence for the judgment of the appropriate colleagues of the complainant. The function of the Grievance Committee shall be to determine:
1. whether there were clearly enunciated University, Campus and Departmental standards, policies, procedures and priorities by which to assess the merit of the complaint, and whether the complainant was given a reasonable opportunity to demonstrate his or her academic merit;
 2. whether the stated standards, policies, procedures and priorities were applied to the complainant in a nondiscriminatory manner.
- N. Within ten (10) working days after hearing all the evidence and arguments, the Grievance Committee shall prepare a written decision based solely on the evidence presented at the hearing. This decision shall include a summary of the

evidence before the Committee and the Committee's findings as to whether or not a violation of the Code has occurred, and the recommendations of the Committee. Grievance Committees may recommend whatever forms of relief they deem appropriate, but must take due cognizance of the limitations imposed by State law and by the procedures established by the Board of Regents, for example, the procedures by which promotion in academic rank is achieved. Within five (5) working days after the decision has been filed in the Office of Diversity and Inclusion, the Director of that Office will formally notify all parties to the dispute, the President and the Senate Committee on Equity, Diversity, and Inclusion of the decision.

- O. The President shall within ten (10) working days of his or her receipt of the decision of the Grievance Committee issue an order specifying what actions, if any, must be taken by individuals or groups found to be guilty of violating the provisions of this Code.
- P. When a hearing has been scheduled by an outside agency or court, the Office of Diversity and Inclusion may, with the approval of the Senate Committee on Equity, Diversity, and Inclusion, prior to the convening of a Grievance Committee to hear a case, postpone or terminate the Campus grievance proceedings when such postponement or termination is in its judgment warranted by administrative considerations such as staff limitations and workload, or at the request of a party upon a showing that the Campus hearing will either conflict with the off-Campus hearing, or that participation in the Campus hearing will unreasonably burden a party's preparation of his or her case or otherwise work to his or her prejudice. Such postponement or termination shall be reported to the complainant, respondent and President. In any case where a complaint has been the subject of prior administrative or judicial resolution or where a complaint becomes the subject of such resolution during the course of proceedings under this Code, the procedures of this Code will not be applicable or will terminate, as the case may be.
- Q. The President shall provide a written explanation of his or her order whenever that order is not in keeping with the findings and recommendations of the Grievance Committee. This explanation shall be sent to all parties to the dispute, to the Chair of the Senate Committee on Equity, Diversity, and Inclusion, to the Director of Diversity and Inclusion, and to the Chair of the Senate. The Chair of the Senate

Committee on Equity, Diversity, and Inclusion shall report to the Senate Executive Committee concerning the order and explanation at the next meeting of the Executive Committee, and that body shall put the matter on the agenda of the next meeting of the Senate.

- R. When required by law, copies of the Grievance Committee's findings and recommendations and of the President's order and explanation, if any, shall be sent to the State and Federal agencies charged with enforcement of Article 49B of the Annotated Code of Maryland and the Equal Employment Opportunity Act of 1968 or their successors.
- S. When a complainant receives a decision on his or her charge of discrimination from a Grievance Committee, that decision shall not be subject to review under any grievance procedure in force on the Campus.
- T. No affirmative relief shall be made to a complainant by the University unless the complainant executes the following release as part of a settlement agreement:

The complainant hereby waives, releases and covenants not to sue the University of Maryland or its officers, agents or employees with respect to any matters which were or might have been alleged as charges filed under the Code on Equity, Diversity, and Inclusion in the instant case, subject to performance by the University of Maryland, its officers, agents and employees, of the promises contained in this settlement agreement.

ARTICLE IV CONSTITUTION OF EQUITY, DIVERSITY, AND INCLUSION GRIEVANCE COMMITTEE

- A. An Equity, Diversity, and Inclusion Grievance Committee shall consist of five (5) members selected by an affirmative vote of at least 2 members of a Selection Panel consisting of:
 - 1. The Vice President of the unit of the Campus within which the alleged discrimination falls. In cases of disputed jurisdiction, decisions as to which Vice President shall participate will be made by the several Vice Presidents.
 - 2. The Director of the Office of Diversity and Inclusion.
 - 3. The Chair of the Senate Committee on Equity, Diversity,

and Inclusion.

If any of these persons is unable to participate, he or she shall designate a suitable replacement.

- B. The selection of a Grievance Committee shall be made in such a way as to promote a fair and impartial judgment. An effort shall be made to constitute the Grievance Committee of persons reasonably familiar with the kind of employment or other situation which the case concerns.
- C. A determined effort shall be made to gain the consent of complainant and respondent concerning the membership of the Grievance Committee. If in the judgment of the Selection Panel such efforts become unreasonably prolonged, membership will be determined by majority vote of the Selection Panel.
- D. None of the members of a Grievance Committee shall have been involved in the action which is the subject of the complaint. This Selection Panel shall remove a member of a Grievance Committee whenever they find that member to have a personal involvement in that case; and may excuse a member from serving on the Grievance Committee on grounds of illness or on other reasonable grounds.
- E. Members of the Senate Committee on Equity, Diversity, and Inclusion shall not be eligible concurrently for inclusion on Grievance Committees.
- F. The Chair of a Grievance Committee shall be elected by the members of the Committee.
- G. Members of a Grievance Committee and those officially involved in a hearing shall not be penalized either academically or financially for time missed from work or classes during official meetings of the Committee.

ARTICLE V. THE EQUAL EDUCATION AND EMPLOYMENT OPPORTUNITY OFFICER

- A. Equal Education and Employment Opportunity (EEEE) Officers shall be instrumental in the implementation of the Code on Equity, Diversity, and Inclusion within each unit of the Campus.
- B. Employees on all levels within each unit of the Campus will have access to the assistance of an EEEO Officer. In non-

academic units, EEEO Officers shall be elected by unit employees under the supervision of the Equity Administrator within whose responsibility the unit falls, or shall be selected by unit Director in consultation with the appropriate Equity Administrator, in either case in accordance with the Affirmative Action Plan of that unit. EEEO Officers in the academic units shall be chosen in the manner prescribed by each unit.

- C. The functions of EEEO Officers shall include but not be limited to:
1. Advising unit administrators with respect to the preparation plans, procedures, regulations, reports, and other matters pertaining to the Diversity and Inclusion Programs.
 2. Evaluating periodically the effectiveness and sufficiency of unit Affirmative Action Plans and other unit plans in relation to the goals of this Code, and reporting these to unit administrators with recommendations as to what improvements or corrections are needed.
 3. Participating in the development of policies and programs within units with respect to hiring and recruitment, training and upgrading, and in all matters pertaining to the elimination of discrimination prohibited by this Code. If a unit fails to develop policies and programs of this nature, it is the task of the EEEO Officer to act in an advocacy role and call this fact first to the attention of the unit administrator, and if no responsive action ensues, then to the Equity Administrator. The EEEO Officer is free at all times to report such cases directly to the Office of Diversity and Inclusion and the Senate Committee on Equity, Diversity, and Inclusion.
 4. Serving in a liaison capacity between the unit to which he/she is assigned and all segments of its personnel and attempting to remedy problems brought to his or her attention regarding alleged discrimination.
 5. Advising students or employees of the unit who have reason to believe that discrimination as defined in this Code is occurring. At the request of the aggrieved person the EEEO Officer shall keep any or all aspects of

the grievance confidential until a formal complaint has been filed. If the aggrieved so requests, the EEEEO Officer shall attempt to resolve the matter, calling upon the assistance of the Equity Administrator where appropriate. The EEEEO Officer will keep a record of such advisory and conciliatory activities and periodically brief the Equity Administrator.

6. Advising and otherwise aiding complainants in making formal complaints under this Code. When a complaint is filed with an EEEEO Officer, the complaint shall be forwarded by that officer within five (5) working days to the Equity Administrator and the Office of Diversity and Inclusion. The EEEEO Officer shall be available to assist in a preliminary investigation of the complaint conducted under the general supervision of the Office of Diversity and Inclusion, to determine whether there is probable cause to believe that prohibited discrimination has occurred.
 7. Making recommendations to the Office of Diversity and Inclusion to help facilitate diversity programs on Campus.
 8. Assisting units in publicizing the functions of EEEEO Officers.
 9. Collecting pertinent information regarding hiring, upgrading and promotion opportunities within units and disseminating such information to appropriate personnel.
- D. The EEEEO Officer shall have the full support of the unit or college administration and the Office of Diversity and Inclusion. The EEEEO Officer shall be afforded reasonable time from other regular duties to perform the functions of the office. These functions shall qualify as part of a workday in the case of a staff member and as partial fulfillment of required committee loads in the case of faculty. The EEEEO Officer shall be free from interference, coercion, harassment, discrimination or unreasonable restraints in connection with the performance of the duties specified in this Code.

ARTICLE VI. EFFECTIVE DATE

This Code shall be effective as revised as of April 6, 1998.



University Senate TRANSMITTAL FORM

Senate Document #:	15-16-29
PCC ID #:	N/A
Title:	Review of Interim University of Maryland Disability & Accessibility Policy and Procedures
Presenter:	Stacey Sickels Locke, Chair of the Equity, Diversity, & Inclusion (EDI) Committee
Date of SEC Review:	April 19, 2016
Date of Senate Review:	April 28, 2016
Voting (highlight one):	<ol style="list-style-type: none">1. On resolutions or recommendations one by one, or2. In a single vote3. To endorse entire report4. For information only
Statement of Issue:	<p>In fall 2015, the University Senate Office received a copy of the University of Maryland Disability & Accessibility Policy and Procedures, which had been approved on an interim basis by the University President on October 1, 2015. The administration requested that the Senate review the interim policy and procedures. In November 2015, the Senate Executive Committee (SEC) charged the Equity, Diversity, & Inclusion (EDI) Committee with review of the interim policy and procedures. The SEC originally charged EDI with joint review of this policy and the interim Non-Discrimination Policy and Procedures document, as well. However, in order to more efficiently facilitate the reviews during the spring 2016 semester, the SEC decided to separate out the original charge (Senate Doc. 15-16-08) into two separate charges, so that one review would not adversely affect the other. In addition, the President approved an amended version of the interim Disability & Accessibility Policy and Procedures effective March 23, 2016. The EDI Committee received an updated, separated charge with the amended version of the policy and procedures on March 23, 2016.</p>
Relevant Policy # & URL:	VI-1.00(D) University of Maryland Disability & Accessibility Policy and Procedures http://www.president.umd.edu/policies/2014-VI-100d.html

<p>Recommendation:</p>	<p>The EDI Committee recommends that the Senate approve the recommended revised version of the VI-1.00(D) University of Maryland Disability & Accessibility Policy and Procedures.</p> <p>The EDI Committee also recommends three administrative recommendations for Senate consideration:</p> <ol style="list-style-type: none"> 1. Required trainings for faculty, staff, and students should be offered through multi-modal platforms (e.g., multilingual, text vs. audio or video, paper format). 2. The University should review the communication and distribution process for informing the University community of facilities outages (e.g., elevators) so that those impacted can adjust instruction or their workplace for that period of time. 3. The University should review the timeliness of its paratransit accommodations.
<p>Committee Work:</p>	<p>The EDI Committee reviewed a sampling of similar policies and procedures on disability and accessibility accommodations at peer institutions. EDI also met with the Title IX Officer from the Office of Civil Rights & Sexual Misconduct (OCRSM) and a representative of the Office of General Counsel, to discuss the interim policy, before an amended version of the interim policy was approved by the President. It was noted at the meeting that the interim policy had been developed in consultation with the University’s Disability Support Service (DSS). The amended version of the interim policy further clarified that faculty, staff, and students can file complaints with the OCRSM if they are not satisfied with the results of good faith efforts to resolve the issue at hand. EDI found the changes to be acceptable. EDI developed a number of minor modifications and technical changes to the interim policy, and made changes to use inclusive language throughout the policy when referring to individuals. EDI also discussed and agreed upon a few administrative recommendations, as well, which are listed below.</p> <p>On April 4, 2016, the EDI Committee voted in favor of forwarding its recommended revised version of the University of Maryland Disability & Accessibility Policy and Procedures, along with three administrative recommendations, to the Senate for consideration.</p>
<p>Alternatives:</p>	<p>To not approve the EDI Committee’s recommended revisions to the VI-1.00(D) University of Maryland Disability & Accessibility Policy and Procedures.</p>
<p>Risks:</p>	<p>There are no associated risks.</p>
<p>Financial Implications:</p>	<p>There are no financial implications.</p>
<p>Further Approvals Required:</p>	<p>Senate approval, Presidential approval.</p>

Senate Equity, Diversity, & Inclusion (EDI) Committee

Report on Senate Document # 15-16-29

Review of Interim University of Maryland Disability & Accessibility Policy and Procedures

April 2016

2015-2016 EDI Committee Members

Stacey Sickels Locke, Chair

Shaunna Payne Gold, Ex-Officio, Director of the Office of Diversity & Inclusion Rep

Kumea Shorter-Gooden, Ex-Officio, Provost's Rep

Anne Martens, Ex-Officio, VP Administration & Finance Rep

Steve Petkas, Ex-Officio, VP Student Affairs Rep

Jennifer Dindinger, Faculty

Typhanye Dyer, Faculty

John Stevenson, Faculty

Yukako Tatsumi, Faculty

Wendy Peer, Faculty

Tim Tormoen, Exempt Staff

Syndy Shilling, Exempt Staff

Maya Aduba, Exempt Staff

Jordan Carter-Reich, Non-Exempt Staff

Amir Mojtahedi, Non-Exempt Staff

Rishvi Jayathilake, Graduate Student

Ashlee Wilkins, Graduate Student

Damon King, Undergraduate Student

Sumayyah Milstein, Undergraduate Student

BACKGROUND

In the fall of 2015, the University Senate Office received a copy of the University of Maryland Disability & Accessibility Policy and Procedures, which had been approved on an interim basis by the University President on October 1, 2015. The administration requested that the Senate review the interim policy and procedures.

In November 2015, the Senate Executive Committee (SEC) charged the Equity, Diversity, & Inclusion (EDI) Committee with review of the interim policy and procedures. The SEC originally charged the EDI Committee with joint review of this policy and the interim Non-Discrimination Policy and Procedures document, as well. However, in order to more efficiently facilitate the reviews during the spring 2016 semester, the SEC decided to separate out the original charge (Senate Doc. 15-16-08) into two separate charges, so that one review would not adversely affect the other. In addition, the University President approved an amended version of the interim Disability & Accessibility Policy and Procedures effective March 23, 2016. The EDI Committee received an updated, separated charge with the amended version of the policy and procedures on March 23, 2016 (Appendix 1).

COMMITTEE WORK

The original joint charge was first introduced to the committee at the end of the fall 2015 semester, but the bulk of the committee's discussions on the interim Disability & Accessibility Policy and Procedures took place during spring 2016.

As instructed by the charge, the EDI Committee reviewed a sampling of similar policies and procedures on disability and accessibility accommodations at peer institutions, including the University of Illinois at Urbana-Champaign, Indiana University, the University of Iowa, the University of Michigan, Michigan State University, the University of Minnesota-Twin Cities, the University of Nebraska-Lincoln, Northwestern University, Ohio State University, Pennsylvania State University, Purdue University, the University of Wisconsin-Madison, Rutgers University, the University of North Carolina, Chapel Hill, the University of California, Berkeley, and the University of California, Los Angeles (Appendix 2).

On March 1, 2016 the EDI Committee met with the Title IX Officer from the Office of Civil Rights & Sexual Misconduct (OCRSM) and a representative of the Office of General Counsel, to discuss the interim policy, before an amended version of the interim policy was approved by the President. It was noted at the meeting that the interim policy had been developed in consultation with the University's Disability Support Service (DSS). The amended version of the interim policy further clarified that faculty, staff, and students can file complaints with the OCRSM if they are not satisfied with the results of good faith efforts to resolve the issue at hand. The committee found the changes to be acceptable.

During the course of the month, the EDI Committee developed a number of minor modifications and technical changes to the interim policy, and made changes to use inclusive language throughout the policy when referring to individuals. The committee also discussed and agreed upon a few administrative recommendations, as well, which are listed below.

On April 4, 2016, the EDI Committee voted in favor of forwarding its recommended revised version of the University of Maryland Disability & Accessibility Policy and Procedures, along with three administrative recommendations, to the Senate for consideration.

RECOMMENDATIONS

The EDI Committee recommends the following three administrative recommendations for Senate consideration:

1. Required trainings for faculty, staff, and students should be offered through multi-modal platforms (e.g., multilingual, text vs. audio or video, paper format).
2. The University should review the communication and distribution process for informing the University community of facilities outages (e.g., elevators) so that those impacted can adjust instruction or their workplace for that period of time.
3. The University should review the timeliness of its paratransit accommodations.

The EDI Committee recommends that the Senate approve the recommended revised version of the VI-1.00(D) University of Maryland Disability & Accessibility Policy and Procedures, which immediately follows this report.

If approved by the Senate and the President, all reference documents should likewise be updated to reflect the revised policy.

APPENDICES

Appendix 1 – Charge from the Senate Executive Committee (SEC), dated March 23, 2016

Appendix 2 – Sampling of Peer Institution Research, conducted in fall 2015

**VI-1.00(D) UNIVERSITY OF MARYLAND DISABILITY & ACCESSIBILITY
POLICY AND PROCEDURES**

(Approved on an Interim Basis by the President October 1, 2015, amended March 23, 2016)

I. POLICY

The University of Maryland is committed to creating and maintaining ~~an educational, working, and living environment that is free from discrimination and harassment~~ **a welcoming and inclusive educational, working, and living environment for people of all abilities**. The University of Maryland is committed to the principle that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of the University, or be subjected to discrimination. The University of Maryland provides reasonable accommodations to qualified individuals. Reasonable accommodations shall be made in a timely manner and on an individualized and flexible basis. Discrimination against individuals on the grounds of disability is prohibited. The University also strictly prohibits retaliation against persons arising in connection with the assertion of rights under this Policy.

A. Applicability

This Policy applies to all members of the University community, including students, faculty, staff, and third party individuals. It is the responsibility of individual students and employees to identify themselves as persons with a disability when requesting an accommodation. It is also the responsibility of the individual with the disability to provide current supporting documentation of ~~his/her~~ **their** disability from a relevant credentialed professional that demonstrates how the disability affects ~~his/her~~ **their** ability to perform the essential functions of ~~his/her~~ **their** job or to participate in and benefit from educational programs, services, and/or activities of the University. All supporting disability documentation will be kept confidential and separate from personnel records.

Students and employees with disabilities have the same obligation as all members of the community to meet and maintain the institution's job performance, academic, and technical standards, and codes of conduct.

The University's **ADA Coordinator** listed below is responsible for campus-wide compliance with Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973.

**Dr. Jo Ann Hutchinson, Director
Disability Support Service (DSS)**
0106 Shoemaker Building
Phone: 301.314.7682
Fax: 301.405.0813
TTY/TDD: 301.314.7682

Email: Dissup@umd.edu

Website: www.counseling.umd.edu/DSS/

II. DEFINITIONS

“Disability” (with respect to an individual) is a physical or mental impairment that substantially limits one or more of the person’s major life activities, taking into consideration any mitigating measures; a history of having such an impairment; or being regarded as having such an impairment.

“Disability supporting documentation” is a current medical, psychological, educational or other relevant documentation provided by a credentialed third party that establishes a person has a disability as defined above and demonstrates how the disability affects the person’s ability to perform the essential functions of ~~his/her~~ **their** job or to participate in educational programs, services, or activities of the University.

“Discrimination” is unequal treatment based on a disability that interferes with an individual’s ability to participate in the University’s educational programs, services, or activities, or with an individual’s ability to perform ~~his/her~~ **their** job responsibilities.

“Essential Job Functions” is the fundamental, basic job duties performed in a position. A function may be essential because: the position exists to perform that function; there are a limited number of employees available who could perform that function; and/or the function is highly specialized, and the incumbent is hired for special expertise or ability to perform it.

“Interactive Process” is ongoing communication between the employee and employer, or the student and instructor or other University personnel, for the express purpose of providing a reasonable accommodation.

“Qualified Employee” is an employee with a disability who meets the legitimate skills, experience, education, or other requirements of a job and who can perform the essential job functions of the position with or without reasonable accommodation.

“Qualified Student” is a student with a disability who meets the academic and technical standards requisite for admission to or participation in the programs, services, or activities of the University with or without reasonable accommodation.

“Reasonable accommodations for Students” are adjustments including academic assistance, modifications to rules, policies, or practices; environmental adjustments, such as the removal of architectural, communication, or transportation barriers; or auxiliary aids and services necessary for a student to participate in University programs, services, or activities. Adjustments must address the particular disability and shall not fundamentally alter the academic objectives of an individual course, curriculum, program, or degree. Examples of accommodations include: extended time for timed exams, reduced distraction environments for exams, sign language interpreters, transcribers, alternate texts and reading materials, recorded lectures, and assistive technologies. This is not an exhaustive list.

“Reasonable accommodations for Staff and Faculty and Student Employees” are any changes to a job, the work environment, or the way things are usually done that allows an individual with a disability to apply for a job, perform job functions, or enjoy equal access to benefits available to other individuals in the workplace. Modifications must address the particular disability and should not fundamentally alter the employee’s essential job functions.

“Retaliation” is action taken against an individual solely because of seeking an accommodation related to disability, filing a complaint of discrimination based on disability, or participating in an investigation or proceeding concerning allegations of discrimination based on disability.

III. ACCOMMODATION REQUEST PROCEDURES

A. Student Accommodation Request Procedures

This Policy requires the University and its agents to engage in an interactive dialogue with the student in order to implement reasonable accommodations. The provision and coordination of accommodations for students registered with **the** DSS shall not require the University to fundamentally alter the academic objectives of an individual course, curriculum, program, or degree.

1. Accommodation Request

It is the responsibility of the Disability Support Service (DSS) to determine reasonable accommodations for students. To receive an accommodation, students must register with the ~~Disability Support Service (DSS)~~. Students must provide supporting documentation that demonstrates how their disability limits participation in courses, programs, services, jobs, ~~and~~ activities, and/or access to facilities of the University. Documentation of the disability should be current and from appropriate professionals who are credentialed to diagnose the student’s particular disability. The type of required documentation will vary depending on the nature of the disability and accommodations requested. *See the [DSS website](#) for documentation requirements.* All documentation related to a student’s disability shall be kept confidential and retained by **the** DSS. The DSS file shall be maintained separately from other student records maintained by the University.

a. Timeliness

Requests for accommodations should be made far enough in advance to allow the DSS adequate time to review registration documentation, establish whether the student is qualified, and determine a reasonable accommodation through an interactive process with the student. Generally it is best to request accommodations several weeks before a semester begins or as soon as a disability becomes known.

2. Eligibility Determination

Students are responsible for scheduling an in-person meeting with the DSS and submitting all necessary supporting documents prior to that meeting. The purpose

of the meeting is for **the** DSS to engage the student in an interactive process to determine whether the student is: 1) a qualified individual, and 2) eligible for the specific requested accommodation(s). Once the student contacts **the** DSS to schedule an appointment, and submits all necessary supporting disability documentation, **the** DSS will work in good faith to determine and meet a qualified student's reasonable accommodation needs within ten (10) business days.

3. Implementation

After eligibility has been established, **the** DSS will determine reasonable accommodations required by the student. An *Accommodations Letter* will be developed for the student with directions for sharing the letter with instructors. After receiving the *Accommodations Letter* ~~via email~~ **via email**, students are expected to meet with each course instructor, in person, to provide them with a copy of the *Accommodations Letter* and to obtain their signature on the *Acknowledgment of Student Request* form. Students and instructors will discuss a plan for how the accommodations will be implemented throughout the semester for the course. Specific details regarding implementation of the DSS approved accommodations agreed upon between the student and the individual course instructor, must be documented and added to the *Acknowledgment of Student Request* ~~form~~ **form**, and signed by the instructor. The student is responsible for submitting the signed original form to **the** DSS, and retaining a copy of the signed *Acknowledgment of Student Request* form for ~~his/her~~ **their** individual records.

It is the responsibility of **the** DSS to work with the student and the instructor (and Department Chair or Dean as appropriate) to facilitate effective and timely implementation of reasonable accommodation(s). If a student believes ~~she/he is~~ **they are** being denied reasonable accommodations or that reasonable accommodations are not being implemented in an effective and timely manner, the student should contact **the** DSS immediately. All parties will prioritize accommodation implementation meetings requested by **the** DSS. The University will use good faith efforts to resolve any outstanding issues within five (5) business days. If the student is not satisfied with the results of good faith efforts to resolve this issue, they may file a complaint with the University's Office of Civil Rights & Sexual Misconduct (OCRSM) (See Part IV Complaint Procedures for contact information-).

Academic Objections

If the instructor, Department Chair, or Dean believes the accommodation fundamentally alters the academic objectives of the course, curriculum, program, or degree, ~~he/she is~~ **they are** obligated to notify **the** DSS immediately, in writing, and provide an explanation of the reasoning. Within ten (10) business days, **the** DSS in consultation with the student and instructor, Department Chair, or/Dean will work to identify an alternative solution to ensure the student's accommodation needs are met whenever possible. When necessary, **the** DSS will seek further review at a higher administrative level. If the student is an undergraduate, the DSS shall request review and resolution by the Associate Provost and Dean for Undergraduate Studies or designee.

If the student is a graduate student, the DSS shall request review and resolution by the Associate Provost and Dean of the Graduate School or designee. The **Office of the Provost's Office** will make good faith efforts to review and respond to concerns within ten (10) business days of notification.

B. Staff Accommodation Request Procedures

This Policy requires the University and its agents to engage in an interactive dialogue with the employee in order to implement reasonable accommodations.

It is the responsibility of the Office of Staff Relations in University Human Resources (Staff Relations) to determine reasonable accommodations for staff. As necessary, Staff Relations shall consult with the ADA Coordinator regarding the determination of eligibility and the accommodation request(s). Staff Relations is responsible for documenting approved accommodations in an *Accommodation Plan*. A record of the *Accommodation Plan* shall be retained in the employee's departmental/unit personnel file and in Staff Relations. All supporting disability documentation shall be kept confidential and maintained by Staff Relations separately from the employee's other personnel records.

1. Accommodation Request

To receive an accommodation, an employee must obtain and complete a *Staff Accommodation Request* form from Staff Relations. The employee must document on the form the specific accommodation request and return it to Staff Relations. Additional supporting disability documentation may be requested when necessary.

2. Eligibility Determination

Staff Relations will review the completed *Staff Accommodation Request* form and supporting documentation, and meet with the employee to determine if the employee is a qualified individual with a disability and therefore eligible for accommodations. Staff Relations will consult with the ADA Coordinator, as appropriate, in making this determination.

3. Accommodation Determination

Staff Relations, in consultation with the ADA Coordinator and relevant supervisor/unit head, will review the employee's accommodation request in relation to **his/her their** position, and facilitate an interactive dialogue with the employee, supervisor, and/or unit head, to determine and implement a reasonable accommodation.

4. Implementation

Once eligibility and the reasonable accommodation are approved, Staff Relations will develop an *Accommodation Plan*, which will be shared with the employee and supervisor. It is the responsibility of the supervisor (or unit head) to work in coordination with the employee to ensure appropriate implementation of reasonable accommodations. The University will use good faith efforts to implement reasonable accommodations within thirty (30) business days of receipt of the required documentation for the requested accommodations.

It is the responsibility of Staff Relations to work with the employee, supervisor and/or unit head, in consultation with the ADA Coordinator, as necessary, to facilitate a resolution that ensures effective and timely implementation of the accommodation. If an employee believes ~~she/he has~~ **they have** been denied reasonable accommodations or that reasonable accommodations are not being implemented in an effective and timely manner, the employee should contact Staff Relations immediately.

If Staff Relations' efforts to resolve implementation concerns are unsuccessful, the ADA Coordinator shall seek review and resolution by the Assistant Vice President ~~of~~ **for** Human Resources. If the employee is not satisfied with the results of good faith efforts to resolve the issue, they may file a complaint with the University's ~~Office of Civil Rights & Sexual Misconduct (OCRSM)~~. (See Part IV – Complaint Procedures for contact information).

C. Faculty Accommodation Request Procedures

This Policy requires the University and its agents to engage in an interactive dialogue with faculty in order to implement reasonable accommodations.

It is the responsibility of the Office of Faculty Affairs (Faculty Affairs) to determine reasonable accommodations for faculty. As necessary, Faculty Affairs shall consult with the ADA Coordinator regarding the determination of eligibility and the accommodation request(s). Faculty Affairs is responsible for documenting granted accommodations, in an *Accommodation Plan*. A record of the *Accommodation Plan* shall be retained in the faculty member's departmental file and in Faculty Affairs. All supporting disability documentation shall be kept confidential and maintained by Faculty Affairs separately from the faculty member's other personnel records.

1. Accommodation Request

To receive an accommodation, a faculty member must obtain and complete a *Faculty Accommodation Request* form from Faculty Affairs. The faculty member must document on the form the specific accommodation request and return it to Faculty Affairs. Additional supporting disability documentation may be requested when necessary.

2. Eligibility Determination

Faculty Affairs will review the completed *Faculty Accommodation Request* form and supporting documentation, and meet with the faculty member to determine if the faculty member is a qualified individual with a disability and therefore eligible for accommodations. Faculty Affairs will consult with the ADA Coordinator, as appropriate, in making this determination.

3. Accommodation Determination

Faculty Affairs, in consultation with the ADA Coordinator and relevant Dean or Department Chair, will review the faculty member's accommodation request in relation to the essential job functions of the position, and facilitate an interactive dialogue with the faculty member and Department Chair/Dean, to determine and implement a reasonable accommodation.

4. Implementation

Once eligibility and the reasonable accommodation are approved, Faculty Affairs will develop an *Accommodation Plan* which will be shared with the faculty member and Dean/Department Chair. It is the responsibility of the next level administrator (Dean, Department Chair, etc.) to work in coordination with the faculty member to ensure appropriate implementation of reasonable accommodations. The University will use good faith efforts to implement reasonable accommodations within thirty (30) business days of receipt of the required documentation for the requested accommodations.

It is the responsibility of Faculty Affairs to work with the faculty member and Dean/Department Chair in consultation with the ADA Coordinator, as necessary, to facilitate a resolution that ensures effective and timely implementation of the accommodation. If a faculty member believes ~~she/he has~~ **they have** been denied reasonable accommodations or that reasonable accommodations are not being implemented in an effective and timely manner, the faculty member should contact Faculty Affairs immediately.

If Faculty Affairs' efforts to resolve implementation concerns are unsuccessful, the ADA Coordinator shall seek review and resolution by the Senior Vice President and Provost. If the faculty member is not satisfied with the results of good faith efforts to resolve the issue, they may file a complaint with the University's ~~Office of Civil Rights & Sexual Misconduct (OCRSM)~~. (See Part IV – Complaint Procedures for contact information).

D. Accommodation Request Procedures for Third Parties

1. Accommodation Request

Third party individuals (visitors, volunteers, applicants for admission or employment, vendors, and contractors) with a disability, who are visiting the University, and seek an accommodation to facilitate their visit or access to University programs, must contact **the** DSS.

a. Timeliness

Third parties are expected to provide reasonable notice in order for the University to facilitate the provision of a requested accommodation in a timely manner.

b. Documentation

Depending on the nature of the disability and accommodation request, third parties may be subject to the same supporting documentation requirements as students, faculty, and staff.

2. Accommodation Implementation

It is the responsibility of the host department or unit on campus to implement reasonable accommodations, as communicated by **the** DSS, to third parties.

IV. COMPLAINT PROCEDURES

Individual students, staff, faculty members, or visiting third parties who believe that they have been denied reasonable accommodations or otherwise discriminated against on the basis of disability or retaliated against in violation of this Policy may file a complaint with the ~~University's Office of Civil Rights & Sexual Misconduct~~ (OCRSM). All such complaints will be reviewed in accordance with VI-1.00(B) University of Maryland Non-Discrimination Policy and Procedures (Approved on an Interim Basis by the President October 1, 2015, **amended March 22, 2016**): <http://www.president.umd.edu/policies/2014-VI-100b.html>

Office of Civil Rights & Sexual Misconduct (OCRSM)

1103 Reckord Armory, College Park, MD 20742

Phone: 301.405.1142

Fax: 301.405.2837

Email: civilrights@umd.edu

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

You may report online [here](#).


Time Limits

Complaints of discrimination or retaliation in violation of this Policy must be made within ninety (90) calendar days following an incident of discrimination or retaliation. The OCRSM may waive the time limit upon a showing of good cause.

Appendix 1 - Charge from the SEC



University Senate CHARGE

Date:	March 23, 2016
To:	Stacey Locke Chair, Equity, Diversity, and Inclusion (EDI) Committee
From:	Willie Brown Chair, University Senate 
Subject:	Review of Interim Disability & Accessibility Policy & Procedures
Senate Document #:	15-16-29
Deadline:	April 11, 2016

The Senate Executive Committee (SEC) requests that the Equity, Diversity, and Inclusion (EDI) Committee review the interim University of Maryland Disability & Accessibility Policy & Procedures and make recommendations on whether they are appropriate or on needed revisions.

Specifically, we ask that you:

1. Review the interim University of Maryland Disability & Accessibility Policy and Procedures ([VI-1.00\[D\]](#)).
2. Review similar policies and procedures for disability & accessibility at peer institutions and other Big 10 institutions.
3. Consult with the University's Office of General Counsel on any recommended policy language.
4. If appropriate, recommend whether the interim policy should be revised and submit recommended revisions to the interim policy for Senate consideration.

We ask that you submit your report and recommendations to the Senate Office no later than April 11, 2016. If you have any questions or need assistance, please contact Reka Montfort in the Senate Office at 301-405-5804 or reka@umd.edu.

Attachment



VI-1.00(D) UNIVERSITY OF MARYLAND DISABILITY & ACCESSIBILITY POLICY AND PROCEDURES

(Approved on an Interim Basis by the President October 1, 2015, amended March 23, 2016)

I. POLICY

The University of Maryland is committed to creating and maintaining an educational, working and living environment that is free from discrimination and harassment. The University of Maryland is committed to the principle that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs or activities of the University, or be subjected to discrimination. The University of Maryland provides reasonable accommodations to qualified individuals. Reasonable accommodations shall be made in a timely manner and on an individualized and flexible basis. Discrimination against individuals on the grounds of disability is prohibited. The University also strictly prohibits retaliation against persons arising in connection with the assertion of rights under this Policy.

A. Applicability

This Policy applies to all members of the University community, including students, faculty, staff, and third party individuals. It is the responsibility of individual students and employees to identify themselves as persons with a disability when requesting an accommodation. It is also the responsibility of the individual with the disability to provide current supporting documentation of his/her disability from a relevant credentialed professional that demonstrates how the disability affects his/her ability to perform the essential functions of his/her job or to participate in and benefit from educational programs, services and/or activities of the University. All supporting disability documentation will be kept confidential and separate from personnel records.

Students and employees with disabilities have the same obligation as all members of the community to meet and maintain the institution's job performance, academic, and technical standards, and codes of conduct.

The University's **ADA Coordinator** listed below is responsible for campus-wide compliance with Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973.

**Dr. Jo Ann Hutchinson, Director
Disability Support Service (DSS)**
0106 Shoemaker Building
Phone: 301.314.7682
Fax: 301.405.0813
TTY/TDD: 301.314.7682

Email: Dissup@umd.edu

Website: www.counseling.umd.edu/DSS/

II. DEFINITIONS

“Disability” (with respect to an individual) is a physical or mental impairment that substantially limits one or more of the person’s major life activities, taking into consideration any mitigating measures; a history of having such an impairment; or being regarded as having such an impairment.

“Disability supporting documentation” is a current medical, psychological, educational or other relevant documentation provided by a credentialed third party that establishes a person has a disability as defined above and demonstrates how the disability affects the person’s ability to perform the essential functions of his/her job or to participate in educational programs, services or activities of the University.

“Discrimination” is unequal treatment based on a disability that interferes with an individual’s ability to participate in the University’s educational programs, services or activities or with an individual’s ability to perform his/her job responsibilities.

“Essential Job Functions” is the fundamental, basic job duties performed in a position. A function may be essential because: the position exists to perform that function; there are a limited number of employees available who could perform that function; and/or the function is highly specialized, and the incumbent is hired for special expertise or ability to perform it.

“Interactive Process” is ongoing communication between the employee and employer, or the student and instructor or other University personnel, for the express purpose of providing a reasonable accommodation.

“Qualified Employee” is an employee with a disability who meets the legitimate skills, experience, education or other requirements of a job and who can perform the essential job functions of the position with or without reasonable accommodation.

“Qualified Student” is a student with a disability who meets the academic and technical standards requisite for admission to or participation in the programs, services or activities of the University with or without reasonable accommodation.

“Reasonable accommodations for Students” are adjustments including academic assistance, modifications to rules, policies, or practices; environmental adjustments such as the removal of architectural, communication, or transportation barriers; or auxiliary aids and services necessary for a student to participate in University programs, services or activities. Adjustments must address the particular disability and shall not fundamentally alter the academic objectives of an individual course, curriculum, program or degree. Examples of accommodations include: extended time for timed exams, reduced distraction environments for exams, sign language interpreters, transcribers, alternate texts and reading materials, recorded lectures, and assistive technologies. This is not an exhaustive list.

“Reasonable accommodations for Staff and Faculty and Student Employees” are any changes to a job, the work environment, or the way things are usually done that allows an individual with a disability to apply for a job, perform job functions, or enjoy equal access to benefits available to other individuals in the workplace. Modifications must address the particular disability and should not fundamentally alter the employee’s essential job functions.

“Retaliation” is action taken against an individual solely because of seeking an accommodation related to disability, filing a complaint of discrimination based on disability, or participating in an investigation or proceeding concerning allegations of discrimination based on disability.

III. ACCOMMODATION REQUEST PROCEDURES

A. Student Accommodation Request Procedures

This Policy requires the University and its agents to engage in an interactive dialogue with the student in order to implement reasonable accommodations. The provision and coordination of accommodations for students registered with DSS shall not require the University to fundamentally alter the academic objectives of an individual course, curriculum, program or degree.

1. Accommodation Request

It is the responsibility of the Disability Support Service (DSS) to determine reasonable accommodations for students. To receive an accommodation, students must register with the Disability Support Service (DSS). Students must provide supporting documentation that demonstrates how their disability limits participation in courses, programs, services, jobs, and activities, and/or access to facilities of the University. Documentation of the disability should be current and from appropriate professionals who are credentialed to diagnose the student’s particular disability. The type of required documentation will vary depending on the nature of the disability and accommodations requested. *See the [DSS website](#) for documentation requirements.* All documentation related to a student’s disability shall be kept confidential and retained by DSS. The DSS file shall be maintained separately from other student records maintained by the University.

a. Timeliness

Requests for accommodations should be made far enough in advance to allow the DSS adequate time to review registration documentation, establish whether the student is qualified, and determine a reasonable accommodation through an interactive process with the student. Generally it is best to request accommodations several weeks before a semester begins or as soon as a disability becomes known.

2. Eligibility Determination

Students are responsible for scheduling an in-person meeting with the DSS and submitting all necessary supporting documents prior to that meeting. The purpose

of the meeting is for DSS to engage the student in an interactive process to determine whether the student is: 1) a qualified individual, and 2) eligible for the specific requested accommodation(s). Once the student contacts DSS to schedule an appointment, and submits all necessary supporting disability documentation, DSS will work in good faith to determine and meet a qualified student's reasonable accommodation needs within ten (10) business days.

3. Implementation

After eligibility has been established, DSS will determine reasonable accommodations required by the student. An *Accommodations Letter* will be developed for the student with directions for sharing the letter with instructors. After receiving the *Accommodations Letter via email*, students are expected to meet with each course instructor, in person, to provide them with a copy of the *Accommodations Letter* and to obtain their signature on the *Acknowledgment of Student Request* form. Students and instructors will discuss a plan for how the accommodations will be implemented throughout the semester for the course. Specific details regarding implementation of the DSS approved accommodations agreed upon between the student and the individual course instructor, must be documented and added to the *Acknowledgment of Student Request form*, and signed by the instructor. The student is responsible for submitting the signed original form to DSS, and retaining a copy of the signed *Acknowledgment of Student Request* form for her/his individual records.

It is the responsibility of DSS to work with the student and the instructor (and Department Chair or Dean as appropriate) to facilitate effective and timely implementation of reasonable accommodation(s). If a student believes she/he is being denied reasonable accommodations or that reasonable accommodations are not being implemented in an effective and timely manner, the student should contact DSS immediately. All parties will prioritize accommodation implementation meetings requested by DSS. The University will use good faith efforts to resolve any outstanding issues within five (5) business days. If the student is not satisfied with the results of good faith efforts to resolve this issue, they may file a complaint with the University's Office of Civil Rights & Sexual Misconduct (OCRSM) (See Part IV Complaint Procedures for contact information.)

Academic Objections

If the instructor, Department Chair or Dean believes the accommodation fundamentally alters the academic objectives of the course, curriculum, program, or degree, he/she is obligated to notify DSS immediately, in writing, and provide an explanation of the reasoning. Within ten (10) business days, DSS in consultation with the student and instructor, Department Chair or/Dean will work to identify an alternative solution to ensure the student's accommodation needs are met whenever possible. When necessary, DSS will seek further review at a higher administrative level. If the student is an undergraduate, the DSS shall request review and resolution by the Associate Provost and Dean for Undergraduate Studies or designee.

If the student is a graduate student, the DSS shall request review and resolution by the Associate Provost and Dean of the Graduate School or designee. The Provost's Office will make good faith efforts to review and respond to concerns within ten (10) business days of notification.

B. Staff Accommodation Request Procedures

This Policy requires the University and its agents to engage in an interactive dialogue with the employee in order to implement reasonable accommodations.

It is the responsibility of the Office of Staff Relations in University Human Resources (Staff Relations) to determine reasonable accommodations for staff. As necessary, Staff Relations shall consult with the ADA Coordinator regarding the determination of eligibility and the accommodation request(s). Staff Relations is responsible for documenting approved accommodations, in an *Accommodation Plan*. A record of the *Accommodation Plan* shall be retained in the employee's departmental/unit personnel file and in Staff Relations. All supporting disability documentation shall be kept confidential and maintained by Staff Relations separately from the employee's other personnel records.

1. Accommodation Request

To receive an accommodation, an employee must obtain and complete a *Staff Accommodation Request* form from Staff Relations. The employee must document on the form the specific accommodation request and return it to Staff Relations. Additional supporting disability documentation may be requested when necessary.

2. Eligibility Determination

Staff Relations will review the completed *Staff Accommodation Request* form and supporting documentation, and meet with the employee to determine if the employee is a qualified individual with a disability and therefore eligible for accommodations. Staff Relations will consult with the ADA Coordinator, as appropriate, in making this determination.

3. Accommodation Determination

Staff Relations, in consultation with the ADA Coordinator and relevant supervisor/unit head, will review the employee's accommodation request in relation to his/her position, and facilitate an interactive dialogue with the employee, supervisor, and/or unit head, to determine and implement a reasonable accommodation.

4. Implementation

Once eligibility and the reasonable accommodation are approved, Staff Relations will develop an *Accommodation Plan*, which will be shared with the employee and supervisor. It is the responsibility of the supervisor (or unit head) to work in coordination with the employee to ensure appropriate implementation of reasonable accommodations. The University will use good faith efforts to implement reasonable accommodations within thirty (30) business days of receipt of the required documentation for the requested accommodations.

It is the responsibility of Staff Relations to work with the employee, supervisor and/or unit head, in consultation with the ADA Coordinator, as necessary, to facilitate a resolution that ensures effective and timely implementation of the accommodation. If an employee believes she/he has been denied reasonable accommodations or that reasonable accommodations are not being implemented in an effective and timely manner, the employee should contact Staff Relations immediately.

If Staff Relations' efforts to resolve implementation concerns are unsuccessful, the ADA Coordinator shall seek review and resolution by the Assistant Vice President of Human Resources. If the employee is not satisfied with the results of good faith efforts to resolve the issue, they may file a complaint with the University's Office of Civil Rights & Sexual Misconduct (OCRSM). (See Part IV – Complaint Procedures for contact information.)

C. Faculty Accommodation Request Procedures

This Policy requires the University and its agents to engage in an interactive dialogue with faculty in order to implement reasonable accommodations.

It is the responsibility of the Office of Faculty Affairs (Faculty Affairs) to determine reasonable accommodations for faculty. As necessary, Faculty Affairs shall consult with the ADA Coordinator regarding the determination of eligibility and the accommodation request(s). Faculty Affairs is responsible for documenting granted accommodations, in an *Accommodation Plan*. A record of the *Accommodation Plan* shall be retained in the faculty member's departmental file and in Faculty Affairs. All supporting disability documentation shall be kept confidential and maintained by Faculty Affairs separately from the faculty member's other personnel records.

1. Accommodation Request

To receive an accommodation, a faculty member must obtain and complete a *Faculty Accommodation Request* form from Faculty Affairs. The faculty member must document on the form the specific accommodation request and return it to Faculty Affairs. Additional supporting disability documentation may be requested when necessary.

2. Eligibility Determination

Faculty Affairs will review the completed *Faculty Accommodation Request* form and supporting documentation, and meet with the faculty member to determine if the faculty member is a qualified individual with a disability and therefore eligible for accommodations. Faculty Affairs will consult with the ADA Coordinator, as appropriate, in making this determination.

3. Accommodation Determination

Faculty Affairs, in consultation with the ADA Coordinator and relevant Dean or Department Chair, will review the faculty member's accommodation request in relation to the essential job functions of the position, and facilitate an interactive dialogue with the faculty member and Department Chair/Dean, to determine and implement a reasonable accommodation.

4. Implementation

Once eligibility and the reasonable accommodation are approved, Faculty Affairs will develop an *Accommodation Plan* which will be shared with the faculty member and Dean/Department Chair. It is the responsibility of the next level administrator (Dean, Department Chair, etc.) to work in coordination with the faculty member to ensure appropriate implementation of reasonable accommodations. The University will use good faith efforts to implement reasonable accommodations within thirty (30) business days of receipt of the required documentation for the requested accommodations.

It is the responsibility of Faculty Affairs to work with the faculty member and Dean/Department Chair in consultation with the ADA Coordinator, as necessary, to facilitate a resolution that ensures effective and timely implementation of the accommodation. If a faculty member believes she/he has been denied reasonable accommodations or that reasonable accommodations are not being implemented in an effective and timely manner, the faculty member should contact Faculty Affairs immediately.

If Faculty Affairs' efforts to resolve implementation concerns are unsuccessful, the ADA Coordinator shall seek review and resolution by the Senior Vice President and Provost. If the faculty member is not satisfied with the results of good faith efforts to resolve the issue, they may file a complaint with the University's Office of Civil Rights & Sexual Misconduct (OCRSM). (See Part IV- Complaint Procedures for contact information.)

D. Accommodation Request Procedures for Third Parties

1. Accommodation Request

Third party individuals (visitors, volunteers, applicants for admission or employment, vendors and contractors) with a disability, who are visiting the University, and seek an accommodation to facilitate their visit or access to University programs, must contact DSS.

a. Timeliness

Third parties are expected to provide reasonable notice in order for the University to facilitate the provision of a requested accommodation in a timely manner.

b. Documentation

Depending on the nature of the disability and accommodation request, third parties may be subject to the same supporting documentation requirements as students, faculty and staff.

2. Accommodation Implementation

It is the responsibility of the host department or unit on campus to implement reasonable accommodations, as communicated by DSS, to third parties.

IV. COMPLAINT PROCEDURES

Individual students, staff, faculty members or visiting third parties who believe that they have been denied reasonable accommodations or otherwise discriminated against on the basis of disability or retaliated against in violation of this Policy may file a complaint with the University's Office of Civil Rights & Sexual Misconduct (OCRSM). All such complaints will be reviewed in accordance with VI-1.00(B) University of Maryland Non-Discrimination Policy and Procedures (Approved on an Interim Basis by the President October 1, 2015):

<http://www.president.umd.edu/policies/2014-VI-100b.html>

Office of Civil Rights & Sexual Misconduct (OCRSM)

1103 Reckord Armory, College Park, MD 20742

Phone: 301.405.1142

Fax: 301.405.2837

Email: civilrights@umd.edu

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

You may report online [here](#).

Time Limits

Complaints of discrimination or retaliation in violation of this Policy must be made within ninety (90) calendar days following an incident of discrimination or retaliation. The OCRSM may waive the time limit upon a showing of good cause.

Appendix 2 - Sampling of Peer Institution Research

Non-Discrimination and Disability Accessibility Statements and Policies Peer Institution Research

University of Illinois at Urbana-Champaign

[University of Illinois at Urbana-Champaign Non-Discrimination Statement](#)

[Policy and Procedures for Addressing Discrimination and Harassment at the University of Illinois at Urbana-Champaign](#)

[Reasonable Accommodations Under the Americans with Disabilities Act \(ADA\)](#)

Indiana University

[Non-Discrimination Policy](#)

[Non-Discrimination/Equal Opportunity/Affirmative Action](#)

[University Non-Discrimination Policies](#)

[Americans with Disabilities Act \(ADA\) Policy](#)

University of Iowa

[Nondiscrimination Statement](#)

[Accessibility Statement](#)

[Disability Protection Policy and Accessibility Statement](#)

University of Michigan

[Discrimination and Harassment](#) (the website says that this applies to faculty and staff)

[The University of Michigan Procedural Guidelines for Handling Discrimination and Harassment Complaints](#)

[Nondiscrimination Policy Notice](#) (includes links to policies and procedures- some listed below)

[EEO Affirmative Action Policy for Individuals with Disabilities](#)

[Non-discrimination](#)

[Preventing Discrimination Based on Sexual Orientation](#)

Michigan State University

[Anti-Discrimination Policy](#) and [ADP Users Manual](#)

[Notice of Non-Discrimination](#)

[Anti-Discrimination Policy/Relationship Violence & Sexual Misconduct Policy Student Conduct Review Panel Procedures \(applies to cases filed by OIE with the Department of Student Life on 9/2/15 and after\)](#)

[Office of Institutional Equity Complaint Procedures](#)

[Discrimination/Harassment Formal Complaint Form](#)

Reasonable Accommodations Policy for University Applicants and Employees (see PDF)

[Resource Center for Persons with Disabilities](#)- various documents available

University of Minnesota- Twin Cities

[Discrimination Prohibition](#)

[Discrimination Complaint Information](#)

[Minnesota State Colleges and Universities Equal Opportunity and Nondiscrimination in Employment and Education](#)

[ADA Compliance Policy](#)

University of Nebraska- Lincoln

[Discrimination and Harassment Policies](#)

[Americans with Disabilities Act and Section 504 Grievance Procedure](#)

[Intake Form](#)

[Notice of Nondiscrimination Policy](#)

Northwestern University

[Policy on Discrimination and Harassment](#)

[Non-Discrimination Statement](#)

[Discrimination and Harassment Complaints](#) (procedures)

[Reasonable Accommodation Policy](#) (employees)

[AccessibleNU](#)- no official policy, but has a list of core mission and values

[Laws Pertaining to Accommodations](#)

[Documentation Guidelines](#)

[Eligibility for Services](#)

Ohio State University

[Nondiscrimination Notice](#)

[Affirmative Action, Equal Employment Opportunity & Non-Discrimination/Harassment, 1.10](#)

[Discrimination and Harassment Complaint](#)

[Reasonable Accommodation](#)

[Equal Employment for Individuals with Disabilities](#)

[Access for Individuals with Disabilities](#)

Pennsylvania State University

[Documentation Guidelines](#) (disabilities)

[Accessibility of Penn State Web Pages](#)

[University Faculty Senate Policy 43-00 Syllabus](#) (with syllabus disability statement)

[Policy AD85- Discrimination, Harassment, Sexual Harassment, and Related Inappropriate Conduct](#)

Purdue University

[Nondiscrimination Policy Statement](#)

[Reasonable Accommodation Process](#) and [Reasonable Accommodation Request Form](#)

[Student Success at Purdue- Accommodations and Services](#)

[Student Disability Grievance Procedures](#)

University of Wisconsin- Madison

[Statement of Non-Discrimination](#)

[Classified Staff Disability Accommodation Policy](#) and [Request Form](#)

[Academic Staff Disability Accommodation Policy](#) and [Request Form](#)

[Faculty Disability Accommodation Policy](#) and [Request Form](#)

[ADA Accommodations Notice](#)

[Student Disability Accommodations Request](#)

[UW-Madison Internal ADA Accommodation Requests and Appeal/Grievance Procedures](#)

[UW-Madison ADA Grievance Procedure](#)

Rutgers University

[Policy Prohibiting Discrimination and Harassment](#) and [Complaint Process](#)

[Reasonable Accommodations \(Students\)](#)

[Grievance Procedure](#)

University of California, Berkeley

[Nondiscrimination Policy](#)

University of California System Policy- [Guidelines Applying to Nondiscrimination on the Basis of Disability](#) and [Request Services](#)

University of California, Los Angeles

Same disability guidelines apply as above.

[Student Grievance Procedures](#)

[Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment](#) (UC System Policy)

[ADA/504 Compliance Office Mission Statement](#)

University of North Carolina, Chapel Hill

[Policy Statement on Nondiscrimination](#)

[University Nondiscrimination Policies](#)

For [Students, Employees, and Applicants](#)

For [Visitors and Program Participants](#)

[Reasonable Accommodations in Employment](#)

[Accessibility Resources & Service Policy Page](#)



University Senate TRANSMITTAL FORM

Senate Document #:	15-16-30
PCC ID #:	N/A
Title:	Revisions to the University of Maryland Sexual Misconduct Policy
Presenter:	Stacey Sickels Locke, Chair of the Equity, Diversity, & Inclusion (EDI) Committee
Date of SEC Review:	April 19, 2016
Date of Senate Review:	April 28, 2016
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 4. For information only
Statement of Issue:	In spring 2016, the University Senate Office received a copy of the University of Maryland Sexual Misconduct Policy (VI-1.60[A]) with revisions, which were approved on an interim basis by the University President effective March 21, 2016. The revisions to the policy were developed based on input from a recent review by the State of Maryland's Attorney General's Office of all sexual misconduct policies and procedures at institutions within the University System of Maryland (USM). On March 25, 2016, the Senate Executive Committee (SEC) charged the Equity, Diversity, & Inclusion (EDI) Committee with review of the revisions to the policy.
Relevant Policy # & URL:	VI-1.60(A) – University of Maryland Sexual Misconduct Policy & Procedures http://umd.edu/policies/2014-VI-160A.html
Recommendation:	The EDI Committee recommends that the Senate approve the recommended revised version of policy VI-1.60(A) University of Maryland Sexual Misconduct Policy.

Committee Work:	The EDI Committee met with the Title IX Officer from the Office of Civil Rights & Sexual Misconduct (OCRSM) and a representative of the Office of General Counsel to discuss the changes to the policy. The committee found the changes to be acceptable. EDI discussed the rationale behind the changes to the policy and identified other minor modifications and technical changes needed. On April 1, 2016, the EDI Committee voted in favor of forwarding its recommended revised version of the Sexual Misconduct Policy to the Senate for consideration.
Alternatives:	To not approve the EDI Committee’s recommended revisions to the University of Maryland Sexual Misconduct Policy.
Risks:	There are no associated risks.
Financial Implications:	There are no financial implications.
Further Approvals Required:	Senate approval, Presidential approval.

Senate Equity, Diversity, & Inclusion (EDI) Committee

Report on Senate Document # 15-16-30

Revisions to the University of Maryland Sexual Misconduct Policy

April 2016

2015-2016 EDI Committee Members

Stacey Sickels Locke, Chair

Shaunna Payne Gold, Ex-Officio, Director of the Office of Diversity & Inclusion Rep

Kumea Shorter-Gooden, Ex-Officio, Provost's Rep

Anne Martens, Ex-Officio, VP Administration & Finance Rep

Steve Petkas, Ex-Officio, VP Student Affairs Rep

Jennifer Dindinger, Faculty

Typhanye Dyer, Faculty

John Stevenson, Faculty

Yukako Tatsumi, Faculty

Wendy Peer, Faculty

Tim Tormoen, Exempt Staff

Syndy Shilling, Exempt Staff

Maya Aduba, Exempt Staff

Jordan Carter-Reich, Non-Exempt Staff

Amir Mojtahedi, Non-Exempt Staff

Rishvi Jayathilake, Graduate Student

Ashlee Wilkins, Graduate Student

Damon King, Undergraduate Student

Sumayyah Milstein, Undergraduate Student

BACKGROUND

In spring 2016, the University Senate Office received a copy of the University of Maryland Sexual Misconduct Policy (VI-1.60[A]) with revisions, which were approved on an interim basis by the University President effective March 21, 2016. The revisions to the policy were developed based on input from a recent review by the State of Maryland's Attorney General's Office of all sexual misconduct policies and procedures at institutions within the University System of Maryland (USM).

On March 25, 2016, the Senate Executive Committee (SEC) charged the Equity, Diversity, & Inclusion (EDI) Committee with review of the revisions to the policy (Appendix 1).

COMMITTEE WORK

The EDI Committee met with the Title IX Officer from the Office of Civil Rights & Sexual Misconduct (OCRSM) and a representative of the Office of General Counsel to discuss the changes to the policy. During the meeting, it was explained that changes had been made to the opening section regarding training for all individuals involved in responding to, investigating, or adjudicating reports of Sexual Misconduct, or who are involved in the Sexual Misconduct complaint investigation and resolution processes. It was also explained that clarifications to the applicability of the policy had been made, as well. The committee learned that the section defining "Responsible University Employee" had been clarified, as well. It was also noted that edits had been made to the Confidential Resources section to show which resources are on-campus and which are off-campus. The committee also discussed how the timeframe for investigation and resolution of complaints had been changed to be ideally within "60 business days" instead of "60 calendar days" from when the complaint was filed. The committee also reviewed clarifying language that had been added to the section on "Amnesty for Students Who Report Sexual Misconduct." The committee found the changes to be acceptable. The committee discussed the rationale behind the changes to the policy and identified other minor modifications and technical changes needed.

On April 1, 2016, the EDI Committee voted in favor of forwarding its recommended revised version of the University of Maryland Sexual Misconduct Policy to the Senate for consideration.

RECOMMENDATIONS

The EDI Committee recommends that the Senate approve the recommended revised version of policy VI-1.60(A) University of Maryland Sexual Misconduct Policy, which immediately follows this report.

APPENDICES

Appendix 1 – Charge from the Senate Executive Committee (SEC), dated March 25, 2016

VI-1.60(A) UNIVERSITY OF MARYLAND SEXUAL MISCONDUCT POLICY & PROCEDURES

(Approved on an interim basis by the President October 13, 2014, Amended May 4, 2015, Amended October 1, 2015, Amended March 21, 2016)

- I. Policy Statement
- II. Applicability
- III. Definitions
- IV. Prohibited Conduct
- V. Sanctions
- VI. Confidential Resources
- VII. Reporting Sexual Misconduct
- VIII. Interim Protective Measures
- IX. Retaliation
- X. Complaint Procedures
- XI. Steps to Take Following a Sexual Assault
- XII. Campus Safety
- XIII. Consensual Relationships and Professional Conduct
- XIV. Government Agencies That Address Complaints of Sexual Misconduct

I. POLICY STATEMENT

Sexual ~~misconduct~~ Misconduct is a form of sex discrimination prohibited by federal and state discrimination laws, including Title IX of the Education Amendments of 1972 and Title VII of the Civil Rights Act. In addition, some forms of ~~sexual misconduct~~ Sexual ~~misconduct~~ Misconduct violate the criminal laws of the State of Maryland. Sexual ~~misconduct~~ Misconduct is also a form of sex discrimination in violation of the University of Maryland Non-Discrimination Policy and Procedures: <http://www.president.umd.edu/policies/2014-VI-100b.html>. However, this Policy supersedes the “Non-Discrimination Policy and Procedures” with respect to matters of ~~sexual misconduct~~ Sexual ~~misconduct~~ Misconduct. The University will respond to complaints of ~~sexual misconduct~~ Sexual ~~misconduct~~ Misconduct in accordance with the provisions of the Sexual Misconduct Policy and accompanying investigation and adjudication procedures.

The Office of Civil Rights & Sexual Misconduct (OCRSM) shall receive notice of all reports of ~~sexual misconduct~~ Sexual ~~misconduct~~ Misconduct received by any individual deemed a “Responsible University Employee” under this policy. No employee (other than law enforcement) is authorized to investigate or resolve reports of ~~sexual misconduct~~ Sexual ~~misconduct~~ Misconduct without the involvement of the Title IX Officer:

Catherine A. Carroll, Director

Title IX Officer

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

University of Maryland

4113 Susquehanna Hall, College Park, MD 20742-~~5031~~**5025**

E-mail: carrollc@umd.edu | titleixcoordinator@umd.edu
Phone: 301-405-1142
Fax: 301-405-2837
<http://www.umd.edu/ocrsm/>

The ~~Office of Civil Rights & Sexual Misconduct~~ **OCRSM** is responsible for overseeing the University's training and educational programs related to **sSexual mMisconduct**. To learn more about various resources, on-going training initiatives, and education programs for students, faculty, and staff, please consult the office's website for more current and up-to-date information.

All persons involved in responding to, investigating, or adjudicating Sexual Misconduct reports, or who are involved in the Sexual Misconduct complaint investigation and resolution processes, will participate in annual training in receiving, investigating, and handling complaints of Sexual Misconduct under the University's policy and procedures.

The University of Maryland is committed to a working and learning environment free from **sSexual mMisconduct**. Sexual **mMisconduct** is a broad term used to describe a range of behavior, including **sSexual hHarassment**, **sSexual aAssault**, **dDomestic vViolence**, **dDating vViolence**, **sSexual vViolence**, **rRelationship vViolence**, **sSexual eExploitation**, **sSexual iIntimidation**, and **sStalking**. Sexual **mMisconduct** will not be tolerated. It corrupts the integrity of the educational process and work environment, and violates the core mission and values of the University.

Creating an environment free from **sSexual mMisconduct** is the responsibility of all members of the University community. The University is committed to fostering a campus climate free from **sSexual mMisconduct** through training, education and prevention programs, and through policies and procedures that promote prompt reporting, prohibit retaliation, and promote timely, fair and impartial investigation and resolution of **sSexual mMisconduct** cases. In responding to complaints of **sSexual mMisconduct**, the University will take appropriate steps to eliminate **the sSexual mMisconduct**, prevent its recurrence, and address its effects.

II. APPLICABILITY

The University has jurisdiction over all Title IX complaints made in connection with University programs and activities, and this policy applies to ~~;~~ all members of the University community, including students, faculty, and staff. It also applies to contractors and other third parties within the University's ~~control~~ **jurisdiction**. This policy applies to **sSexual mMisconduct**:

- ~~O~~**On** University premises, in any University facility, or on University property;
- ~~A~~**At** any University sponsored, recognized, or approved program, visit, or activity, regardless of location;
- ~~T~~**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; or

- That otherwise threatens the health and/or safety of a member of the University community.

III. DEFINITIONS

“**Coercion**” includes conduct, intimidation, and express or implied threats of physical or emotional harm; that would reasonably place an individual in fear of immediate or future harm and that is employed to persuade or compel someone to engage in sexual contact. Examples of Coercion include causing the deliberate Incapacitation of another person; conditioning an academic benefit or employment advantage on submission to the sexual contact; threatening to harm oneself if the other party does not engage in sexual contact; or threatening to disclose an individual’s sexual orientation, gender identity, gender expression, or other personal sensitive information if the other party does not engage in the sexual contact.

“**Complainant**” refers to the individual who files a sSexual mMisconduct complaint, alleging a violation of this Policy.

“**Confidential**” refers to communications between two parties where one party, based on their professional status, has the ability to ensure the communications between the two parties are legally protected as private.

“**Consent**” means a knowing, voluntary, and affirmatively communicated willingness to participate in a particular sexual activity or behavior. Only a person who has the ability and capacity to exercise free will and make a rational, reasonable judgment can give eConsent. Consent may be expressed either by words and/or actions, as long as those words and/or actions create a mutually understandable agreement to engage in specific sexual activity. It is the responsibility of the person who wants to engage in sexual activity to ensure that he/she they has have consent from the other party, and that the other party is capable of providing eConsent.

- Lack of protest or resistance is not consent. Nor may silence, in and of itself, be interpreted as eConsent. For that reason, relying solely on non-verbal communication can lead to misunderstanding.
- Previous relationships, including past sexual relationships, do not imply eConsent to future sexual acts.
- Consent to one form of sexual activity cannot automatically imply eConsent to other forms of sexual activity.
- Consent must be present throughout sexual activity and may be withdrawn at any time. If there is confusion as to whether there is consent or whether prior consent has been withdrawn, it is essential that the participants stop the activity until the confusion is resolved.
- Consent cannot be obtained by use of physical force, threats, intimidating behavior, or coercion. Coercion is pressuring another person into sexual activity.

It is a violation of this pPolicy to engage in sexual activity with someone you know, or should know, is hIncapacitated. Incapacitated, for purposes of this pPolicy, means that the person’s decision-making ability is impaired such that they lack the capacity to understand the “who,

what, where, why, or how” of their sexual interaction. Incapacitation may result from: sleep or unconsciousness, temporary or permanent mental or physical disability, involuntary physical restraint, or the influence of alcohol, drugs, medication, or other substances used to facilitate sSexual mMisconduct.

“Incapacitated” An individual who is Incapacitated is unable to give Consent to sexual contact. States of Incapacitation include sleep, unconsciousness, intermittent consciousness, or any other state where the individual is unaware that Ssexual Econtact is occurring. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to Consent to Ssexual Econtact. Alcohol or drug use is one of the prime causes of Incapacitation. Where alcohol or drug use is involved, Incapacitation is a state beyond intoxication, impairment in judgment, or “drunkenness.” Because the impact of alcohol or other drugs varies from person to person, evaluating whether an individual is Incapacitated, and therefore unable to give Consent, requires an assessment of whether the consumption of alcohol or other drugs has rendered the individual physically helpless or substantially incapable of:

- Mmaking decisions about the potential consequences of Ssexual Econtact;
- Appraising the nature of one’s own conduct;
- Communicating Consent to Ssexual Econtact; or
- Communicating unwillingness to engage in Ssexual Econtact.

“Interim Protective Measures” means reasonably available steps the University may take to protect the parties pending a University investigation and adjudication of sSexual mMisconduct.

“Respondent” means the individual accused of engaging in Prohibited Conduct under this Policy.

“Responsible University Employee” includes all University administrators, supervisors in non-confidential roles, faculty members, campus police, coaches, athletic trainers, resident assistants, and non-confidential first responders.

“Title IX Officer” refers to the individual designated by the President of the University to: 1) oversee the University’s response to sSexual mMisconduct reports and complaints and identify and address any patterns or systemic problems revealed by such reports and complaints; 2) conduct sSexual mMisconduct investigations; 3) oversee, review content, and, in collaboration with other University offices, conduct training for students, faculty, and staff on sSexual mMisconduct issues; 4) ensure that appropriate policies and procedures are in place for responding to complaints of sSexual mMisconduct against faculty, staff, and students; and 5) work with local law enforcement to ensure coordinated responses to sSexual mMisconduct cases.

IV. PROHIBITED CONDUCT

“Dating Violence” encompasses a broad range of behaviors, including sSexual aAssault, physical abuse, and other forms of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the eComplainant, considering the length of

the relationship, the type of relationship, and the frequency of interaction between the persons involved.

“Domestic Violence” encompasses a broad range of behaviors, including **sSexual aAssault**, physical abuse and other forms of violence committed by a current or former spouse or intimate partner of the **eComplainant**, by a person with whom the **eComplainant** shares a child in common, by a person who is cohabitating with or has cohabitated with the **eComplainant** as a spouse or intimate partner, by a person similarly situated to a spouse of the **eComplainant**, or by any other person against an adult or youth **eComplainant** protected from those acts by domestic or family violence laws of Maryland.

“Relationship Violence” encompasses a broad range of behaviors, including **sSexual aAssault**, physical abuse and other acts, threats, or a pattern of abusive behavior of a physical or sexual nature by one partner intended to control, intimidate, manipulate, humiliate, frighten, coerce, or injure the other. These acts may be directed toward a spouse, an ex-spouse (also referred to as **“dDomestic vViolence”**), or by a current or former intimate partner (also referred to as **“dDating vViolence”**).

“Retaliation” means intimidating, threatening, coercing, or discriminating against an individual for the purpose of interfering with any right or privilege secured by law or University policy relating to **sSexual mMisconduct**, or because an individual has made a report, filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding related to **sSexual mMisconduct**. Retaliation includes retaliatory harassment.

“Sexual Assault” is any type of actual or attempted sexual contact with another individual without that person’s **eConsent**, including sexual intercourse (rape) and attempted sexual intercourse (attempted rape).

Sexual Assault I. – Non-Consensual Sexual Intercourse

Any act of sexual intercourse with another individual without **eConsent** (rape). This includes penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person’s **eConsent**.

Sexual Assault II. – Non-Consensual Sexual Contact

Any unwanted intentional touching of the intimate body parts of another person, causing another to touch the intimate parts of oneself or another, or disrobing or exposure of another without **eConsent**. Intimate parts may include genitalia, groin, breast, or buttocks, or clothing covering them, or any other body part (including one’s own) that is touched in a sexual manner. Non-consensual sexual contact includes attempted sexual intercourse without **eConsent** (attempted rape).

“Sexual Exploitation” means taking non-consensual or abusive sexual advantage of another person for one’s own advantage or benefit or for the advantage or benefit of anyone other than the person being exploited.

“Sexual Harassment” means: (a) unwelcome sexual advances; (b) unwelcome requests for sexual favors; or (c) other behavior of a sexual or gender-based nature where: (i) submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, evaluation of academic work, or participation in a **U**niversity-sponsored educational program or activity; (ii) submission to or rejection of such conduct by an individual is used as the basis for an academic, employment, or activity or program participation decision affecting that individual; or (iii) such conduct has the purpose or effect of unreasonably interfering with an individual’s academic or work performance, i.e., it is sufficiently severe or pervasive to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment.

“Sexual Intimidation” means threatening behavior of a sexual nature directed at another person, such as threatening to sexually assault another person or engaging in indecent exposure.

“Sexual Misconduct” is an umbrella term that encompasses **D**ating **V**iolence, **D**omestic **V**iolence, **S**exual **V**iolence, **S**exual **H**arassment, **S**exual **A**ssault, **S**exual **E**xploitation, **S**exual **I**ntimidation, **R**elationship **V**iolence, and **S**talking. Sexual **M**isconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual **M**isconduct can be committed by any person, regardless of gender identity, and can occur between people of the same or different sex, sexual orientation, or gender expression.

“Sexual Violence” means physical sexual acts perpetrated without **C**onsent. Sexual **V**iolence includes but is not limited to **S**exual **H**arassment, sexual **C**oercion, and **S**exual **A**ssault.

“Stalking” means repeated, unwanted attention; physical, verbal, or electronic contact; or any other course of conduct directed at an individual that is sufficiently serious to cause physical, emotional, or psychological fear or to create a hostile, intimidating, or abusive environment for a reasonable person in similar circumstances and with similar identities. Stalking may involve individuals who are known to one another or who have a current or previous relationship or may involve individuals who are strangers.

V. SANCTIONS

Both parties shall be informed of the outcome of any investigative and adjudicative process based on a violation of this policy. The University shall not publically disclose personally identifiable information about either of the parties, except as required by law.

Employees. Employees found in violation of this policy are subject to disciplinary action ranging from a written reprimand up to and including termination of employment, depending on the circumstances.

Students. Students found in violation of this policy are subject to disciplinary action based on the circumstances and nature of the violation. Sanctions include, but are not limited to: dismissal from the University (suspension or expulsion), removal from University housing,

disciplinary probation, and other sanctions such as a community service and mandatory and continuing participation in sSexual mMisconduct education programming.

Persons who commit sSexual mMisconduct in violation of federal, state, or local law may also be subject to criminal charges and penalties.

VI. CONFIDENTIAL RESOURCES

Generally, it is not confidential when a person reports sSexual mMisconduct. If a person desires to keep an incident of sSexual mMisconduct confidential, they should speak with individuals who have professional or legal obligations to keep communications confidential. When seeking advice and support, persons should always consider whether they want to discuss their concerns with a confidential resource. Unless there is an imminent threat to health or safety or other basis for disclosure, such as child abuse, confidentiality applies when persons seek services from the following resources:

A. ON-CAMPUS

Campus Advocates Respond and Educate (CARE) to Stop Violence

University Health Center Office 301-314-2222

24/7 Help Line (call/text) 301-741-3442

www.health.umd.edu/care or care@health.umd.edu

This service is a free and confidential resource that provides support, assistance, and advocacy to any member of the University community impacted by sSexual mMisconduct. Its mission is to respond to incidents of sSexual mMisconduct, including sSexual aAssault, fRelationship vViolence, sStalking, and sSexual hHarassment.

Faculty Staff Assistance Program (FSAP) 301-314-8170 or 301-314-8099

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

University Counseling Center 301-314-7651

www.counseling.umd.edu

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

University Health Center, Mental Health Service 301-314-8106

www.health.umd.edu/mentalhealth/services

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

Student Legal Aid Office

Undergraduates 301-314-7756; Graduate Students 301-405-5807

The Student Legal Aid Office, located in **the** South Campus Dining Hall, provides free, confidential legal advice to any University student.

Campus Chaplains 301-405-8450 or 301-314-9866

http://thestamp.umd.edu/engagement/memorial_chapel/chaplains

The Campus Chaplains represent 14 faith communities and work collectively to serve the spiritual needs of all members of the University community.

B. OFF-CAMPUS

Prince George’s Hospital Domestic Violence and Sexual Assault Center

301-618-3154 - 24 hours (3001 Hospital Drive, Cheverly, MD 20785)

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

Maryland Coalition Against Sexual Assault (MCASA)

Statewide Sexual Assault Information and Referral help line 1-800-983-RAPE

MCASA is a statewide coalition of 17 rape crisis and recovery centers that serve all of Maryland’s jurisdictions. MCASA works to help prevent **sSexual aAssault**, advocate for accessible, compassionate care for survivors of **sSexual vViolence**, and works to hold offenders accountable.

Maryland Network against Domestic Violence

1-800-MD-HELPS

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

Disclosures or reports made to any other entities except those listed above are *not* confidential. For instance, if you discuss an incident of **sSexual mMisconduct** with your supervisor, a resident assistant, a coach, or faculty member, those persons are “Responsible University Employees” and, as such, are obligated pursuant to this policy to report the **sSexual mMisconduct** to the Title IX Officer.

The University recognizes that **sSexual mMisconduct** is a sensitive issue for all parties involved and is committed to operating with discretion, and maintaining the privacy of individuals to the greatest extent possible under applicable law.

VII. REPORTING SEXUAL MISCONDUCT

Obligations of “Responsible University Employee.” A “Responsible University Employee” (see Definitions) must promptly notify the Title IX Officer in the **Office of Civil Rights & Sexual Misconduct OCRSM** of any report of **sSexual mMisconduct** brought to their attention, including campus law enforcement. The Title IX Officer works collaboratively with the reporting entity, making every effort to operate with discretion and maintain the privacy of the individuals involved.

Prompt reporting is encouraged. Persons are encouraged to report **sSexual mMisconduct** promptly in order to maximize the University’s ability to obtain evidence, identify potential witnesses, and conduct a thorough, prompt, and impartial investigation. While there are no time limits to reporting **sSexual mMisconduct**, if too much time has passed since the incident occurred, the delay may result in loss of relevant evidence and witness testimony, impairing the University’s ability to respond and take appropriate action.

All reports of **sSexual mMisconduct** will be responded to immediately and appropriate action will be taken in accordance with the University’s Sexual Misconduct **Investigation & Adjudication Complaint** Procedures (see *Appendices A, B, C*). If the University determines that **sSexual mMisconduct** has occurred, it will take prompt and effective steps to eliminate the **sSexual mMisconduct**, prevent its recurrence, and address its effects.

The University strives to take appropriate action, including investigation and resolution of complaints, within sixty (60) business days from when the complaint was filed. The University may extend the time frames set forth in this policy for good cause, with written notice to both parties of the delay and the reason for the delay. Exceptions to this timeframe may vary depending on the complexity of the investigation, access to relevant parties, and the severity and extent of the misconduct.

Sexual **mMisconduct** by students, faculty, staff, and third parties should be reported to:

Office of Civil Rights & Sexual Misconduct (OCRSM) 301-405-1142

<http://www.umd.edu/ocrsm/> | titleixcoordinator@umd.edu

The mission of the Office of Civil Rights & Sexual Misconduct (**OCRSM**) is to support the University’s commitment to a working and learning environment free from **sSexual mMisconduct** and **fRelationship vViolence**. The core services of the **Office OCRSM** include: oversight for all institutional responses to **sSexual mMisconduct** and **fRelationship vViolence**, ensuring University compliance with federal statutory and regulatory requirements, promoting best practices in responding to victims of **sSexual vViolence** and holding respondents accountable, receiving and investigating reports of **sSexual mMisconduct** and **fRelationship vViolence**, and increasing access to information and available resources to the **campus University** community. The office seeks to work collaboratively across all **campus University** constituent groups and create a climate where diversity, inclusion, and respect inform all processes.

Sexual **mMisconduct** committed by students may also be reported to:

Office of Student Conduct (OSC), Division of Student Affairs 301-314-8204

www.studentconduct.umd.edu | studentconduct@umd.edu

The Office of Student Conduct (**OSC**) administers adjudicative processes involving students who commit violations of the University of Maryland Code of Student Conduct and can provide assistance to students who wish to report incidents of **sSexual mMisconduct**.

Office of Rights and Responsibilities, Department of Resident Life 301-314-7598

www.reslife.umd.edu/rights | drl-rr@umd.edu

The Office of Rights and Responsibilities administers adjudicative processes involving students who commit conduct violations of the Residence Hall Rules and the University of Maryland Code of Student Conduct in on-campus residence halls and can provide assistance to students who wish to report incidents of **sSexual mMisconduct**.

Reporting a crime. Sexual **mMisconduct**, particularly **sSexual vViolence**, may be a crime. The University will assist **eComplainants** who wish to report **sSexual mMisconduct** to law enforcement authorities, including campus police. Representatives of the ~~Office of Civil Rights & Sexual Misconduct~~ **OCRSM**, ~~Office of Student Conduct~~ **OSC**, Office of Rights & Responsibilities, and Campus Advocates Respond and Educate (CARE) to Stop Violence Office in the University Health Center are available to assist students in reporting to campus police. Campus police will also assist **eComplainants** in notifying other law enforcement authorities in other jurisdictions, as appropriate. To report to the University of Maryland Police, please call 301-405-3555.

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

Upon receipt of a report of **sSexual mMisconduct** that may constitute a crime, campus police will advise the student that in addition to making a criminal report, they also have the right to file a complaint with the University and engage the University's investigation and adjudicative processes under this **pPolicy**. In addition, as Responsible University Employees under this policy, campus police who receive any type of report of **sSexual mMisconduct**, whether it rises to the level of a crime or not, shall promptly notify the Title IX Officer at titleixcoordinator@umd.edu.

Co-Occurring Criminal Action. Proceeding with a University investigation and adjudication of a complaint of **sSexual mMisconduct** under this policy is independent of any criminal investigation or proceeding. Reporting to law enforcement does not preclude a person from proceeding with a complaint of **sSexual mMisconduct** under this policy. The University is required to conduct an investigation in a timely manner, which means, in most cases, the University will not wait until a criminal investigation or proceeding is concluded before conducting its own investigation, implementing **iInterim pProtective mMeasures**, and taking appropriate action. However, *at the request of law enforcement*, the Title IX Officer may defer its fact gathering until the initial stages of a criminal investigation are complete. If such a

request is made, University of Maryland Police will submit the request in writing and the eComplainant will be notified. In addition, when possible, in cases where there is a co-occurring criminal investigation by University of Maryland Police, Prince George's County Police, or the local prosecutor's office, the ~~Office of Civil Rights & Sexual Misconduct~~ OCRSM will work collaboratively and supportively with each respective agency within the parameters outlined above. The ~~Office of Civil Rights & Sexual Misconduct~~ OCRSM will communicate any necessary delays in the University's investigative process to both parties in the event of a deferral.

The ~~Office of Civil Rights & Sexual Misconduct~~ OCRSM shall not disclose information about sSexual mMisconduct complaints to third parties (persons other than those in the University community with a need to know) except as may be required or permitted by federal or state law. If a report of sSexual mMisconduct discloses a serious and on-going threat to the eampus University community, the University of Maryland Police may issue a timely warning of the conduct under the Clery Act in the interests of the health and safety of the eampus University community. This notice will not contain any personally identifying information related to the eComplainant.

Amnesty for Students Who Report Sexual Misconduct

The University recognizes that a student who is under the influence of alcohol and/or drugs when an incident of sSexual mMisconduct occurs, may be reluctant to report the sSexual mMisconduct out of concern they may face disciplinary sanctions for engaging in prohibited alcohol or drug use. As such, a student who reports sSexual mMisconduct to the University or law enforcement, or who participates in a sSexual mMisconduct investigation either as a eComplainant or third party witness, will not face disciplinary action for violating University drug and alcohol policies. This amnesty provision applies only when the University determines that: (1) the drug/alcohol violation occurred during or near the time of the reported sSexual mMisconduct; (2) the student acted in good faith in reporting or participating as a witness; and (3) the violation was not likely to place the health or safety of another individual at risk.

Requests for Confidentiality

If a eComplainant requests that their name not be disclosed or that the University not investigate or take action against the respondent, the Title IX Officer or designee will determine whether or not it can honor such a request while still providing a safe and non-discriminatory environment for all students, faculty, and staff, including the eComplainant. The Title IX Officer shall make a determination as to whether the eComplainant's request can be honored, by considering the following factors:

- ~~C~~ircumstances that suggest there is an increased risk of the respondent committing additional acts of sSexual mMisconduct or other violence (e.g., whether there have been other sSexual mMisconduct complaints about the same respondent);
- ~~W~~hether the respondent has any documented history of violence known to the University;
- ~~W~~hether the respondent threatened further sSexual mMisconduct or other violence against the eComplainant or others that is known to the University;
- ~~W~~hether the sSexual mMisconduct was committed by multiple persons;

- Whether the sSexual mMisconduct was perpetrated with a weapon;
- The age of the eComplainant subjected to the sSexual mMisconduct; and
- Whether the University possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence).

VIII. INTERIM PROTECTIVE MEASURES

Reports of sSexual mMisconduct in violation of this pPolicy may require immediate protective measures to protect the safety and well-being of the parties and/or the campus University community pending the outcome of the investigative and adjudicative processes. Interim protective measures may include the following:

No Contact Order. A no contact order is an official University directive that serves as notice to an individual that they must not have verbal, electronic, written, or third party communications with another individual.

For Students:

- *Academic accommodations*, such as, assistance in transferring to another section of a lecture or laboratory, assistance in arranging for incompletes, leaves or withdrawal from campus, or rearranging class schedules, and
- *Housing accommodations*, such as, facilitating changes in on-campus housing location to alternate housing, assistance in exploring alternative housing off-campus, and
- *Employment accommodations*, such as, arranging for alternate University employment, different work shifts, etc., and
- *Transportation and parking accommodations*.

For Employees:

- *Employment accommodations*, such as, temporary assignment, if appropriate, to other work duties and responsibilities, or other work locations, or other work groups/teams or alternative supervision/management, and
- *Transportation and parking accommodations*.

IX. RETALIATION

Complaints of Retaliation. Individuals who engage in retaliatory behavior against a reporting party or party participating in an investigation are in violation of this policy and will be subject to appropriate disciplinary action pursuant to the procedures for this policy. Individuals who believe they have experienced retaliation in violation of this policy should immediately report such conduct to the Title IX Officer at titleixcoordinator@umd.edu.

X. COMPLAINT PROCEDURES

Complaints Against Students. Complaints against students based on a violation of this policy will be reviewed in accordance with the procedures set forth in *Appendix A*.

Complaints Against Staff. Complaints against staff based on a violation of this policy will be reviewed in accordance with the procedures set forth in *Appendix B*.

Complaints Against Faculty. Complaints against faculty members based on a violation of this policy will be reviewed in accordance with the procedures set forth in *Appendix C*.

Complaints Against Third Parties Not Affiliated With the University. If a member of the University community (student, faculty, or staff) is subjected to **sSexual mMisconduct** by a third party not affiliated with the University on University premises or during University sponsored activities, the matter should be reported to the Title IX Officer. The University will take available and reasonable steps to address the Sexual Misconduct, prevent its recurrence, and address its effects at the University.

XI. STEPS TO TAKE FOLLOWING A SEXUAL ASSAULT

Stay Warm. Persons who experience **sSexual aAssault** may be in a state of shock. It is important to stay warm by wrapping up in a blanket or coat. This will help recovery from shock and make it less likely that physical evidence is disturbed.

Get to a Safe Place and Seek Emotional Support. Talking with a trusted friend or relative or someone who is professionally trained to deal with sexual assault like a confidential CARE advocate or mental health professional at the University Health Center can help you make decisions about what to do. Whether you decide to go to law enforcement or not, it is important to take care of your own emotional needs. Professional counseling may be beneficial.

Preserve Evidence. If possible, consider taking steps to preserve physical evidence - on the body and at the location of an assault. It is important not to shower or bathe, eat or drink, brush teeth or gargle, change clothes, urinate or defecate, brush or comb hair, or smoke. Clothing worn at the time of an assault should not be washed but placed in a paper bag “as is” and brought to the hospital. In order to avoid forgetting important details, write down the facts about the accused and the assault.

Seek Medical Attention. It is important to seek medical attention as soon as possible. A medical examination will ensure appropriate medical treatment, including testing for pregnancy or sexually transmitted infections. You may also want to obtain a Sexual Assault Forensic Exam (SAFE). A SAFE exam allows for the collection of evidence and can ensure any physical evidence is preserved in the event of a report to law enforcement. A SAFE exam may be obtained within 72 hours after an assault at:

Prince George’s Hospital Domestic Violence and Sexual Assault Center (DV/SAC)
301-618-3154

<http://www.dimensionshealth.org/index.php/dimensions-healthcare-facilities/prince-georges-hospital-center/domestic-violence-and-sexual-assault-center-dvsac/>

XII. CAMPUS SAFETY

The health and safety of all members of the **campus University** community are the University's primary concern. The University makes the following services available:

Emergency Phones

University of Maryland Police Emergency Response Telephones (PERT), recognized by a blue light affixed to each station, are available throughout campus. By activating the phone, an individual will be automatically connected to a campus police dispatcher who is immediately alerted to the location of the phone.

24 Hour Walking Escort Service/Student Police Auxiliary Foot Patrol **301-405-3555 or blue light emergency PERT phone**

The University of Maryland Police Department provides a walking escort service 24 hours a day for anyone who feels unsafe while walking on campus. The Student Police Auxiliary foot patrol program provides walking escorts, conducted by University of Maryland Police officers when the foot patrol program is out of service or if requested and available.

University Department of Public Safety

301-405-3555 (non-emergency) or 301-405-3333 (emergency)
Local Police in ANY location - 911

Persons who experience **sSexual mMisconduct** are strongly encouraged to contact the University of Maryland Police. If a person is not certain whether criminal conduct is involved, an officer can assist in determining whether a crime has occurred. If **sSexual mMisconduct** occurred off campus, an officer can assist in contacting the appropriate law enforcement agency. A student can request and receive the assistance of campus police without making a criminal complaint. Campus police can also assist in accompanying the student to a hospital that can provide a Sexual Assault Forensic Exam (SAFE) to both ensure appropriate medical treatment and the timely collection of physical evidence in the event the person seeks to make a criminal complaint.

XIII. CONSENSUAL RELATIONSHIPS AND PROFESSIONAL CONDUCT

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

Because of the potential conflicts of interest, persons involved in consensual sexual relationships with anyone over whom they have supervisory and/or evaluative responsibilities *must inform their supervisor(s)* of the relationship(s). Supervisory or evaluative responsibilities may be reassigned, as appropriate. While no relationships are expressly prohibited by this policy, failure to self-report such relationships in a timely manner, as required by this policy, may result in disciplinary action.

XIV. EXTERNAL GOVERNMENT AGENCIES THAT ADDRESS COMPLAINTS OF SEXUAL MISCONDUCT

Employee complaints relating to **sSexual mMisconduct** may also be filed with:

Equal Employment Opportunity Commission

City Crescent Building
10 S. Howard Street, Third Floor
Baltimore, MD 21201
Phone: 1-800-669-4000
Fax: 410-962-4270
TTY: 1-800-669-6820
Website: <https://egov.eeoc.gov/eas/>

Maryland Commission on Civil Rights

William Donald Schaefer Tower
6 Saint Paul Street, Ninth Floor
Baltimore, MD 21202-1631
Phone: 410-767-8600
Fax: 410-333-1841
TTY: 410-333-1737
Website: <http://mccr.maryland.gov/>
E-mail: jcole@mccr.state.md.us

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

Student or employee complaints relating to **sSexual mMisconduct** may be directed to:

Office for Civil Rights

U.S. Department of Education
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
E-mail: OCR.Philadelphia@ed.gov
Website: http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html


Replacement for:

VI-1.20(A) University of Maryland Policy and Procedures on Sexual Harassment
VI-1.30(A) University of Maryland Procedures on Sexual Assault and Misconduct

Appendix 1 - Charge from the SEC



University Senate CHARGE

Date:	March 25, 2016
To:	Stacey Locke Chair, Equity, Diversity, and Inclusion (EDI) Committee
From:	Willie Brown Chair, University Senate 
Subject:	Revisions to the University of Maryland Sexual Misconduct Policy
Senate Document #:	15-16-30
Deadline:	April 11, 2016

The Senate Executive Committee (SEC) requests that the Equity, Diversity, and Inclusion (EDI) Committee review the attached revisions to the University of Maryland Sexual Misconduct Policy (VI-1.60[A]), which were approved on an interim basis by the President on March 21, 2016.

Specifically, we ask that you:

1. Review the revised interim University of Maryland Sexual Misconduct Policy (VI-1.60[A]).
2. Consult with the University's Office of General Counsel.
3. If appropriate, recommend whether the interim policy should be revised.

We ask that you submit your report and recommendations to the Senate Office no later than April 11, 2016. If you have questions or need assistance, please contact Reka Montfort in the Senate Office, extension 5-5804.

Attachment

WB/rm



VI-1.60(A) UNIVERSITY OF MARYLAND SEXUAL MISCONDUCT POLICY & PROCEDURES

(Approved on an interim basis by the President October 13, 2014, Amended May 4, 2015, Amended October 1, 2015, [Amended \[date\]](#))

- I. Policy Statement
- II. Applicability
- III. Definitions
- IV. Prohibited Conduct
- V. Sanctions
- VI. Confidential Resources
- VII. Reporting Sexual Misconduct
- VIII. Interim Protective Measures
- IX. Retaliation
- X. Complaint Procedures
- XI. Steps to Take Following a Sexual Assault
- XII. Campus Safety
- XIII. Consensual Relationships and Professional Conduct
- XIV. Government Agencies That Address Complaints of Sexual Misconduct

I. POLICY STATEMENT

Sexual misconduct is a form of sex discrimination prohibited by federal and state discrimination laws, including Title IX of the Education Amendments of 1972 and Title VII of the Civil Rights Act. In addition, some forms of sexual misconduct violate the criminal laws of the State of Maryland. Sexual misconduct is also a form of sex discrimination in violation of the University of Maryland Non-Discrimination Policy and Procedures:

<http://www.president.umd.edu/policies/2014-VI-100b.html>. However, this Policy supersedes the “Non-Discrimination Policy and Procedures” with respect to matters of sexual misconduct. The University will respond to complaints of sexual misconduct in accordance with the provisions of the Sexual Misconduct Policy and accompanying investigation and adjudication procedures.

The Office of Civil Rights & Sexual Misconduct (OCRSM) shall receive notice of all reports of sexual misconduct received by any individual deemed a “Responsible University Employee” under this policy. No employee (other than law enforcement) is authorized to investigate or resolve reports of sexual misconduct without the involvement of the Title IX Officer:

Catherine A. Carroll, Director

Title IX Officer

Office of Civil Rights & Sexual Misconduct

University of Maryland

[4113 Susquehanna Hall](#), College Park, MD 20742-5031

E-mail: carrolle@umd.edu | titleixcoordinator@umd.edu
Phone: 301-405-1142
Fax: 301-405-2837
<http://www.umd.edu/ocrsm/>

The Office of Civil Rights & Sexual Misconduct is responsible for overseeing the University's training and educational programs related to sexual misconduct. To learn more about various resources, on-going training initiatives, and education programs for students, faculty and staff, please consult the office's website for more current and up-to-date information.

All persons involved in responding to, investigating, or adjudicating Sexual Misconduct reports, or who are involved in the Sexual Misconduct complaint investigation and resolution processes, will participate in annual training in receiving, investigating and handling complaints of Sexual Misconduct under the University's policy and procedures.

The University of Maryland is committed to a working and learning environment free from sexual misconduct. Sexual misconduct is a broad term used to describe a range of behavior, including sexual harassment, sexual assault, domestic violence, dating violence, sexual violence, relationship violence, sexual exploitation, sexual intimidation, and stalking. Sexual misconduct will not be tolerated. It corrupts the integrity of the educational process and work environment, and violates the core mission and values of the University.

Creating an environment free from sexual misconduct is the responsibility of all members of the University community. The University is committed to fostering a campus climate free from sexual misconduct through training, education and prevention programs, and through policies and procedures that promote prompt reporting, prohibit retaliation, and promote timely, fair and impartial investigation and resolution of sexual misconduct cases. In responding to complaints of sexual misconduct, the University will take appropriate steps to eliminate sexual misconduct, prevent its recurrence and address its effects.

II. APPLICABILITY

The University has jurisdiction over all Title IX complaints made in connection with University programs and activities, and this policy applies to all members of the University community, including students, faculty, and staff. It also applies to contractors and other third parties within the University's control. This policy applies to sexual misconduct:

- On University premises, in any University facility or on University property;
- At any University sponsored, recognized or approved program, visit or activity, regardless of location;
- 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; or
- That otherwise threatens the health and/or safety of a member of the University community.

III. DEFINITIONS

“Coercion” includes conduct, intimidation, and express or implied threats of physical or emotional harm, that would reasonably place an individual in fear of immediate or future harm and that is employed to persuade or compel someone to engage in sexual contact. Examples of Coercion include causing the deliberate Incapacitation of another person; conditioning an academic benefit or employment advantage on submission to the sexual contact; threatening to harm oneself if the other party does not engage in sexual contact; or threatening to disclose an individual’s sexual orientation, gender identity, gender expression, or other personal sensitive information if the other party does not engage in the sexual contact.

“Complainant” refers to the individual who files a sexual misconduct complaint, alleging a violation of this Policy.

“Confidential” refers to communications between two parties where one party, based on their professional status, has the ability to ensure the communications between the two parties are legally protected as private.

“Consent” means a knowing, voluntary and affirmatively communicated willingness to participate in a particular sexual activity or behavior. Only a person who has the ability and capacity to exercise free will and make a rational, reasonable judgment can give consent. Consent may be expressed either by words and/or actions, as long as those words and/or actions create a mutually understandable agreement to engage in specific sexual activity. It is the responsibility of the person who wants to engage in sexual activity to ensure that he/she has consent from the other party, and that the other party is capable of providing consent.

- Lack of protest or resistance is not consent. Nor may silence, in and of itself, be interpreted as consent. For that reason, relying solely on non-verbal communication can lead to misunderstanding.
- Previous relationships, including past sexual relationships, do not imply consent to future sexual acts.
- Consent to one form of sexual activity cannot automatically imply consent to other forms of sexual activity.
- Consent must be present throughout sexual activity and may be withdrawn at any time. If there is confusion as to whether there is consent or whether prior consent has been withdrawn, it is essential that the participants stop the activity until the confusion is resolved.
- Consent cannot be obtained by use of physical force, threats, intimidating behavior, or coercion. Coercion is pressuring another person into sexual activity.

It is a violation of this policy to engage in sexual activity with someone you know, or should know, is incapacitated. Incapacitated, for purposes of this policy, means that the person’s decision-making ability is impaired such that they lack the capacity to understand the “who, what, where, why or how” of their sexual interaction. Incapacitation may result from: sleep or unconsciousness, temporary or permanent mental or physical disability, involuntary physical restraint, or the influence of alcohol, drugs, medication, or other substances used to facilitate

sexual misconduct.

“Incapacitated” An individual who is Incapacitated is unable to give Consent to sexual contact. States of Incapacitation include sleep, unconsciousness, intermittent consciousness, or any other state where the individual is unaware that Sexual Contact is occurring. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to Consent to Sexual Contact. Alcohol or drug use is one of the prime causes of Incapacitation. Where alcohol or drug use is involved, Incapacitation is a state beyond intoxication, impairment in judgment, or “drunkenness.” Because the impact of alcohol or other drugs varies from person to person, evaluating whether an individual is Incapacitated, and therefore unable to give Consent, requires an assessment of whether the consumption of alcohol or other drugs has rendered the individual physically helpless or substantially incapable of:

- Making decisions about the potential consequences of Sexual Contact;
- Appraising the nature of one’s own conduct;
- Communicating Consent to Sexual Contact; or
- Communicating unwillingness to engage in Sexual Contact.

“Interim Protective Measures” means reasonably available steps the University may take to protect the parties pending a University investigation and adjudication of sexual misconduct.

“Respondent” means the individual accused of engaging in Prohibited Conduct under this Policy.

“Responsible University Employee” includes all University administrators, supervisors in non-confidential roles, faculty members, campus police, coaches, athletic trainers, resident assistants, and non-confidential first responders.

“Title IX Officer” refers to the individual designated by the President of the University to: 1) oversee the University’s response to sexual misconduct reports and complaints and identify and address any patterns or systemic problems revealed by such reports and complaints; 2) conduct sexual misconduct investigations; 3) oversee, review content, and, in collaboration with other University offices, conduct training for students, faculty, and staff on sexual misconduct issues; 4) ensure that appropriate policies and procedures are in place for responding to complaints of sexual misconduct against faculty, staff, and students; and 5) work with local law enforcement to ensure coordinated responses to sexual misconduct cases.

IV. PROHIBITED CONDUCT

“Dating Violence” encompasses a broad range of behaviors, including sexual assault, physical abuse and other forms of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant, considering the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved.

“Domestic Violence” encompasses a broad range of behaviors, including sexual assault, physical abuse and other forms of violence committed by a current or former spouse or intimate partner of the complainant, by a person with whom the complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the complainant, or by any other person against an adult or youth complainant protected from those acts by domestic or family violence laws of Maryland.

“Relationship Violence” encompasses a broad range of behaviors, including sexual assault, physical abuse and other acts, threats or a pattern of abusive behavior of a physical or sexual nature by one partner intended to control, intimidate, manipulate, humiliate, frighten, coerce, or injure the other. These acts may be directed toward a spouse, an ex-spouse (also referred to as “domestic violence”), or by a current or former intimate partner (also referred to as “dating violence”).

“Retaliation” means intimidating, threatening, coercing, or discriminating against an individual for the purpose of interfering with any right or privilege secured by law or University policy relating to sexual misconduct, or because an individual has made a report, filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding related to sexual misconduct. Retaliation includes retaliatory harassment.

“Sexual Assault” is any type of actual or attempted sexual contact with another individual without that person’s consent, including sexual intercourse (rape) and attempted sexual intercourse (attempted rape).

Sexual Assault I. – Non-Consensual Sexual Intercourse

Any act of sexual intercourse with another individual without consent (rape). This includes penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person’s consent.

Sexual Assault II. – Non-Consensual Sexual Contact

Any unwanted intentional touching of the intimate body parts of another person, causing another to touch the intimate parts of oneself or another, or disrobing or exposure of another without consent. Intimate parts may include genitalia, groin, breast, or buttocks, or clothing covering them, or any other body part (including one’s own) that is touched in a sexual manner. Non-consensual sexual contact includes attempted sexual intercourse without consent (attempted rape).

“Sexual Exploitation” means taking non-consensual or abusive sexual advantage of another person for one’s own advantage or benefit or for the advantage or benefit of anyone other than the person being exploited.

“Sexual Harassment” means: (a) unwelcome sexual advances; (b) unwelcome requests for sexual favors; or (c) other behavior of a sexual or gender-based nature where: (i) submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an

individual's employment, evaluation of academic work, or participation in a university-sponsored educational program or activity; (ii) submission to or rejection of such conduct by an individual is used as the basis for an academic, employment, or activity or program participation decision affecting that individual; or (iii) such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance, i.e., it is sufficiently severe or pervasive to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment.

“Sexual Intimidation” means threatening behavior of a sexual nature directed at another person, such as threatening to sexually assault another person or engaging in indecent exposure.

“Sexual Misconduct” is an umbrella term that encompasses dating violence, domestic violence, sexual violence, sexual harassment, sexual assault, sexual exploitation, sexual intimidation, relationship violence, and stalking. Sexual misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual misconduct can be committed by any person, regardless of gender identity, and can occur between people of the same or different sex, sexual orientation, or gender expression.

“Sexual Violence” means physical sexual acts perpetrated without consent. Sexual violence includes but is not limited to sexual harassment, sexual coercion, and sexual assault.

“Stalking” means repeated, unwanted attention; physical, verbal, or electronic contact; or any other course of conduct directed at an individual that is sufficiently serious to cause physical, emotional, or psychological fear or to create a hostile, intimidating, or abusive environment for a reasonable person in similar circumstances and with similar identities. Stalking may involve individuals who are known to one another or who have a current or previous relationship or may involve individuals who are strangers.

V. SANCTIONS

Both parties shall be informed of the outcome of any investigative and adjudicative process based on a violation of this policy. The University shall not publically disclose personally identifiable information about either of the parties, except as required by law.

Employees. Employees found in violation of this policy are subject to disciplinary action ranging from a written reprimand up to and including termination of employment, depending on the circumstances.

Students. Students found in violation of this policy are subject to disciplinary action based on the circumstances and nature of the violation. Sanctions include, but are not limited to: dismissal from the University (suspension or expulsion), removal from University housing, disciplinary probation, and other sanctions such as a community service and mandatory and continuing participation in sexual misconduct education programming.

Persons who commit sexual misconduct in violation of federal, state, or local law may also be subject to criminal charges and penalties.

VI. CONFIDENTIAL RESOURCES

Generally, it is not confidential when a person reports sexual misconduct. If a person desires to keep an incident of sexual misconduct confidential, they should speak with individuals who have professional or legal obligations to keep communications confidential. When seeking advice and support, persons should always consider whether they want to discuss their concerns with a confidential resource. Unless there is an imminent threat to health or safety or other basis for disclosure, such as child abuse, confidentiality applies when persons seek services from the following resources:

A. ON-CAMPUS

Campus Advocates Respond and Educate (CARE) to Stop Violence

University Health Center Office 301-314-2222

24/7 Help Line (call/text) 301-741-3442

www.health.umd.edu/care or care@health.umd.edu

This service is a free and confidential resource that provides support, assistance and advocacy to any member of the University community impacted by sexual misconduct. Its mission is to respond to incidents of sexual misconduct, including sexual assault, relationship violence, stalking, and sexual harassment.

Faculty Staff Assistance Program (FSAP) 301-314-8170 or 301-314-8099

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

University Counseling Center 301-314-7651

www.counseling.umd.edu

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

University Health Center, Mental Health Service 301-314-8106

www.health.umd.edu/mentalhealth/services

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

Student Legal Aid Office

Undergraduates 301-314-7756; Graduate Students 301-405-5807

The Student Legal Aid Office, located in South Campus Dining Hall, provides free, confidential legal advice to any University student.

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Campus Chaplains 301-405-8450 or 301-314-9866

http://thestamp.umd.edu/engagement/memorial_chapel/chaplains

The Campus Chaplains represent 14 faith communities and work collectively to serve the spiritual needs of all members of the University community.

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B. OFF-CAMPUS

Prince George’s Hospital Domestic Violence and Sexual Assault Center

301-618-3154 - 24 hours (3001 Hospital Drive, Cheverly, MD 20785)

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

Maryland Coalition Against Sexual Assault (MCASA)

Statewide Sexual Assault Information and Referral help line 1-800-983-RAPE

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

Maryland Network against Domestic Violence

1-800-MD-HELPS

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

Disclosures or reports made to any other entities except those listed above are *not* confidential. For instance, if you discuss an incident of sexual misconduct with your supervisor, a resident assistant, a coach, or faculty member, those persons are “Responsible University Employees” and, as such, are obligated pursuant to this policy to report the sexual misconduct to the Title IX Officer.

The University recognizes that sexual misconduct is a sensitive issue for all parties involved and is committed to operating with discretion, and maintaining the privacy of individuals to the greatest extent possible under applicable law.

VII. REPORTING SEXUAL MISCONDUCT

Obligations of “Responsible University Employee.” A “Responsible University Employee” (see Definitions) must promptly notify the Title IX Officer in the Office of Civil Rights & Sexual Misconduct of any report of sexual misconduct brought to their attention, including campus law enforcement. The Title IX Officer works collaboratively with the reporting entity, making every effort to operate with discretion and maintain the privacy of the individuals involved.

Prompt reporting is encouraged. Persons are encouraged to report sexual misconduct promptly in order to maximize the University's ability to obtain evidence, identify potential witnesses, and conduct a thorough, prompt, and impartial investigation. While there are no time limits to reporting sexual misconduct, if too much time has passed since the incident occurred, the delay may result in loss of relevant evidence and witness testimony, impairing the University's ability to respond and take appropriate action.

All reports of sexual misconduct will be responded to immediately and appropriate action will be taken in accordance with the University's Sexual Misconduct Investigation & Adjudication Procedures (see *Appendices A, B, C*). If the University determines that sexual misconduct has occurred, it will take prompt and effective steps to eliminate the sexual misconduct, prevent its recurrence, and address its effects.

The University strives to take appropriate action, including investigation and resolution of complaints within sixty (60) **business** days from when the complaint was filed. The University may extend the time frames set forth in this policy for good cause, with written notice to both parties of the delay and the reason for the delay. Exceptions to this timeframe may vary depending on the complexity of the investigation, access to relevant parties, and the severity and extent of the misconduct.

Sexual misconduct by students, faculty, staff, and third parties should be reported to:

Office of Civil Rights & Sexual Misconduct 301-405-1142

<http://www.umd.edu/ocrsm/> | titleixcoordinator@umd.edu

The mission of the Office of Civil Rights & Sexual Misconduct is to support the University's commitment to a working and learning environment free from sexual misconduct and relationship violence. The core services of the Office include: oversight for all institutional responses to sexual misconduct and relationship violence, ensuring University compliance with federal statutory and regulatory requirements, promoting best practices in responding to victims of sexual violence and holding respondents accountable, receiving and investigating reports of sexual misconduct and relationship violence, and increasing access to information and available resources to the campus community. The office seeks to work collaboratively across all campus constituent groups and create a climate where diversity, inclusion, and respect inform all processes.

Sexual misconduct committed by students may also be reported to:

Office of Student Conduct, Division of Student Affairs 301-314-8204

www.studentconduct.umd.edu | studentconduct@umd.edu

The Office of Student Conduct administers adjudicative processes involving students who commit violations of the University of Maryland Code of Student Conduct and can provide assistance to students who wish to report incidents of sexual misconduct.

Office of Rights and Responsibilities, Department of Resident Life 301-314-7598

www.reslife.umd.edu/rights | drl-rr@umd.edu

The Office of Rights and Responsibilities administers adjudicative processes involving students who commit conduct violations of the Residence Hall Rules and the University of Maryland Code of Student Conduct in on-campus residence halls and can provide assistance to students who wish to report incidents of sexual misconduct.

Reporting a crime. Sexual misconduct, particularly sexual violence, may be a crime. The University will assist complainants who wish to report sexual misconduct to law enforcement authorities, including campus police. Representatives of the Office of Civil Rights & Sexual Misconduct, Office of Student Conduct, Office of Rights & Responsibilities, and Campus Advocates Respond and Educate (CARE) to Stop Violence Office in the University Health Center are available to assist students in reporting to campus police. Campus police will also assist complainants in notifying other law enforcement authorities in other jurisdictions, as appropriate. To report to the University of Maryland Police, please call 301-405-3555.

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

Upon receipt of a report of sexual misconduct that may constitute a crime, campus police will advise the student that in addition to making a criminal report, they also have the right to file a complaint with the University and engage the University's investigation and adjudicative processes under this policy. In addition, as Responsible University Employees under this policy, campus police who receive any type of report of sexual misconduct, whether it rises to the level of a crime or not, shall promptly notify the Title IX Officer at titleixcoordinator@umd.edu.

Co-Occurring Criminal Action. Proceeding with a University investigation and adjudication of a complaint of sexual misconduct under this policy is independent of any criminal investigation or proceeding. Reporting to law enforcement does not preclude a person from proceeding with a complaint of sexual misconduct under this policy. The University is required to conduct an investigation in a timely manner, which means, in most cases, the University will not wait until a criminal investigation or proceeding is concluded before conducting its own investigation, implementing interim protective measures, and taking appropriate action. However, *at the request of law enforcement*, the Title IX Officer may defer its fact gathering until the initial stages of a criminal investigation are complete. If such a request is made, University of Maryland Police will submit the request in writing and the complainant will be notified. In addition, when possible, in cases where there is a co-occurring criminal investigation by University of Maryland Police, Prince George's County Police, or the local prosecutor's office, the Office of Civil Rights & Sexual Misconduct will work collaboratively and supportively with each respective agency within the parameters outlined above. The Office of Civil Rights & Sexual Misconduct will communicate any necessary delays in the University's investigative process to both parties in the event of a deferral.

The Office of Civil Rights & Sexual Misconduct shall not disclose information about sexual misconduct complaints to third parties (persons other than those in the University community

with a need to know) except as may be required or permitted by federal or state law. If a report of sexual misconduct discloses a serious and on-going threat to the campus community, the University of Maryland Police may issue a timely warning of the conduct under the Clery Act in the interests of the health and safety of the campus community. This notice will not contain any personally identifying information related to the complainant.

Amnesty for Students Who Report Sexual Misconduct

The University recognizes that a student who is under the influence of alcohol and/or drugs when an incident of sexual misconduct occurs, may be reluctant to report the sexual misconduct out of concern they may face disciplinary sanctions for engaging in prohibited alcohol or drug use. As such, a student who reports sexual misconduct to the University or law enforcement, or who participates in a sexual misconduct investigation either as a complainant or third party witness, will not face disciplinary action for violating University drug and alcohol policies. This amnesty provision applies only when the University determines that: (1) the drug/alcohol violation occurred during or near the time of the reported sexual misconduct; (2) the student acted in good faith in reporting or participating as a witness; and (3) the violation was not likely to place the health or safety of another individual at risk.

Requests for Confidentiality

If a complainant requests that their name not be disclosed or that the University not investigate or take action against the respondent, the Title IX Officer or designee will determine whether or not it can honor such a request while still providing a safe and nondiscriminatory environment for all students, faculty, and staff, including the complainant. The Title IX Officer shall make a determination as to whether the complainant's request can be honored, by considering the following factors:

- Circumstances that suggest there is an increased risk of the respondent committing additional acts of sexual misconduct or other violence (e.g., whether there have been other sexual misconduct complaints about the same respondent);
- Whether the respondent has any documented history of violence known to the University;
- Whether the respondent threatened further sexual misconduct or other violence against the complainant or others that is known to the University;
- Whether the sexual misconduct was committed by multiple persons;
- Whether the sexual misconduct was perpetrated with a weapon;
- The age of the complainant subjected to the sexual misconduct; and
- Whether the University possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence).

VIII. INTERIM PROTECTIVE MEASURES

Reports of sexual misconduct in violation of this policy may require immediate protective measures to protect the safety and well-being of the parties and/or the campus community pending the outcome of the investigative and adjudicative processes. Interim protective measures may include the following:

No Contact Order. A no contact order is an official University directive that serves as notice to an individual that they must not have verbal, electronic, written, or third party communications with another individual.

For Students:

- *Academic accommodations*, such as, assistance in transferring to another section of a lecture or laboratory, assistance in arranging for incompletes, leaves or withdrawal from campus, or rearranging class schedules, and
- *Housing accommodations*, such as, facilitating changes in on-campus housing location to alternate housing, assistance in exploring alternative housing off-campus, and
- *Employment accommodations*, such as, arranging for alternate University employment, different work shifts, etc., and
- *Transportation and parking accommodations*.

For Employees:

- *Employment accommodations*, such as, temporary assignment, if appropriate, to other work duties and responsibilities, or other work locations, or other work groups/teams or alternative supervision/management, and
- *Transportation and parking accommodations*.

IX. RETALIATION

Complaints of Retaliation. Individuals who engage in retaliatory behavior against a reporting party or party participating in an investigation are in violation of this policy and will be subject to appropriate disciplinary action pursuant to the procedures for this policy. Individuals who believe they have experienced retaliation in violation of this policy should immediately report such conduct to the Title IX Officer at titleixcoordinator@umd.edu.

X. COMPLAINT PROCEDURES

Complaints Against Students. Complaints against students based on a violation of this policy will be reviewed in accordance with the procedures set forth in *Appendix A*.

Complaints Against Staff. Complaints against staff based on a violation of this policy will be reviewed in accordance with the procedures set forth in *Appendix B*.

Complaints Against Faculty. Complaints against faculty members based on a violation of this policy will be reviewed in accordance with the procedures set forth in *Appendix C*.

Complaints Against Third Parties Not Affiliated With the University. If a member of the University community (student, faculty, or staff) is subjected to sexual misconduct by a third party not affiliated with the University on University premises or during University sponsored activities, the matter should be reported to the Title IX Officer. [The University will take](#)

available and reasonable steps to address the Sexual Misconduct, prevent its recurrence, and address its effects at the University.

XI. STEPS TO TAKE FOLLOWING A SEXUAL ASSAULT

Stay Warm. Persons who experience sexual assault may be in a state of shock. It is important to stay warm by wrapping up in a blanket or coat. This will help recovery from shock and make it less likely that physical evidence is disturbed.

Get to a Safe Place and Seek Emotional Support. Talking with a trusted friend or relative or someone who is professionally trained to deal with sexual assault like a confidential CARE advocate or mental health professional at the University Health Center can help you make decisions about what to do. Whether you decide to go to law enforcement or not, it is important to take care of your own emotional needs. Professional counseling may be beneficial.

Preserve Evidence. If possible, consider taking steps to preserve physical evidence - on the body and at the location of an assault. It is important not to shower or bathe, eat or drink, brush teeth or gargle, change clothes, urinate or defecate, brush or comb hair, or smoke. Clothing worn at the time of an assault should not be washed but placed in a paper bag “as is” and brought to the hospital. In order to avoid forgetting important details, write down the facts about the accused and the assault.

Seek Medical Attention. It is important to seek medical attention as soon as possible. A medical examination will ensure appropriate medical treatment, including testing for pregnancy or sexually transmitted infections. You may also want to obtain a Sexual Assault Forensic Exam (SAFE). A SAFE exam allows for the collection of evidence and can ensure any physical evidence is preserved in the event of a report to law enforcement. A SAFE exam may be obtained within 72 hours after an assault at:

Prince George’s Hospital Domestic Violence and Sexual Assault Center (DV/SAC)
301-618-3154

<http://www.dimensionshealth.org/index.php/dimensions-healthcare-facilities/prince-georges-hospital-center/domestic-violence-and-sexual-assault-center-dvsac/>

XII. CAMPUS SAFETY

The health and safety of all members of the campus community are the University’s primary concern. The University makes the following services available:

Emergency Phones

University of Maryland Police Emergency Response Telephones (PERT), recognized by a blue light affixed to each station, are available throughout campus. By activating the phone, an individual will be automatically connected to a campus police dispatcher who is immediately alerted to the location of the phone.

24 Hour Walking Escort Service/Student Police Auxiliary Foot Patrol

301-405-3555 or blue light emergency PERT phone

The University of Maryland Police Department provides a walking escort service 24 hours a day for anyone who feels unsafe while walking on campus. [The Student Police Auxiliary foot patrol program provides](#) walking escorts, conducted by University of Maryland Police officers when the foot patrol program is out of service or if requested and available.

University Department of Public Safety
301-405-3555 (non-emergency) or 301-405-3333 (emergency)
Local Police in ANY location - 911

Persons who experience sexual misconduct are strongly encouraged to contact the University of Maryland Police. If a person is not certain whether criminal conduct is involved, an officer can assist in determining whether a crime has occurred. If sexual misconduct occurred off campus, an officer can assist in contacting the appropriate law enforcement agency. A student can request and receive the assistance of campus police without making a criminal complaint. Campus police can also assist in accompanying the student to a hospital that can provide a Sexual Assault Forensic Exam (SAFE) to both ensure appropriate medical treatment and the timely collection of physical evidence in the event the person seeks to make a criminal complaint.

XIII. CONSENSUAL RELATIONSHIPS AND PROFESSIONAL CONDUCT

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

Because of the potential conflicts of interest, persons involved in consensual sexual relationships with anyone over whom they have supervisory and/or evaluative responsibilities *must inform their supervisor(s)* of the relationship(s). Supervisory or evaluative responsibilities may be reassigned, as appropriate. While no relationships are expressly prohibited by this policy, failure to self-report such relationships in a timely manner, as required by this policy, may result in disciplinary action.

XIV. EXTERNAL GOVERNMENT AGENCIES THAT ADDRESS COMPLAINTS OF SEXUAL MISCONDUCT

[Employee](#) complaints [relating to](#) sexual misconduct may also be filed with:

Equal Employment Opportunity Commission
City Crescent Building
10 S. Howard Street, Third Floor
Baltimore, MD 21201
Phone: 1-800-669-4000
Fax: 410-962-4270
TTY: 1-800-669-6820

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

Maryland Commission on Civil Rights

William Donald Schaefer Tower

6 Saint Paul Street, Ninth Floor

Baltimore, MD 21202-1631

Phone: 410-767-8600

Fax: 410-333-1841

TTY: 410-333-1737

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

E-mail: jcole@mccr.state.md.us

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

| Student or employee complaints relating to sexual misconduct may be directed to:

Office for Civil Rights

U.S. Department of Education

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

E-mail: OCR.Philadelphia@ed.gov

Website: http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html

Replacement for:

VI-1.20(A) University of Maryland Policy and Procedures on Sexual Harassment

VI-1.30(A) University of Maryland Procedures on Sexual Assault and Misconduct



**University Senate
TRANSMITTAL FORM**

Senate Document #:	14-15-27
Title:	Review of the Interim Sexual Misconduct Faculty Procedures
Presenter:	KerryAnn O’Meara, Chair, Senate Faculty Affairs Committee
Date of SEC Review:	April 19, 2016
Date of Senate Review:	April 28, 2016
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 fall 2014, the Office of Civil Rights & Sexual Misconduct (OCRSM) and the University administration developed interim procedures for resolving cases of sexual misconduct brought against faculty and staff at the University. The procedures were approved on an interim basis in January 2015. In February 2015, the Senate Executive Committee (SEC) charged the Faculty Affairs Committee (FAC) with review of the interim University of Maryland Faculty Sexual Misconduct Investigation & Adjudication Procedures, Appendix C of the University of Maryland Sexual Misconduct Policy & Procedures.
Relevant Policy # & URL:	VI-1.60(A) University of Maryland Sexual Misconduct Policy & Procedures – Appendix C http://umd.edu/policies/docs/VI-160A.pdf
Recommendation:	<p>The Faculty Affairs Committee recommends that the Faculty Sexual Misconduct Complaint Procedures (Appendix C of VI-1.60[A] University of Maryland Sexual Misconduct Policy & Procedures) be amended as indicated in the procedures document immediately following the committee’s report.</p> <p>The Faculty Affairs Committee recommends that the Complainant be advised at the earliest point in the process when Alternative Resolution is appropriate in lieu of investigation and adjudication.</p> <p>The Faculty Affairs Committee recommends that any Notice of Disciplinary Action sent to Respondents under these Procedures state that the Faculty Ombuds Officer at UMD is available to assist faculty in understanding grievance policies and rights based on specific faculty status. In addition, the committee</p>

	<p>recommends that the Office of Faculty Affairs, the Office of Civil Rights & Sexual Misconduct, and other appropriate units on campus ensure that their websites provide guidance for faculty on faculty grievance rights and policies, as they relate to the Faculty Sexual Misconduct Complaint Procedures.</p>
Committee Work:	<p>The Faculty Affairs Committee (FAC) began reviewing the charge in April 2015. The FAC reviewed peer institutions, reviewed the Senate Equity, Diversity, & Inclusion (EDI) Committee’s work on the Sexual Misconduct Policy, and considered how sexual misconduct cases involving faculty have been handled in the past. The FAC consulted with the Associate Provost for Faculty Affairs, the Title IX Officer, and the Office of General Counsel (OGC) during its review. The FAC also sought to remain apprised of revisions to the Sexual Misconduct Procedures for staff and students through the parallel Senate committee processes.</p> <p>In fall 2015, the Senate Office received word that the OCRSM and the administration were developing revised versions of all three sets of the interim procedures. Revised procedures for faculty and staff were approved by the President on an interim basis on October 1, 2015. The FAC formed a subcommittee and began reviewing the new interim procedures by considering revisions to align with the procedures for staff and students and by highlighting substantive issues.</p> <p>During its review, the FAC focused on transparency and due process. The FAC raised concerns with transparency related to clarity between a report of sexual misconduct and a formal complaint, notification of the Respondent during the Initial Assessment, and appropriate communication with both parties throughout the process. Due process concerns focused on the right to appeal the Finding by the Special Investigator, support for the parties, and how existing University policies on grievances would be used to appeal the disciplinary action. In addition, the FAC noted that clarity was needed on the role of the Office of Faculty Affairs, the Senior Vice President and Provost, and the Faculty Ombuds Officer throughout the procedures. The Faculty Affairs subcommittee and members of the full committee met with the Title IX Officer and the Deputy General Counsel from the OGC in October to discuss the various aspects of the procedures.</p> <p>After review, the FAC approved the revised Faculty Sexual Misconduct Complaint Procedures and an administrative recommendation related to grievance rights via an email vote ending November 16, 2015. The FAC sent its recommendations</p>

	<p>forward for review by the SEC. However, at the same time, the Office of the Attorney General (OAG) of the State of Maryland determined that it needed to conduct a holistic review of all policies and procedures related to sexual misconduct at all University System of Maryland (USM) institutions. As a result, the procedures developed by the FAC were not sent to the Senate for review. In March 2016, after extensive consultation between the OAG, the OGC, and the OCRSM, the Senate Office received revised interim procedures for review.</p> <p>The FAC reviewed the revised interim procedures during March 2016. The FAC discussed issues related to Interim Protective Measures, the Initial Assessment, the Appeals process, and other areas of the procedures. After consultation with the OGC and OCRSM, and after deliberation as a committee, the FAC voted to approve its proposed revisions to the new interim procedures via an email vote, concluding April 11, 2016.</p>
Alternatives:	The Senate could reject the recommendations. However, the Senate would lose an opportunity to revise the Faculty Sexual Misconduct Complaint Procedures.
Risks:	There are no associated risks.
Financial Implications:	There are no financial implications.
Further Approvals Required:	Senate approval, Presidential approval.

Senate Faculty Affairs Committee

Report on Senate Document # 14-15-27

Review of the Interim Sexual Misconduct Faculty Procedures

April 2016

2015-2016 Faculty Affairs Committee Members

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BACKGROUND

In fall 2014, the Office of Civil Rights & Sexual Misconduct (OCRSM) and the University administration worked together to develop interim procedures for resolving cases of sexual misconduct brought against faculty and staff at the University. The procedures were approved on an interim basis in January 2015 and subsequently sent to the Senate for review.

On February 9, 2015, in conjunction with the Senate's recent review of the interim University of Maryland Sexual Misconduct Policy (Senate Document #14-15-11), the Senate Executive Committee (SEC) charged the Senate Faculty Affairs Committee with review of the interim University of Maryland Faculty Sexual Misconduct Investigation & Adjudication Procedures, which appeared as Appendix C of the University of Maryland Sexual Misconduct Policy & Procedures. The SEC asked the Faculty Affairs Committee to make recommendations on whether these interim procedures are appropriate for the University (Appendix 1).

COMMITTEE WORK

The Faculty Affairs Committee (FAC) began reviewing the charge in April 2015. The FAC reviewed peer institution information, reviewed the work of the Senate Equity, Diversity, & Inclusion (EDI) Committee on the Sexual Misconduct Policy (Senate Document #14-15-11), and considered how sexual misconduct cases involving faculty have been handled in the past at the University. The FAC consulted with the Associate Provost for Faculty Affairs, the Title IX Officer from the OCRSM, and the Office of General Counsel (OGC) during its review. The FAC also sought to remain apprised of concurrent revisions to the Sexual Misconduct Procedures for staff and students through the parallel processes in the Senate Staff Affairs and Student Conduct Committees.

In Spring 2015, the FAC reviewed peer institution information and supporting information, but due to other charges before the committee, did not begin revising the procedures in detail. In fall 2015, the Senate Office received word that the OCRSM and the administration were developing revised versions of all three sets of the interim procedures, due to issues with the procedures found while conducting investigations in spring and summer 2015. The OCRSM determined that immediate changes were needed in order to streamline processes. Revised procedures for faculty and staff were approved by the President on an interim basis on October 1, 2015 (Appendix 3).

As it reviewed the new interim procedures, the FAC focused on a few key issues related to transparency and due process. The FAC raised concerns about a lack of clarity in the difference between a report of sexual misconduct and a formal complaint, notification of the Respondent during the Initial Assessment of a complaint, and appropriate communication with both parties throughout the process. Due process concerns included the lack of a process to appeal the Finding by the Special Investigator, the lack of support for both the Complainant and the Respondent during the process, and the appropriateness of using existing University policies on grievances to appeal the disciplinary action given as a result of the process. In addition, the FAC noted that additional clarity was needed in the role of the Office of Faculty Affairs, the Senior Vice President and Provost, and the Faculty Ombuds Officer throughout the procedures. The Faculty Affairs subcommittee and members of the full committee met with the Title IX Officer and the Deputy General Counsel from the OGC in October to discuss the various aspects of the procedures.

In the meeting with the Title IX Officer, the FAC learned that the OCRSM distinguishes in its practices between a report and a complaint; every case begins with a report, which can be disclosed by email or phone, but formal complaints are generated only by the Complainant stating that they would like for an

Investigation to happen. The OCRSM receives reports from third parties or from potential Complainants, and it conducts an interview with the Complainant to discuss the incident and determine whether the Complainant would like to or should initiate a formal complaint. The formal process is not automatic; instead, it develops from a conversation about the severity of the conduct and the potential Complainant's wishes for resolution. The FAC incorporated language to the procedures to be clearer on this point.

The FAC also discussed with the Title IX Officer the communication during the Initial Assessment after a formal complaint is made but before an Investigation begins. The FAC raised concerns that, given there is no contact with a Respondent by the OCRSM at this stage, a faculty Respondent could hear secondhand that allegations have been made. The FAC learned that the Initial Assessment typically does not include conversation with others beyond the Complainant, although it can. In considering this point, the FAC agreed it would be critical to either keep the Initial Assessment between the OCRSM and the Complainant, or to let the Respondent know at some point that there was a complaint and the nature of the complaint. At this time the OCRSM recommended we add language clarifying that the initial assessment was only between OCRSM and the complainant.

As it reviewed the new interim procedures, the FAC noted the absence of a process for the parties to appeal the Finding by the Special Investigator, which had previously existed in the January interim procedures. The FAC felt strongly that the right to appeal the Finding was an important aspect of due process that should be given through the Procedures. The OCRSM currently uses Standing Review Committees (SRCs) in the Student Procedures to review sexual misconduct cases; SRCs are composed of trained volunteers with an appropriate understanding of the Sexual Misconduct Policy & Procedures and the context necessary to review the Investigation Outcome. After consultation with the Title IX Officer and the OGC, the FAC voted to institute an automatic independent review of the Finding in the Faculty Procedures. This provides an adequate level of oversight of the Finding by the Special Investigator while staying sensitive to the overall timeline of the resolution process.

The FAC also considered whether faculty Complainants or Respondents should or can have support present during the Investigation process. The FAC agreed that many faculty members will wish to have a mentor or colleague assist them through the process, and some may wish to consult legal counsel. In cases involving student Respondents, the Student Procedures indicate that both parties will have the opportunity to involve a Support Person and an Advisor, if they so choose. The Support Person and Advisor have defined roles in the process to assist and provide guidance to the party, but the Student Procedures are clear that these individuals are not able to speak to the OCRSM on the party's behalf. According to current OCRSM procedures, students always have the right to have a Support Person and an Advisor, even in cases against faculty or staff Respondents; as this was not reflected in the Faculty Procedures, the FAC determined that revisions would be needed to align with current practices.

The FAC discussed potential support for faculty Complainants and Respondents with the OCRSM and OGC, and learned that there are ways in which the procedures for students need to provide added support, in order to appropriately reflect the relationship the University has with students and mirror processes in place for students in the *Code of Student Conduct*. The OCRSM and OGC also noted that the Faculty Procedures create an administrative process, not a legal process, and so support of legal counsel is not necessary. However, the FAC noted that since faculty can be terminated and their reputation can be harmed through this process, the desire of faculty to have support is understandable.

After further discussion, the FAC agreed that faculty should have the ability to have support personnel present during the process. The FAC felt strongly that faculty should have the right to an Advisor as well, if they so choose, and agreed that the language in the Procedures could be tailored to ensure that the role of any Advisors involved would be appropriate. After discussion, the FAC voted to enter language into

the procedures to allow faculty Respondents to have the assistance of a Support Person or an Advisor, neither of whom would be allowed to speak for the Respondent.

The FAC discussed at length ways to appeal the disciplinary action given as a result of the process. The interim procedures suggested that any faculty who wished to grieve or appeal the disciplinary action given as a result of the Faculty Procedures should use existing grievance procedures related to appealing termination, suspension, or other actions. The OCRSM and OGC recommended that University of Maryland and University System of Maryland policies related to termination and suspension of faculty should be used to appeal any such decisions related to sexual misconduct. In addition, the University of Maryland Policies and Procedures Governing Faculty Grievances (II-4.00[A]) allows faculty to file grievances related to a wide range of problems or actions; disciplinary action could be presented as a grievance under this policy.

The FAC questioned whether these existing policies provide an appropriate appeals process for the disciplinary action in cases of sexual misconduct. The FAC noted that existing processes either rely on review by administrators who may have been involved in determining the disciplinary action for sexual misconduct cases, or include review by a panel of Faculty Senators, who may not have the appropriate understanding to review grievances from these procedures. After consideration, the FAC was undecided on whether existing policies present appropriate mechanisms for grieving the disciplinary action. However, the FAC was not able to design a new grievance process for cases of sexual misconduct that would be more appropriate, and determined that use of existing procedures would suffice.

In the proposed revisions, the procedures state that faculty may grieve the disciplinary action in accordance with their status at the University. The FAC considered whether the lack of information in the procedures on how to initiate a grievance was a disservice to faculty; the FAC noted that since the procedures are very clear on every other step of the process, they should be equally clear on how faculty begin a grievance process related to the disciplinary action. However, since the procedures to be used depend in part on the discipline given, it would be difficult to create succinct instructions that apply to every case. In addition, the policies that exist to handle grievances are subject to change, so providing additional information could cause these procedures for sexual misconduct to be out of date. Also, the Complaint Procedures cannot grant faculty grievance rights - these rights are controlled by other UMD policies, USM policies, and state law. Faculty will retain these rights regardless of whether they are detailed within the Faculty Sexual Misconduct Complaint Procedures. Instead of providing additional text for the procedures, the FAC considered an administrative recommendation directed toward the OCRSM, the Office of Faculty Affairs, and other offices to provide information on grievance rights when appropriate and to generally do more to advertise how faculty may access grievance rights on campus. After consideration, the FAC voted to accept the proposed revisions to the procedures, and voted to approve this administrative recommendation.

After review, the Faculty Affairs Committee approved the revised Faculty Sexual Misconduct Complaint Procedures and an administrative recommendation related to grievance rights via an email vote ending Monday, November 16, 2015. The Faculty Affairs Committee sent its recommendations forward for review by the SEC. However, at the same time, the Office of the Attorney General (OAG) of the State of Maryland determined that it needed to conduct a holistic review of all policies and procedures related to sexual misconduct at all University System of Maryland (USM) institutions. As a result, the procedures developed by the Faculty Affairs Committee were not sent to the Senate for review. In March 2016, after extensive consultation between the OAG, the OGC, and the OCRSM, the Senate Office received revised interim procedures for review (Appendix 2).

The revised interim procedures incorporate a few key issues discussed by the FAC during its fall 2015 review. For instance, the procedures expressly state that all Complainants and Respondents will have the

opportunity to have one Support Person and one Advisor with them during the process, at their own expense and initiation. The procedures also clarify many technical issues raised by the FAC as proposed amendments in its fall 2015 draft.

As it began its review in March 2016, the FAC found that many of its previous concerns were still relevant to the revised interim procedures. The FAC raised many of the same issues for discussion, such as notice to the Respondent during the Initial Assessment, the lack of a clear means to review the Finding, and the role of the Provost and the Office of Faculty Affairs in determining the appropriate disciplinary action. In the latter instance, the FAC had previously recommended that the Office of Faculty Affairs should be responsible for determining the disciplinary action in all cases with a faculty Respondent, so that discipline given through the process would be consistent. The new interim procedures returned to a model from previous versions in which the appropriate dean, department chair, and/or other administrator would determine the disciplinary action. In discussing this issue, the FAC agreed that the need for a centralized and consistent approach to discipline stands, and agreed to propose that the OFA have this role in these procedures as well.

The committee also considered the current language related to the Interim Protective Measures and the conditions under which they are imposed. The OGC advised that there is consultation with the OGC and the OAG if and when there is a challenge or questions about the appropriateness of the Interim Protective Measures in light of the allegations.

In discussing the Initial Assessment, the FAC identified similar concerns with the language in the new interim procedures to those raised in its review of the previous interim procedures. The new interim procedures do not provide notice to the Respondent of the allegations during or after the Initial Assessment, even though the Title IX Officer is given the authority to discuss the allegations with other administrators prior to an investigation. The FAC was very concerned that discussions with other administrators could harm the Respondent, either through gossip among colleagues or by perception, since the administrator would have knowledge of a complaint without the benefit of investigation. Also, the Title IX office would retain records of initial assessments which could be used to assess pattern evidence in any subsequent complaints. Thus, it was important that the respondent know that there was a complaint and its nature. In order to not have this process interfere with the initial assessment as it occurs, the FAC committee agreed to recommend this notice occur at the end of the initial assessment. In consultation with the OGC, the committee developed new language to address this concern. The new language clarifies that any communication with other administrators during the Initial Assessment would only occur if necessary to comply with Title IX requirements, and to stress that confidentiality will be maintained throughout those conversations. The new language also says if an administrator is informed during the Initial Assessment and the complaint is dismissed, the administrator and the Respondent should be notified that a complaint had been made and had been dismissed. The respondent will be notified in all cases at the end of the initial assessment that a complaint was filed and its nature.

As it reviewed the new interim procedures, the FAC raised concerns about the Appeals process. The new interim procedures allow for appeals on the grounds of substantial procedural error or new evidence. However, the procedures present no opportunity to ask that the finding be reviewed on the grounds that it was arbitrary or unfounded. As a result, the FAC felt the appeals process was too narrowly drawn, and did not allow appropriate due process for Respondents. After discussion, the FAC agreed to recommend instituting an automatic review of the Finding by an SRC, as it had recommended in a prior version of the procedures. The FAC developed new text to indicate that the review would occur automatically after the Investigator finalizes the report, and allows for an independent assessment to consider whether the finding is reasonable, given the evidence and information in the case. The committee agreed to recommend this process be included in the revised procedures in addition to the Appeals process.

After consultation with the OGC and OCRSM, and after deliberation as a committee, the FAC voted to approve its proposed revisions to the new interim procedures via an email vote, concluding April 11, 2016.

RECOMMENDATIONS

The Faculty Affairs Committee recommends that the Faculty Sexual Misconduct Complaint Procedures (Appendix C of VI-1.60[A] University of Maryland Sexual Misconduct Policy & Procedures) be amended as indicated in the procedures document immediately following this report.

The Faculty Affairs Committee recommends that the Complainant be advised at the earliest point in the process when Alternative Resolution is appropriate in lieu of investigation and adjudication.

The Faculty Affairs Committee recommends that any *Notice of Disciplinary Action* sent to Respondents under these Procedures state that the Faculty Ombuds Officer at UMD is available to assist faculty in understanding grievance policies and rights based on specific faculty status. In addition, the committee recommends that the Office of Faculty Affairs, the Office of Civil Rights & Sexual Misconduct, and other appropriate units on campus ensure that their websites provide guidance for faculty on faculty grievance rights and policies, as they relate to the Faculty Sexual Misconduct Complaint Procedures.

APPENDICES

Appendix 1 – Senate Executive Committee (SEC) Charge on the Review of the Interim Sexual Misconduct Faculty Procedures

Appendix 2 – Revised Faculty Sexual Misconduct Complaint Procedures (approved on an interim basis on March 21, 2016)

Appendix 3 - Revised Procedures for Faculty (approved on interim basis on October 1, 2015)

APPENDIX C: FACULTY SEXUAL MISCONDUCT COMPLAINT PROCEDURES

Recommended Changes to the Interim Faculty Sexual Misconduct Complaint Procedures
New Text in Blue/Bold (**example**), Removed Text in Red/Strikeout (~~example~~), Moved Text in Green (**example**)

I. Overview

II. Rights to Support Person and Advisor

- A. Support Person
- B. Advisor
- C. Party Obligations
- D. Non-Party Participant Requirements

III. Reporting

IV. Complaint Intake Process

- A. Notification to Complainant
- B. Requests for Confidentiality
- C. Initial Assessment
- D. Interim Protective Measures

V. Resolution Processes

- A. Time Frame for Resolution
- B. Alternative Resolution Process
- C. Investigation Process

VI. Appeals of Finding

- A. Overview
- B. Grounds for Appeal
- C. SRC Appellate Body
- D. Appeal Outcome

VII. Remedies & and Disciplinary Action

- A. Impact Statement & and Mitigation Statements
- B. Remedies
- C. Disciplinary Action

VIII. Grievance Rights

IX. Final Outcome

X. Records Retention

XI. Post-Resolution Follow-Up

APPENDIX C: FACULTY SEXUAL MISCONDUCT COMPLAINT PROCEDURES

I. OVERVIEW

These procedures (“**Faculty Procedures**”) set forth in Appendix C accompany the University of Maryland (UMD) Sexual Misconduct Policy (the “Policy”) and are the exclusive procedures that govern the handling of all reports or complaints of **sSexual mMisconduct** against UMD faculty. Key terms used herein are defined in the Policy. For example, **sSexual mMisconduct** is an umbrella term defined in the Policy that encompasses **dDating vViolence**, **dDomestic vViolence**, **sSexual vViolence**, **sSexual hHarassment**, **sSexual aAssault**, **sSexual eExploitation**, **sSexual iIntimidation**, **rRelationship vViolence**, and **sStalking**.

For purposes of the Policy and these Faculty Procedures, faculty include all University employees with faculty rank as described in II-1.00(A) University of Maryland Policy on Appointment, Promotion, and Tenure of Faculty at <http://www.president.umd.edu/policies/2014-ii-100a.html>.

Employees other than those with faculty rank are governed by the Staff Sexual Misconduct Complaint Procedures (*see Appendix B*). ~~These Fa~~ **These Faculty p**Procedures replace all procedures previously in effect pertaining to the investigation and resolution of **sSexual mMisconduct** complaints against faculty at ~~the University of Maryland UMD~~.

II. RIGHTS TO SUPPORT PERSON AND ADVISOR

Throughout the process, any party may be accompanied to any meeting related to an investigation and resolution of a complaint by up to two (2) other people: (1) a Support Person, and/or (2) an Advisor. Meetings include, but are not limited to, meetings with **the** Office of Civil Rights & Sexual Misconduct (OCSM), investigative interviews, **and** document reviews, and alternative resolutions.

A. Support Person

A party may choose to be accompanied by a Support Person of their choice, at their own initiation and expense. A Support Person is someone who can provide emotional, logistical, or other kinds of assistance. The Support Person cannot be a witness or provide evidence in the case. The Support Person is a non-participant who is present to assist a Complainant or Respondent by taking notes, providing emotional support and reassurance, organizing documentation, or consulting directly with the party in a way that does not disrupt or cause any delay. A Support Person shall not be an active participant and the parties must speak for themselves.

B. Advisor

A party may choose to be assisted by an Advisor of their choice, including an attorney, at their own initiation and expense. The Advisor is a non-participant who is present to provide advice and consultation to a party. An Advisor cannot be a witness or provide evidence in a case. If necessary, a party may request a recess in order to speak privately with an Advisor. An Advisor shall not be an active participant. The parties must speak for themselves. An Advisor may not delay, or otherwise interfere with, the University’s process.

C. Party Obligations

Throughout the process, the Title IX Officer or designee, Investigators, and other University representatives will communicate and correspond directly with the parties, not through a Support Person or Advisor. Parties are responsible for **having ensuring that** Support Persons and Advisors follow the non-party participation requirements below. When a party wishes to have a Support Person **and/or**

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Advisor accompany them to a meeting, the **individual party** must notify **the** OCRSM in advance. Parties are also responsible for making sure appropriate authorization exists (**e.g., authorization related to FERPA**) for the University to communicate **the** non-party participation requirements below to any Support Person or Advisor.

D. Non-Party Participant Requirements

All Support Persons and Advisors must review the materials about the scope of their respective roles, prior to accompanying a party to any meeting or other activity. These materials may be obtained online at the OCRSM website, www.umd.edu/ocrsm/ or from **the** OCRSM directly. This is to ensure the Support Persons and Advisors are informed about the process and their respective roles. All parties, Support Persons, and Advisors are expected to understand their roles and adhere to the University's expectations regarding decorum and privacy considerations.

III. REPORTING

Complaints and other reports of **sSexual mMisconduct** against faculty may be made to the OCRSM. **Complaints Reports** may also be made to any Responsible University Employee (RUE). **An** RUE, as defined by **this the** Policy, includes all University administrators, supervisors in non-confidential roles, faculty members, campus police, coaches, athletic trainers, resident assistants, and non-confidential first responders. ~~Responsible University Employees~~ **RUEs** are required to share all reports of **sSexual mMisconduct** they receive, promptly with the Title IX Officer or designee.

Students **Complainants** may also report **sSexual mMisconduct** against faculty to the Office of Student Conduct (**OSC**), or **to** the Office of Rights & Responsibilities (R&R) in the Department of Resident Life.

Prompt reporting of Prohibited Conduct is encouraged so that the University can take immediate and corrective action to eliminate the misconduct, prevent its recurrence, and address its effects. The University will provide support and assistance to the Complainant and respond according to the steps outlined in these Faculty Procedures. **As described in section IV. C,** ~~U~~pon receipt of any report, the Title IX Officer or designee will make an immediate assessment of the risk of harm to the parties or to the **campus University** community and will take steps necessary to address any risks. These steps may include working with the Office of Faculty Affairs and other campus offices to facilitate Interim Protective Measures (**as described in section IV. D**) that provide for the safety of the parties and the **campus University** community, when appropriate.

A Complainant may choose to make a report to the University and pursue resolution under these Faculty Procedures, and may also choose to make a report to law enforcement. A Complainant may pursue either of these options or both options at the same time. The criminal process and the University's internal process under these Faculty Procedures are separate and independent. A Complainant who wishes to pursue criminal action should contact campus police or external law enforcement directly. See Policy **S**section VII for more information on criminal reporting.

The University recognizes that deciding whether to report **sSexual mMisconduct** and proceed with a formal complaint under these Faculty Procedures is a personal decision that may evolve over time. While prompt reporting is strongly encouraged, there is no time limit for reporting ~~a complaint of~~ **sSexual mMisconduct**. The OCRSM will coordinate with the appropriate University office to provide support and assistance to each Complainant in making important decisions related to reports of **sSexual mMisconduct**. Consistent with the goal of safety for all **University** community members, the University will make every effort to respect a Complainant's autonomy in making their own personal decisions after reporting **sSexual mMisconduct**. However, when appropriate, the University, through the OCRSM, retains the

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right to initiate a formal complaint on its own, independent of any individual's decision as to how they wish to proceed.

IV. COMPLAINT INTAKE PROCESS

A. Notification to the Complainant

Upon receipt of a complaint, the OCRSM will ensure that the Complainant is provided with a copy of the Policy and Faculty Procedures and is informed of their rights and responsibilities. The OCRSM will provide information to the Complainant about the University's internal administrative complaint process and review with them their respective rights and responsibilities. The Complainant will be informed of available community and campus resources and services; their right to a Support Person and the Support Person's role; their right to an Advisor and the Advisor's role; their right to file a report with law enforcement, ~~or not~~; and the University's prohibition against retaliation. The Complainant will have an opportunity to ask questions and seek additional information.

B. Requests for Confidentiality

Whenever possible, the OCRSM will take action consistent with the Complainant's expressed wishes regarding confidentiality. The University's ability to fully investigate and respond to a complaint may be limited if the Complainant requests that their name not be disclosed to the Respondent or declines to participate in an Investigation. When a Complainant requests their name or other identifiable information not be disclosed and/or that no further action be taken, the Title IX Officer or designee will seek to honor such requests, balancing the Complainant's wishes for confidentiality with the University's obligation to provide a safe and non-discriminatory environment for all members of the University community. The University retains the right to proceed with a complaint as necessary to meet its obligations, and in some cases, may not be able to honor a request for confidentiality.

C. Initial Assessment of Complaint

When the University receives a complaint, the OCRSM will conduct an Initial Assessment. The Initial Assessment will determine whether the reported conduct constitutes a potential violation of the Policy, ~~and if whether~~ further action is warranted based on the reported conduct, ~~and whether the University has jurisdiction over the parties~~.

The first step in the Initial Assessment is a preliminary meeting between the Complainant and the OCRSM to gather information that will enable the OCRSM, ~~in consultation with other offices, as appropriate~~, to:

- Assess the nature and circumstances reported in the complaint;
- Assess the safety of the Complainant and of the ~~campus~~ University community;
- Implement any appropriate ~~i~~Interim ~~p~~Protective ~~m~~Measures;
- Assess for pattern evidence or other similar conduct by the Respondent when relevant to the safety assessment;
- Assess the Complainant's expressed preference regarding resolution, including any request that no further action be taken;
- Assess any request by the Complainant for confidentiality or anonymity; and
- Assess the reported conduct for possible referral to the University of Maryland Police Department (UMPD) for a timely warning under the Clery Act.

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During the Initial Assessment, information will be shared with other units/administrators only as necessary to comply with Title IX requirements, and confidentiality will be maintained by the OCRSM and other administrators, to the extent possible. If communication is not necessary in order to comply with Title IX requirements, the dean, department chair, and/or other administrators will not be notified during the Initial Assessment.

At the conclusion of the Initial Assessment, the OCRSM will determine the appropriate next step(s), including but not limited to: no further action, the imposition of Interim **Protective Measures**, Alternative Resolution, and/or proceeding with an investigation. **In cases where the Initial Assessment determines that the reported conduct does not constitute a potential violation under the Policy and no further action is warranted, the OCRSM will separately notify the parties of the resulting assessment and inform the Respondent of the nature of the complaint. After the parties have been notified, the OCRSM will also notify any administrators who had been contacted during the Initial Assessment of the results of the assessment.**

When the Initial Assessment determines the reported conduct does not ~~rise to the level of~~ **constitute** a potential violation under ~~this~~ **the** Policy, but may violate another University policy, the complaint may be referred to another appropriate University official for review and resolution.

~~Where~~ **When** the Initial Assessment **determines the alleged reported conduct does constitute a potential violation under the Policy, but** reveals that the University lacks jurisdiction over the Respondent, the University will take available and reasonable steps to address the Sexual Misconduct, prevent its recurrence, and address its effects at the University.

D. Interim Protective Measures

Based on the nature and circumstances of the complaint, the Title IX Officer or designee in consultation with appropriate ~~Deans, department heads, and other~~ University administrators may authorize ~~i~~**Interim** ~~p~~**Protective** ~~m~~**Measures** to ensure the safety and well-being of the Complainant and others in the ~~campus~~ **University** community, as appropriate. The Title IX Officer or designee will promptly inform the Respondent (if they are a member of the University community) of any ~~i~~**Interim** ~~p~~**Protective** ~~m~~**Measures** that will directly impact the Respondent and provide an opportunity for the Respondent to respond.

The OCRSM retains discretion to impose and/or modify any ~~i~~**Interim** ~~p~~**Protective** ~~m~~**Measures** based on all available information. Interim ~~p~~**Protective** ~~m~~**Measures** will remain in effect until the University's final resolution of the ~~s~~**Sexual** ~~m~~**Misconduct** complaint. **Interim Protective Measures may be made permanent, as needed, after adjudication.** A party may challenge the imposition of ~~i~~**Interim** ~~p~~**Protective** ~~m~~**Measures**, or a decision not to impose ~~i~~**Interim** ~~p~~**Protective** ~~m~~**Measures**, by contacting the OCRSM to address any concerns. Information about ~~i~~**Interim** ~~p~~**Protective** ~~m~~**Measures** can be found on pages ~~11~~-12 of the Policy.

V. RESOLUTION PROCESSES

A. Time Frame for Resolution

Consistent with the goal of maximizing educational and working opportunities, remedying the effects of Prohibited Conduct and promoting campus safety while minimizing the possible disruptive nature of the process, the OCRSM will strive to resolve all complaints within sixty (60) business days of receipt. In general, the investigation phase may last approximately four to five weeks and the adjudication phase may last an additional estimated four to five weeks. Good faith efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with the

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importance of resolving complaints in a timely and expeditious manner. The Title IX Officer may extend the general time frames for the completion of all required actions. If such an extension occurs, the parties will be notified in writing by the OCRSM.

B. Alternative Resolution Process

The Title IX Officer or designee has the discretion to determine whether a complaint is appropriate for Alternative Resolution and may propose Alternative Resolution to the Complainant as an option. ~~In some cases, t~~The Complainant may **then** seek Alternative Resolution in lieu of **an** investigation and adjudication.

Alternative Resolution is a process whereby remedies and interventions may serve to address the alleged Prohibited Conduct without proceeding to an investigation and adjudication. Alternative Resolution is not appropriate for complaints involving ~~sSexual vViolence~~, including ~~sSexual aAssault~~. **Neither party is required to accept responsibility for the alleged Prohibited Conduct in order to proceed with Alternative Resolution.** The parties may decide not to proceed with Alternative Resolution and may request an investigation and adjudication at any time. ~~The Title IX Officer or designee has the discretion to determine whether a complaint is appropriate for Alternative Resolution and~~ **The Title IX Officer** retains discretion to terminate an ongoing Alternative Resolution process at any time.

The purpose of Alternative Resolution is to take appropriate action by imposing individual and community interventions and remedies designed to maximize the Complainant's access to educational, extra-curricular, and/or employment activities at the University; **and/or to address the effects of the conduct on the larger University community.** Any combination of interventions and remedies may be utilized, including but not limited to:

- ~~Increased monitoring, supervision and/or security at locations or activities where the Prohibited Conduct occurred or is likely to reoccur;~~
- Targeted or broad-based educational programming or training for relevant individuals or groups;
- Academic and/or housing modifications for Student Complainants;**
- Workplace modifications and/or other administrative changes;
- Completion of projects, programs, or requirements designed to help the Respondent manage behavior, refrain from engaging in Prohibited Conduct, and understand why the Prohibited Conduct is prohibited; and
- ~~Compliance with orders of no~~ **Agreements to cease** contact ~~that~~ **and** limit access to specific University buildings or areas or forms of contact with particular persons.

The imposition of remedies or interventions obtained through Alternative Resolution may be achieved by an agreement acceptable to the parties and **the** University. **The Title IX Officer or designee will work with the Faculty Ombuds Officer to facilitate the development of this agreement.** In ~~such~~ cases **where an agreement is reached**, the terms of the agreement are implemented and the matter is resolved and closed. In cases where an agreement is not reached, and the Title IX Officer or designee determines that further action is necessary, or if a Respondent fails to comply with the terms of the Alternative Resolution agreement, the matter may be referred for investigation and resolution under these Faculty Procedures.

Where the Complainant, **and** Respondent, and **the** University have reached an Alternative Resolution agreement, the parties will be provided **with** a ~~written notice of the outcome~~ **copy of the agreement.** **The Office of Faculty Affairs will also receive a copy of the agreement. Entering into Alternative**

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Resolution and signing an agreement does not mean that the Respondent admits responsibility; nor does it mean that there has been a finding of a Policy violation.

C. Investigation Process

When the Initial Assessment determines the University has jurisdiction over the Respondent and the alleged conduct, and where Alternative Resolution is not appropriate or the Respondent fails to comply with the terms of an Alternative Resolution agreement, an investigation will occur.

1. Notice of Investigation

In the event of an investigation, the Investigator will send a written *Notice of Investigation and Notice of Rights and Responsibilities* to both parties.

The *Notice of Investigation* will contain the circumstances of the alleged incident (which generally will include, to the extent known, the name of the Complainant and the date, time, and location), the Prohibited Conduct alleged as defined by the Policy, and the range of potential disciplinary actions associated with the Prohibited Conduct. Both parties will also be informed that they will have an opportunity to be heard regarding the complaint during the investigation process, including the opportunity to be heard during ~~an~~ **separate** interviews with an Investigator regarding the alleged ~~s~~**Sexual** ~~m~~**Misconduct**.

2. Notice of Rights and Responsibilities

Both parties will be provided with a copy of the Policy and Faculty Procedures and informed of their rights and responsibilities pursuant to the Policy. This includes but is not limited to: no contact directives (and provided a copy), prohibitions against retaliation and guidance about reporting any retaliatory conduct, and available community and campus resources and services.

3. Standard of Review

In making a determination about whether a Policy violation has occurred, the standard of review is preponderance of the evidence. A preponderance of the evidence means “~~2~~it is more likely than not~~2~~.” Thus, at the conclusion of the investigation phase, based on the information gathered, a recommended finding will be made ~~to~~ as to whether, ~~based on the information gathered,~~ it is more likely than not that the reported conduct **occurred and that it** constituted Prohibited Conduct in violation of the Policy.

4. Role of the Investigator

The Title IX Officer or designee will designate one or more ~~an~~ Investigator(s) from the OCRSM and/or an external Investigator to conduct a prompt, thorough, fair, and impartial investigation. All Investigators will receive annual training on issues related to sexual and gender-based harassment, ~~s~~**Sexual** ~~a~~**Assault**, ~~d~~**Dating** ~~v~~**Violence**, ~~d~~**Domestic** ~~v~~**Violence** and ~~s~~**Stalking**; **The training will also include** ~~and~~ how to conduct a fair and impartial investigation that provides parties with notice and a meaningful opportunity to be heard, **as well as how to** ~~and~~ protect the safety of ~~e~~**Complainants** and the University community while promoting accountability.

5. Overview of the Investigation

The investigation is an impartial fact-gathering process. It is an important stage ~~of the process~~ in which both parties have an opportunity to be heard regarding the complaint. During the investigation the parties

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will each have an opportunity to meet and speak with the Investigator, provide any relevant information about the reported conduct, and identify persons they believe the Investigator should speak with because they believe they have relevant information. The Investigator will speak separately with both parties and any other individuals who may have relevant information. The Investigator will also gather any available physical evidence or documents, including prior statements by the parties or witnesses, communications between the parties, email messages, **text messages**, social media materials, and other records, as appropriate and available.

a. Special Considerations

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

At the discretion of the OCRSM, multiple reports may be consolidated in one investigation if the information related to each incident is relevant in reaching a determination. Matters may be consolidated where they involve multiple Complainants, multiple Respondents, or related conduct involving the same parties, provided that it does not delay the prompt investigation and resolution of complaints.

b. Draft Report

At the conclusion of the investigation, the Investigator will draft a written investigation report that summarizes the information gathered (including, but not limited to, the names of witnesses and summaries of their statements), and synthesizes the areas of agreement and disagreement between the parties.

c. Notice of Opportunity to Review the Draft Investigation Report

Before the investigation report is finalized, the parties will be given an opportunity to review and respond to the draft report. Upon receipt of notice to review the draft report, the parties will each have five (5) business days to review the report and all underlying documents and submit **written** comments, information, and/or **ask** questions **to the Investigator**. If there is any new or additional information to be provided by either party, it must be presented to the Investigator at this time. If further investigation is warranted based on the comments, information, and/or questions provided during the review period, the Investigator will continue the investigation, as needed.

6. Recommended ~~Investigation Outcome~~/Finding

Upon timely receipt of any additional information or comments from the parties or after the five (5) business day comment period has lapsed with no comments provided, and the investigation is complete, the Investigator will finalize the investigation report.

The final investigation report will include ~~a summary of~~ all relevant information obtained in the course of the investigation, an analysis **and proposed findings** of ~~the~~ material facts, and a **recommended** finding of whether or not a Policy violation occurred by a preponderance of the evidence. ~~The notice will also~~

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~~include a range of potential disciplinary action associated with such findings. The Title IX Officer or designee will review the final investigation report.~~

7. Independent Review of the Finding

The final investigation report and the recommended finding will be automatically reviewed by a Standing Review Committee (SRC). The SRC is composed of three (3) members from the University community who have had no previous involvement with the case, and have been trained to review such cases. The SRC will include at least one (1) member from the constituency (faculty, staff, or student) of each party. SRC members are obligated to disclose to the OCRSM any known conflicts prior to participating in any specific SRC review. Conflicts or familiarity with the individuals involved in the matter that are disclosed to the OSC will automatically disqualify an individual SRC member from participation in any particular review.

The SRC will review the final investigation report and consider whether the recommended finding is supported by the information obtained in the course of the investigation. The SRC will confine its consideration to a review of the written record. The SRC may speak with the Investigator when clarification about the final investigation report is needed and/or issue specific instructions to the Investigator for further investigation. The results of any additional requested investigation will be reported to the SRC.

Once any additional investigation is complete, the SRC will issue its determination on the recommended finding. The SRC will make one of two possible decisions:

- Approve the recommended finding; or
- Reject the recommended finding.

The SRC must issue a written decision to the OCRSM within five (5) business days of receipt of the final investigation report and/or receipt of any additional information resulting from additional requests to the Investigator by the SRC.

After the SRC issues its written determination, the OCRSM will issue a *Notice of Finding*, which will include a range of potential disciplinary actions associated with the finding. ~~A~~ The *Notice of Investigation Finding* will be issued by the OCRSM and sent to the Complainant and Respondent parties and the Office of Faculty Affairs their respective Dean, Department Chair and/or Unit Head(s), along with the SRC determination and a copy of the final investigation report, including any additional information resulting from additional investigation.

~~Both parties will be contacted by, and required to meet with, their respective Dean or Department Chair, or Director of Student Conduct if a student, separately, to discuss the investigation finding/outcome and next steps.~~

Either or both parties may appeal the ~~investigation~~ finding in accordance with ~~S~~section VII below.

VI. APPEALS OF FINDING

Either or both parties may appeal the ~~investigation~~ finding. An appeal must be submitted to the OCRSM or designee in writing within five (5) business days of the date of receipt of the *Notice of Investigation Finding*. Appeals submitted after five (5) business days shall be denied. If an appeal is received by the OCRSM on time, the other party will be notified and given five (5) business days from the date of receipt of the notice to respond. Responses shall be submitted directly to the OCRSM or designee. Appeals and

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responses filed by each party will be shared with the other party and considered together in one appeal review process. If neither party submits an appeal, the ~~investigation~~ finding is final after five (5) business days. **Appeals will be decided by an SRC Appellate Body (as defined in section VI. C below).**

A. Overview

The scope of the appeal is limited to the grounds set forth below. Dissatisfaction with the investigation outcome is not a valid basis for appeal. Appeals are not intended to allow for a second review of the same facts of the case or to ~~re-determine-reconsider~~ whether there was a Policy violation based on the same facts of the case. In most cases, appeals are confined to a review of the written record and the grounds for appeal submitted by the parties.

B. Grounds for Appeal

Grounds for appeal shall be limited to:

1. Substantial Procedural Error

Specified procedural errors or errors in interpretation of University policy **that** were so substantial as to effectively deny a Complainant or a Respondent notice or a fair opportunity to be heard. Mere deviations from procedures that were not so substantial as to deny a Complainant or Respondent notice or a fair opportunity to be heard will not be a basis for sustaining an appeal.

2. New Evidence

New and significant relevant information has become available which a reasonably diligent person could not have discovered during the Investigation.

When the basis of the Appeal is new evidence, the ~~Title IX Officer or designee,~~ **SRC Appellate Body** will determine whether the information is new and was unavailable at the time of the investigation. If the **SRC Appellate Body determines that the** information is ~~determined~~ not ~~to be~~ new **and was available at the time of the investigation**, the Appeal will be denied. If the information is determined to be new and unavailable at the time of the investigation, ~~it will be sent to~~ the **SRC Appellate Body will make a ~~for~~ review and** determination as to whether the new information could change the outcome of the investigation. If the **SRC Appellate Body** determines that the new evidence could change the outcome, the case will be sent back to the OCRSM Investigator for further investigation. ~~The OCRSM Investigator will report the outcome of any further investigation to the Appellate Body.~~ **After new evidence is considered, the OCRSM will then provide the SRC Appellate Body with a modified report and findings, as appropriate. Copies of the modified report and findings, if any, will also be provided to the parties. The modified report will be considered by the SRC Appellate Body. The SRC Appellate Body will then decide to affirm the recommendations of the modified report, reject them, or ask for additional investigation.**

C. SRC Appellate Body

The Standing Review Committee (SRC) **Appellate Body** is the designated ~~A~~ppellate ~~B~~body for all ~~cases involving allegations of sexual misconduct by faculty~~ **appeals of findings under these Faculty Procedures**. The **SRC Appellate Body** is composed of three (3) members **(faculty, staff, and/or students), depending on the case. SRC members shall be members** from the University community who have had no previous involvement with the case, and have been trained to review such cases. **The**

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SRC Appellate Body will include at least one (1) member from the constituency (faculty, staff, or student) of each party. Deference shall be given to the determinations of the Investigator.

D. Appeal Outcome

The SRC **Appellate Body** may:

- Affirm the ~~Investigation F~~finding;
- Reject the ~~Investigation F~~finding; **or**
- Remand the case back to the Investigator for further investigation.

The SRC **Appellate Body** Chair will render a written decision on the appeal to the Title IX Officer or designee, with a copy to the Senior Vice President and Provost or designee, within five (5) business days from the date of the submission of all appeal documents. ~~No further appeal is available from the SRC Decision.~~ **The SRC Appellate Body Decision is final and may not be further appealed.**

VII. REMEDIES & AND DISCIPLINARY ACTION

A. Impact Statement and Mitigation Statements

Whenever there ~~is~~ **has been** a finding of responsibility, before the University issues any remedies or imposes disciplinary action, if any, both parties have the opportunity to submit statements for consideration by the ~~relevant Dean, department chair, unit head or designee in consultation with the Title IX Officer or designee~~ **Office of Faculty Affairs**, within ~~three five (35)~~ **three (3)** business days from the date of receipt of the ~~decision~~ **Notice of Finding**. **In the event of an Appeal, Impact and Mitigation Statements may be submitted within three (3) business days from the date of receipt of the SRC Appellate Body Decision.**

The Complainant may submit a written **Impact s**Statement **to the Office of Faculty Affairs** describing the impact of the Prohibited Conduct on the Complainant, ~~and/or request to meet with the relevant Dean, department chair, unit head or designee and Title IX Officer or designee to provide their statement verbally.~~

The Respondent may submit a written **Mitigation s**Statement **to the Office of Faculty Affairs** explaining any factors the Respondent believes should mitigate or otherwise be considered in determining appropriate remedies and/or recommended discipline, if any, ~~and/or request to meet with the relevant Dean, Department Chair or unit head, and the Title IX Officer or designee to provide their statement verbally.~~

The parties' respective statements will **be considered by the Office of Faculty Affairs and** not ~~be~~ shared with the other party.

B. Remedies

The Title IX Officer or designee, in consultation with the ~~relevant Dean, department chair, unit head or designee~~ **Office of Faculty Affairs**, will identify reasonable short-term and/or long-term remedies to address the effects of the conduct on the Complainant and prevent its reoccurrence. Such remedies seek to restore to the Complainant, to the extent possible and within reason, the benefits and opportunities lost as a result of the Prohibited Conduct. The Title IX Officer or designee may also identify remedies, such as training for specific audiences, to address the effects of the conduct on the larger University community. **Remedies are separate from disciplinary action and may occur independently or concurrently with any disciplinary action that is imposed.**

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Remedies for student Complainants under these **Faculty Procedures** may include, but are not limited to:

- **Support measures** such as extended classwork deadline, or flexible deadlines, change of venue for taking an exam, change in exam date, and/or retaking of an exam;-
- **Academic accommodations** such as:- retroactive drop from a particular class, retroactive withdrawal from a semester, policy exemption requests, and/or tuition reimbursement;- **and**
- **Housing accommodations.**

Other Remedies for **faculty** Complainants may include, but are not limited to:

- Workplace modifications and other administrative changes, no contact orders, denial of access, schedule changes, counseling and/or referral to outside agencies.

C. Disciplinary Action

When there is a finding of responsibility, and all appeals under these Faculty Procedures, if any, have been exhausted, the ~~respective Dean, department chair, unit head or designee~~ **Office of Faculty Affairs, in consultation will consult** with the Title IX Officer or designee, **will in** determining the appropriate disciplinary action, if any.

To determine what type of disciplinary action is most appropriate, the **Office of Faculty Affairs** ~~Dean, department chair, unit head or designee~~ in consultation with other appropriate administrator(s) shall consider the following:

- The nature of the misconduct at issue;
- The impact of the misconduct on the Complainant;
- The impact or implications of the misconduct on the community or the University;
- Any prior ~~s~~**Sexual m**Misconduct by the Respondent at the University or elsewhere that is known to the University;
- Respondent's prior disciplinary history at the University; and
- Any other mitigating, aggravating, or compelling circumstances.

Discipline shall be imposed in accordance with all procedural due process rights afforded faculty based on their status in accordance with University policy and Maryland **State** law. All faculty disciplinary action **under these Faculty Procedures** shall be approved by the Senior Vice President and Provost or designee.

1. Notice of Disciplinary Action

When disciplinary action is to be imposed, upon approval by the Senior Vice President and Provost or designee, the **Office of Faculty Affairs** ~~relevant Dean or Department Chair or designee~~ will issue a *Notice of Disciplinary Action* to the Respondent.

Disciplinary action will depend on the specific circumstances in each case and may include discipline ranging from a written reprimand up to and including termination of employment. Other administrative and/or non-disciplinary remedies may also be imposed, including but not limited to, no contact directives, and/or a change in work duties, work locations, or work schedules.

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Discipline shall be imposed in accordance with all procedural due process rights afforded faculty based on their status in accordance with University policy and Maryland **State** law.

VIII. GRIEVANCE RIGHTS

Faculty may grieve disciplinary action in accordance with the rights afforded to them based on their specific faculty status. ~~During the grievance process, the *Notice of Investigation Finding* may also be reviewed, as it relates to the resulting disciplinary action.~~

IX. FINAL OUTCOME

When all the procedures and/or grievance processes afforded to both parties under these Faculty Procedures, and the rights afforded to them based on their specific employment status have been exhausted, the Senior Vice President and Provost or designee will promptly notify the Title IX Officer or designee of any modification of the final outcome. The Title IX Officer or designee will notify the parties of any modification to the final outcome, except as prohibited by Maryland and federal law.

X. RECORDS RETENTION

The OCRSM shall maintain **Initial Assessment**, investigation, and outcome records in accordance with the University's record retention schedule.

The Office of the Senior Vice President and Provost, the department/unit head and/or Office of the Dean will maintain records of all disciplinary action, remedies, **and grievances** ~~workplace modifications and other administrative changes and remedies~~ related to a complaint and any Alternative Resolution agreements.


XI. POST-RESOLUTION FOLLOW-UP

After any disciplinary action, ~~workplace modifications, administrative changes~~ and/or ~~other~~ remedies are issued, if the Complainant agrees, the Title IX Officer or designee may periodically contact the Complainant to ensure the Prohibited Conduct has ended and to determine whether additional remedies are necessary. The Complainant may decline future contact at any time. The Title IX Officer or designee may periodically contact the Respondent to assure compliance with the intent and purpose of any disciplinary action, ~~workplace modification, administrative change~~ and/or remedies that have been imposed. Any violation by a Respondent of the intent and purpose of any disciplinary action, ~~workplace modification, administrative change~~ and/or remedies imposed under the Policy, or a failure by a University employee to provide a specified **disciplinary action and/or** remedy should be reported to the OCRSM.

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



University Senate CHARGE

Date:	February 9, 2015
To:	Devin Ellis Chair, Faculty Affairs Committee
From:	Donald Webster  Chair, University Senate
Subject:	Review of the Interim Sexual Misconduct Faculty Procedures
Senate Document #:	14-15-27
Deadline:	November 6, 2015

The Senate Executive Committee (SEC) requests that the Faculty Affairs Committee review the attached interim Faculty Sexual Misconduct Investigation & Adjudication Procedures and make recommendations on whether they are appropriate.

The U.S. Department of Education's Office for Civil Rights (OCR) provided guidance regarding the Violence Against Women Act (VAWA), which was reauthorized in 2013. This guidance required higher education institutions to develop specific sexual misconduct policies and procedures. As a result, the University System of Maryland (USM) revised its Policy on Sexual Misconduct (V-1.60) and asked all USM institutions to align their policies accordingly. In addition, the University was charged with developing procedures for each of its major constituencies. The attached faculty procedures were developed as an element of the University of Maryland Sexual Misconduct Policy & Procedures (VI-1.60[A]), which has been approved on an interim basis pending University Senate review. Complaints against faculty based on a violation of the policy will be reviewed in accordance with these procedures.

Specifically, we ask that you:

1. Review the interim University of Maryland Faculty Sexual Misconduct Investigation & Adjudication Procedures (Appendix C of the University of Maryland Sexual Misconduct Policy & Procedures (VI-1.60[A])).
2. Consult with the University's Title IX Coordinator and the Associate Provost for Faculty Affairs regarding the development of the interim faculty procedures.
3. Review similar faculty procedures for complaints of sexual misconduct at our peer institutions and other Big 10 and USM institutions.

4. Review the University's past process for handling faculty sexual misconduct cases.
5. Review the interim University of Maryland Sexual Misconduct Policy & Procedures ([VI-1.60\[A\]](#)) and consider whether the proposed faculty procedures align with the University's interim policy, USM policy, and VAWA guidelines.
6. Consult with the Senate Staff Affairs Committee regarding any potential revisions to the staff procedures.
7. Consult with the University's Office of General Counsel on any recommended revisions.
8. If appropriate, recommend whether the interim faculty procedures should be revised.

We ask that you submit your report and recommendations to the Senate Office no later than November 6, 2015. If you have questions or need assistance, please contact Reka Montfort in the Senate Office, extension 5-5804.

Attachment

DW/rm

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APPENDIX C

INTRODUCTION

I. FILING A COMPLAINT

- A. Initial Assessment
- B. Interim Measures

II. COMPLAINT RESPONSE

- A. Sexual Misconduct Investigation
- B. Notice of Review Option
- C. OSM Investigation Outcome
- D. Independent Review by Standing Review Committee
- E. Notice of Standing Review Committee Finding

III. APPEAL

- A. Grounds for Appeal
- B. Considerations
- C. Standing Review Committee Appellate Body
- D. Final Outcome Notice

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VI. OUTCOME

- A. Records Retention
- B. Additional Notification Following Any Grievance Initiated by the Respondent

INTRODUCTION

These procedures accompany the University of Maryland Sexual Misconduct Policy and are to be used when responding to, investigating and adjudicating complaints of sexual misconduct against UMD faculty. Faculty include all University employees with faculty rank as described in II-1.00(A) University of Maryland Policy on Appointment, Promotion and Tenure of Faculty at <http://www.president.umd.edu/policies/2014-ii-100a.html>. These procedures replace all procedures previously in effect pertaining to the investigation and adjudication of sexual misconduct against faculty at the University of Maryland, College Park. For purposes of this Policy and Procedures, coaches are deemed staff and are governed by the Staff Sexual Misconduct Investigation & Adjudication Procedures (*See* Appendix B).

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I. FILING A COMPLAINT

A complaint of sexual misconduct against faculty should be made to the Office of Sexual Misconduct & Relationship Violence (OSM). The Complainant will be interviewed and asked to submit a signed written complaint. The Complainant will also be provided with Notice of her/his Rights and Responsibilities.

Disclosures of sexual misconduct to persons or entities other than those specifically listed as Confidential Resources in Section VI of the Policy are not confidential. Any report of sexual misconduct that is brought to the attention of a Responsible University Employee (“RUE”) as defined in Section III of the Policy must be reported promptly to the Title IX Officer in the OSM. An RUE includes any University administrator, supervisor, faculty member, campus police, coach, trainer, resident assistant¹ or non-confidential first responder who has the authority to take action to redress sexual misconduct or whom a student or staff person could reasonably believe has such authority or duty.

No persons other than the Title IX Officer or designee are authorized to investigate allegations of sexual misconduct in violation of this Policy.

A. Initial Assessment

Upon receipt of a complaint of sexual misconduct, the Title IX Officer or designee will conduct an Initial Assessment to determine whether the complaint may constitute a violation of the Policy, and whether further action is warranted based on the alleged conduct. The Initial Assessment will be based on the following considerations:

- The nature and circumstances of the allegation, including the severity and duration of the conduct;
- Pattern evidence or other similar conduct by the Respondent;
- The safety of Complainant and others in the campus community; and
- Complainant’s expressed preference regarding resolution.

B. Interim Measures

Based on the nature and circumstances of the complaint, the Title IX Officer may authorize Interim Measures in consultation with the relevant supervisor, Department Chair/Unit Head and/or Dean and Provost or designee or other administrators, as appropriate on a need-to-know basis.

¹ Under the Policy, for purposes of reporting, a student who is a resident assistant is an RUE and is obligated to report sexual misconduct that comes to her/his attention to the Title IX Officer. If a student who is a resident assistant is the subject of allegations of sexual misconduct, the complaint is handled under the Student Investigation and Adjudication Procedures (see Appendix A).

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II. COMPLAINT RESPONSE

Following the Initial Assessment, the Title IX Officer or designee will determine whether to proceed with an investigation, take no action, or refer the report back to the relevant Department Chair and/or Dean to be considered as a personnel matter because it does not rise to the level of Prohibited Conduct as defined under the Policy in Section IV, pages 4-6. If the complaint is referred back to the unit or office from which it originated, the Complainant will be notified.

OSM may proceed with an investigation to ensure the safety and well-being of the Complainant and/or others in the campus community even in the absence of a written complaint.

A. Sexual Misconduct Investigation

Following the Initial Assessment, and in consultation with the Complainant, the OSM will initiate a prompt, thorough, and impartial Investigation of the conduct that constitutes a potential violation of the Policy. The OSM will designate a Special Investigator who has training and experience investigating allegations of Prohibited Conduct. The Special Investigator will coordinate the gathering of information to make an investigative finding regarding whether the alleged conduct constitutes a violation of the Policy by a preponderance of the evidence. A preponderance of the evidence means that it is more likely than not that the conduct occurred.

OSM will take immediate and appropriate steps to eliminate sexual misconduct in violation of the Policy, address its affects and prevent its recurrence. Information gathered during the Investigation will be used to evaluate the appropriate course of action, provide for individual and campus safety, and identify the need for Interim Protective Measures and other remedies as necessary.

1. Notice of Investigation

The Title IX Officer or designee will send the Complainant and the Respondent a written *Notice of Investigation*. Once the *Notice of Investigation* has been delivered to the parties, the Investigation phase begins. The *Notice of Investigation* will contain a summary of the allegations at issue, the range of potential violations under the Policy, and the range of potential disciplinary sanctions and/or administrative and other remedies. Upon receipt of the *Notice of Investigation*, or at any stage in the process, the Respondent may choose to accept responsibility for the Policy violation.

Along with the *Notice of Investigation*, the Respondent will receive a *Notice of Rights and Responsibilities*.

The OSM will oversee the Investigation. The Investigation is designed to provide a fair and reliable gathering of the facts. All individuals, including the Complainant, the Respondent, and any third party witnesses, will be treated with appropriate sensitivity and respect throughout the Investigation. The Special Investigator will safeguard the privacy of the individuals involved in a manner consistent with federal and state law and University policy.

During the Investigation, the Complainant and Respondent will have an equal opportunity to

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be heard, to submit information, and to identify witnesses who may have relevant information. The Special Investigator will speak separately with the Complainant, the Respondent, and any other individuals who are willing to participate and have information relevant to the investigation. The Special Investigator may gather or receive information that is relevant to the determination of an appropriate sanction or remedy, including information about the impact of the alleged incident on the parties. The Special Investigator will also gather any available physical or documentary evidence, including prior statements by the parties or witnesses, any communications between the parties, email messages, social media materials, text messages, and other records as appropriate and available.

Members of the University community are expected to cooperate with the Investigation.

B. Notice of Review Option

At the conclusion of the Investigation, the Special Investigator will prepare a draft written report that summarizes the information gathered, synthesizes the areas of agreement and disagreement between the parties with any supporting information or accounts. Prior to finalizing the Investigation Report and before reaching a finding, the Special Investigator will provide the Complainant and Respondent an opportunity to review the draft Investigation Report (absent a Finding).

A Complainant and Respondent may submit any additional comment or information to the Special Investigator within five (5) business days of the date of the *Notice of Review Option* to review the draft Investigation Report. This is the final opportunity for the parties to identify any additional information or witnesses and review their statements for accuracy. Both parties will be provided electronic password protected access to the report. In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the Special Investigator at this juncture will not be considered by the Special Investigator or Standing Review Committee (SRC).

C. OSM Investigation Outcome

Once the draft Investigation Report is reviewed by the parties and any additional information is incorporated, or after the five (5) business day comment period has lapsed without comment by either party, the Special Investigator will finalize the *Investigation Report* and make a finding as to whether there has been a violation of the Policy.

The finding will be based on the Special Investigator's assessment of the evidence gathered in the course of the investigation, using a standard of preponderance of evidence (e.g., whether it is more likely than not that a violation of the Policy has occurred). In reaching this determination, the Special Investigator will consult with the Title IX Officer. The Special Investigator may also rely on information regarding the employee's prior disciplinary history and prior criminal history. All information relied on by the Special Investigator shall be included in the final Investigation Report. The OSM Finding will be appended to the Investigation Report and together constitute the OSM Investigation Outcome. The OSM Investigation Outcome will then be sent to the Standing Review Committee for an independent evaluation.

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D. Independent Review by the Standing Review Committee

The Standing Review Committee (SRC) is an independent body of five (5) persons made up of a combination of faculty, staff and students with a minimum of three (3) faculty members. All members of the SRC are adequately trained and are qualified to review findings of sexual misconduct policy violations and grounds for appeal related to those findings.

The Standing Review Committee will conduct an independent assessment of the OSM Investigation Outcome and determine whether there has been a violation of the Policy. The SRC may affirm or reject the OSM Finding regarding the policy violation, and/or return the OSM Outcome to the Special Investigator to conduct additional investigation before completing its review. All SRC decisions require a super majority vote (4-1) and shall be accompanied by an explanation of the SRC's stated rationale for the decision.

The SRC will have five (5) business days to make a determination as to whether there is a violation of the Policy. In the event the SRC rejects the OSM Finding and requests additional investigation, the SRC shall review the revised OSM Outcome upon completion of any additional investigation by the Special Investigator. The five (5) day timeline may be extended by the Title IX Officer to accommodate any additional investigation and reconsideration by the SRC, as needed.

The SRC shall issue its determination (SRC Finding) to the Title IX Officer.

E. Notice of Standing Review Committee Finding

The Title IX Officer or designee will then issue a formal Notice of SRC Finding to both parties, separately and simultaneously. (In the event the investigation was initiated by the OSM without a formal Complainant, only the Respondent shall be notified.) The Notice of SRC Finding shall include a reference to the specific prohibited conduct at issue, a summary of the investigation findings and the SRC's stated rationale for its decision. Copies of the Notice of SRC Finding will be sent to the appropriate supervisor, department chair or unit head, Dean, and Provost or designee and other administrators, as necessary on a need-to-know basis.

III. APPEAL

Either party may appeal the SRC Finding to the SRC Appellate Body. Mere dissatisfaction with the outcome is not a valid basis for appeal. The appeal must be submitted in writing, within five (5) business days of receipt of the Notice of SRC Finding to OSM, using the *Notice of Appeal form*. The scope of the appeal is limited to three permissible grounds (listed below). If the appeal request moves forward, the other party will be notified and given five (5) business days to respond. Responses shall be submitted directly to the OSM. Appeals filed by each party will be considered together in one appeal review process. Receipt of any written appeals will be acknowledged in writing by the OSM.

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A. Grounds for Appeal

Grounds for appeal shall be limited to:

- Procedural Error: A violation of procedural due process means that the SRC Finding was negatively influenced by a failure of the Special Investigator and/or SRC to take a procedural step or fulfill a procedural requirement established by this Policy.
- New Evidence: New evidence is significant evidence that could not have been previously discovered and presented by the appellant through reasonable diligence.
- Substantive Due Process: A violation of substantive due process means that the SRC Finding was based upon an illegal or constitutionally impermissible consideration (e.g. party's gender, race, age, national origin, sexual orientation or exercise of first amendment rights).

If neither party submits an appeal, the SRC Finding becomes final after five (5) business days. Once an SRC Finding becomes final, the Title IX Office will issue a formal Notice of Policy Violation as described in Section D, below. Appeals submitted after five (5) business days will be denied.

B. Considerations

In any request for an appeal, the burden of proof lies with the party requesting the appeal. Appeals are not intended to allow for a rehearing of the complaint or a *de novo* investigation by the SRC Appellate Body. A review of the matter will be prompt and narrowly tailored to the specific grounds requested for appeal. In most cases, appeals are confined to a review of the written record and the pertinent documentation underlying the appeal. However, depending on the nature of the appeal, the SRC Appellate Body may speak to the Special Investigator, the SRC Conference Chair, or the parties, as deemed appropriate.

C. Standing Review Committee Appellate Body

The SRC Appellate Body is composed of three (3) members from the Standing Review Committee who did not participate previously in a review of the case. Depending on the basis of the requested appeal, the SRC Appellate Body may:

- Affirm the SRC Finding;
- Alter the SRC Finding; or
- Return the matter to the Title IX Officer with instructions to cure a procedural or substantive error or to assess the weight and impact of newly discovered information.

1. Notice of Appeal Outcome

An Appellate conference will be convened before a newly constituted SRC Appellate Body when the procedural or substantive error cannot be corrected by returning the matter to the original SRC. The SRC Appellate Body Chair will render a written decision on the appeal referred to as the *Notice of Appeal Outcome* within ten (10) business days from the date the

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OSM receives all appeal documents. SRC Appellate determinations must be unanimous. In the event the SRC Appellate Body is unable to reach a unanimous decision, the appeal is deemed denied and the SRC Finding is affirmed. All SRC Appellate Body decisions are final and will be communicated to the parties via the Office of Sexual Misconduct.

D. Final Outcome Notice

After the SRC Finding becomes final and all appeals, if any, are exhausted, the Title IX Officer or designee shall issue a Final Outcome Notice to both parties, separately and simultaneously, in writing, and in person, when possible. Issuance of the Notice completes the investigation and adjudication of the complaint under this Policy.

IV. DISCIPLINE AND ADMINISTRATIVE OR OTHER REMEDIES

Discipline and/or administrative and/or other remedies may be imposed if the Final Outcome Notice reflects a Policy violation. In such an event, the appropriate supervisor, department chair or unit head, Dean and Provost or designee as deemed necessary, in consultation with the Title IX Office and other administrators, shall consider the following to determine what type of discipline and/or administrative and/or other remedies is most appropriate:

- The nature of the misconduct at issue;
- The impact of the misconduct on the Complainant;
- The impact or implications of the misconduct on the community or the University;
- Any prior sexual misconduct by the Respondent at the University or elsewhere that is known to the University;
- Respondent's prior disciplinary history at the University; and
- Any other mitigating, aggravating, or compelling circumstances.

Discipline and/or administrative and/or other remedies may include, but is not limited to, the following:

- Reassignment of duties;
- Mandatory individualized sexual misconduct training;
- Oral Reminders;
- Written Reminders/Letters of Reprimand;
- Suspension with or without Pay; and
- Termination

V. GRIEVANCE RIGHTS

Faculty may grieve disciplinary action depending on the rights afforded to them based on their faculty status. Faculty may not grieve administrative and/or other remedies that do not constitute formal disciplinary action.

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A tenured or tenure-track faculty member may be terminated in accordance with Section III. C. 7(a)-(c) and (8) of II-1.00 University System Policy on Appointment, Rank and Tenure of Faculty and Section III.C.6 (a)-(c) and 7 of the University of Maryland Policy on Appointment, Promotion and Tenure of Faculty (“APT policy”) at <http://www.president.umd.edu/policies/2014-ii-100a.html>.

A tenured or tenure-track faculty member whose employment has been terminated for cause by the President may appeal to the Board of Regents in accordance with II-1.04 Procedures for Appeals to the University System of Maryland (USM) Board of Regents of Decisions to Terminate Tenured or Tenure-Track Faculty Members at <http://www.usmh.usmd.edu/regents/bylaws/SectionII/II104.html>.

Any faculty member holding an appointment at ranks set forth in Paragraphs I.A. through I.E. of the University Policy II-1.00(A) University of Maryland Policy on Appointment, Promotion and Tenure of Faculty may be suspended in accordance with II-9.00(A) University of Maryland Policy on Suspension of Faculty at <http://www.president.umd.edu/policies/2014-ii-900a.html>. Any faculty member who receives a disciplinary action other than suspension or termination based on a violation of this Policy may grieve the discipline and/or other action in accordance with the procedures set forth in II-4.00(A) University of Maryland Policies and Procedures Governing Faculty Grievances (“Faculty Grievance policy”) at <http://www.president.umd.edu/policies/2014-ii-400a.html>.

VI. FINAL OUTCOME

A. Records Retention

The OSM shall maintain investigation and outcome records in accordance with the University’s record retention schedule.

The Respondent’s Department Chair and/or Dean and the Office of the Provost shall maintain records of any discipline, administrative and/or other remedies in accordance with the University’s record retention schedule and standard University protocols regarding the retention of personnel records.

B. Additional Notification Following Any Grievance Initiated by the Respondent

After the completion of any grievance process initiated by the Respondent as a result of a personnel action taken based on a violation of this Policy, the Title IX Officer or designee will promptly notify the Complainant of any modification of the Final Outcome, except as prohibited by State or Federal law.

END OF DOCUMENT

APPENDIX C: FACULTY SEXUAL MISCONDUCT COMPLAINT PROCEDURES

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II. Rights to Support Person and Advisor

- A. Support Person
- B. Advisor
- C. Party Obligations
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III. Reporting

IV. Complaint Intake Process

- A. Notification to Complainant
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VII. Remedies & Disciplinary Action

- A. Impact & Mitigation Statements
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VIII. Grievance Rights

IX. Final Outcome

X. Records Retention

XI. Post-Resolution Follow-Up

I. OVERVIEW

These procedures set forth in Appendix C accompany the University of Maryland (UMD) Sexual Misconduct Policy (the "Policy") and are the exclusive procedures that govern the handling of all reports or complaints of sexual misconduct against UMD faculty. Key terms used herein are defined in the Policy. For example, sexual misconduct is an umbrella term defined in the Policy that encompasses dating violence, domestic violence, sexual violence, sexual harassment, sexual assault, sexual exploitation, sexual intimidation, relationship violence and stalking.

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For purposes of the Policy and the Faculty Procedures, faculty include all University employees with faculty rank as described in II-1.00(A) University of Maryland Policy on Appointment, Promotion and Tenure of Faculty at <http://www.president.umd.edu/policies/2014-ii-100a.html>.

Employees other than those with faculty rank are governed by the Staff Sexual Misconduct Complaint Procedures (*see Appendix B*). These procedures replace all procedures previously in effect pertaining to the investigation and resolution of sexual misconduct complaints against faculty at the University of Maryland.

II. RIGHTS TO SUPPORT PERSON AND ADVISOR

Throughout the process, any party may be accompanied to any meeting related to an investigation and resolution of a complaint by up to two (2) other people: (1) a Support Person, and (2) an Advisor. Meetings include, but are not limited to, meetings with Office of Civil Rights & Sexual Misconduct (OCRSM), investigative interviews, and document reviews, and alternative resolutions.

A. Support Person

A party may choose to be accompanied by a Support Person of their choice, at their own initiation and expense. A Support Person is someone who can provide emotional, logistical, or other kinds of assistance. The Support Person cannot be a witness or provide evidence in the case. The Support Person is a non-participant who is present to assist a Complainant or Respondent by taking notes, providing emotional support and reassurance, organizing documentation, or consulting directly with the party in a way that does not disrupt or cause any delay. A Support Person shall not be an active participant and the parties must speak for themselves.

B. Advisor

A party may choose to be assisted by an Advisor of their choice, including an attorney, at their own initiation and expense. The Advisor is a non-participant who is present to provide advice and consultation to a party. An Advisor cannot be a witness or provide evidence in a case. If necessary, a party may request a recess in order to speak privately with an Advisor. An Advisor shall not be an active participant. The parties must speak for themselves. An Advisor may not delay, or otherwise interfere with, the University's process.

C. Party Obligations

Throughout the process, the Title IX Officer or designee, Investigators and other University representatives will communicate and correspond directly with the parties, not through a Support Person or Advisor. Parties are responsible for having Support Persons and Advisors follow the non-party participation requirements below. When a party wishes to have a Support Person or Advisor accompany them to a meeting, the individual must notify OCRSM in advance. Parties are also responsible for making sure appropriate authorization exists for the University to communicate non-party participation requirements below to any Support Person or Advisor.

D. Non-Party Participant Requirements

All Support Persons and Advisors must review the materials about the scope of their respective roles, prior to accompanying a party to any meeting or other activity. These materials may be

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obtained online at the OCRSM website, www.umd.edu/ocrsm/ or from OCRSM directly. This is to ensure the Support Persons and Advisors are informed about the process and their respective roles. All parties, Support Persons and Advisors are expected to understand their roles and adhere to the University's expectations regarding decorum and privacy considerations.

III. REPORTING

Complaints and other reports of sexual misconduct against faculty may be made to the OCRSM. Complaints may also be made to any Responsible University Employee (RUE). A RUE, as defined by this Policy, includes all University administrators, supervisors in non-confidential roles, faculty members, campus police, coaches, athletic trainers, resident assistants, and non-confidential first responders. Responsible University Employees are required to share all reports of sexual misconduct they receive, promptly with the Title IX Officer or designee.

Student Complainants may also report sexual misconduct against faculty to the Office of Student Conduct, or the Office of Rights & Responsibilities (R&R) in the Department of Resident Life.

Prompt reporting of Prohibited Conduct is encouraged so that the University can take immediate and corrective action to eliminate the misconduct, prevent its recurrence, and address its effects. The University will provide support and assistance to the Complainant and respond according to the steps outlined in these Faculty Procedures. Upon receipt of any report, the Title IX Officer or designee will make an immediate assessment of the risk of harm to the parties or to the campus community and will take steps necessary to address any risks. These steps may include working with the Office of Faculty Affairs and other campus offices to facilitate Interim Protective Measures that provide for the safety of the parties and the campus community, when appropriate.

A Complainant may choose to make a report to the University and pursue resolution under these Faculty Procedures, and may also choose to make a report to law enforcement. A Complainant may pursue either of these options or both options at the same time. The criminal process and the University's internal process under these Faculty Procedures are separate and independent. A Complainant who wishes to pursue criminal action should contact campus police or external law enforcement directly. See Policy Section VII for more information on criminal reporting.

The University recognizes that deciding whether to report sexual misconduct and proceed with a formal complaint under these Faculty Procedures is a personal decision that may evolve over time. While prompt reporting is strongly encouraged, there is no time limit for reporting a complaint of sexual misconduct. The OCRSM will coordinate with the appropriate University office to provide support and assistance to each Complainant in making important decisions related to reports of sexual misconduct. Consistent with the goal of safety for all community members, the University will make every effort to respect a Complainant's autonomy in making their own personal decisions after reporting sexual misconduct. However, when appropriate, the University, through the OCRSM, retains the right to initiate a formal complaint on its own, independent of any individual's decision as to how they wish to proceed.

IV. COMPLAINT INTAKE PROCESS

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A. Notification to the Complainant

Upon receipt of a complaint, the OCRSM will ensure that the Complainant is provided with a copy of the Policy and Faculty Procedures and is informed of their rights and responsibilities. The OCRSM will provide information to the Complainant about the University's internal, administrative complaint process and review with them their respective rights and responsibilities. The Complainant will be informed of available community and campus resources and services; their right to a Support Person and the Support Person's role; their right to an Advisor and the Advisor's role; their right to file a report with law enforcement, or not; and the University's prohibition against retaliation. The Complainant will have an opportunity to ask questions and seek additional information.

B. Requests for Confidentiality

Whenever possible, the OCRSM will take action consistent with the Complainant's expressed wishes regarding confidentiality. The University's ability to fully investigate and respond to a complaint may be limited if the Complainant requests that their name not be disclosed to the Respondent or declines to participate in an Investigation. When a Complainant requests their name or other identifiable information not be disclosed and/or that no further action be taken, the Title IX Officer or designee will seek to honor such requests, balancing the Complainant's wishes for confidentiality with the University's obligation to provide a safe and non-discriminatory environment for all members of the University community. The University retains the right to proceed with a complaint as necessary to meet its obligations, and in some cases, may not be able to honor a request for confidentiality.

C. Initial Assessment of Complaint

When the University receives a complaint, the OCRSM will conduct an Initial Assessment. The Initial Assessment will determine whether the reported conduct constitutes a potential violation of the Policy, and if further action is warranted based on the reported conduct.

The first step in the Initial Assessment is a preliminary meeting between the Complainant and the OCRSM to gather information that will enable the OCRSM, in consultation with other offices, as appropriate, to:

- Assess the nature and circumstances reported in the complaint;
- Assess the safety of the Complainant and of the campus community;
- Implement any appropriate interim protective measures;
- Assess for pattern evidence or other similar conduct by the Respondent when relevant to the safety assessment;
- Assess the Complainant's expressed preference regarding resolution, including any request that no further action be taken;
- Assess any request by the Complainant for confidentiality or anonymity; and
- Assess the reported conduct for possible referral to the University of Maryland Police Department (UMPD) for a timely warning under the Clery Act.

At the conclusion of the Initial Assessment, the OCRSM will determine the appropriate next step(s), including but not limited to: no further action, the imposition of Interim Measures, Alternative Resolution, and/or proceeding with an investigation.

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When the Initial Assessment determines the reported conduct does not rise to the level of a potential violation under this Policy, but may violate another University policy, the complaint may be referred to another appropriate University official for review and resolution.

Where the Initial Assessment reveals that the University lacks jurisdiction over the Respondent, the University will take available and reasonable steps to address the Sexual Misconduct, prevent its recurrence, and address its effects at the University.

D. Interim Protective Measures

Based on the nature and circumstances of the complaint, the Title IX Officer or designee in consultation with appropriate Deans, department heads, and other University administrators may authorize interim protective measures to ensure the safety and well-being of the Complainant and others in the campus community, as appropriate. The Title IX Officer or designee will promptly inform the Respondent (if they are a member of the University community) of any interim protective measures that will directly impact the Respondent and provide an opportunity for the Respondent to respond.

The OCRSM retains discretion to impose and/or modify any interim protective measures based on all available information. Interim protective measures will remain in effect until the University's final resolution of the sexual misconduct complaint. A party may challenge the imposition of interim protective measures, or a decision not to impose interim protective measures, by contacting the OCRSM to address any concerns. Information about interim protective measures can be found on pages 11-12 of the Policy.

V. RESOLUTION PROCESSES

A. Time Frame for Resolution

Consistent with the goal of maximizing educational and working opportunities, remedying the effects of Prohibited Conduct and promoting campus safety while minimizing the possible disruptive nature of the process, the OCRSM will strive to resolve all complaints within sixty (60) business days of receipt. In general, the investigation phase may last approximately four to five weeks and the adjudication phase may last an additional estimated four to five weeks. Good faith efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with the importance of resolving complaints in a timely and expeditious manner. The Title IX Officer may extend the general time frames for the completion of all required actions. If such an extension occurs, the parties will be notified in writing by the OCRSM.

B. Alternative Resolution Process

In some cases, the Complainant may seek Alternative Resolution in lieu of investigation and adjudication.

Alternative Resolution is a process whereby remedies and interventions may serve to address the alleged Prohibited Conduct without proceeding to an investigation and adjudication. Alternative Resolution is not appropriate for complaints involving sexual violence, including sexual assault. The parties may decide not to proceed with Alternative Resolution and may request an investigation and adjudication at any time.

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The Title IX Officer or designee has the discretion to determine whether a complaint is appropriate for Alternative Resolution and retains discretion to terminate an ongoing Alternative Resolution process at any time.

The purpose of Alternative Resolution is to take appropriate action by imposing individual and community interventions and remedies designed to maximize the Complainant's access to educational, extra-curricular and/or employment activities at the University. Any combination of interventions and remedies may be utilized, including but not limited to:

- Increased monitoring, supervision and/or security at locations or activities where the Prohibited Conduct occurred or is likely to reoccur;
- Targeted or broad-based educational programming or training for relevant individuals or groups;
- Workplace modifications and/or other administrative changes;
- Completion of projects, programs, or requirements designed to help the Respondent manage behavior, refrain from engaging in Prohibited Conduct and understand why the Prohibited Conduct is prohibited; and
- Compliance with orders of no contact that limit access to specific University buildings or areas or forms of contact with particular persons.

The imposition of remedies or interventions obtained through Alternative Resolution may be achieved by an agreement acceptable to the parties and University. In such cases the terms of the agreement are implemented and the matter is resolved and closed. In cases where an agreement is not reached, and the Title IX Officer or designee determines that further action is necessary, or if a Respondent fails to comply with the terms of the Alternative Resolution agreement, the matter may be referred for investigation and resolution under these Faculty Procedures.

Where the Complainant and Respondent and University have reached an Alternative Resolution agreement, the parties will be provided a written notice of the outcome.

C. Investigation Process

When the Initial Assessment determines the University has jurisdiction over the Respondent and the alleged conduct, and where Alternative Resolution is not appropriate or the Respondent fails to comply with the terms of an Alternative Resolution agreement, an investigation will occur.

1. Notice of Investigation

In the event of an investigation, the Investigator will send a written *Notice of Investigation and Notice of Rights and Responsibilities* to both parties.

The *Notice of Investigation* will contain the circumstances of the alleged incident (which generally will include, to the extent known, the name of the Complainant and the date, time and location), the Prohibited Conduct alleged as defined by the Policy, and the range of potential disciplinary actions associated with the Prohibited Conduct. Both parties will also be informed that they will have an opportunity to be heard regarding the complaint during the investigation process, including the opportunity to be heard during an interview with an Investigator regarding

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the alleged sexual misconduct.

2. Notice of Rights and Responsibilities

Both parties will be provided with a copy of the Policy and Faculty Procedures and informed of their rights and responsibilities pursuant to the Policy. This includes but is not limited to: no contact directives (and provided a copy), prohibitions against retaliation and guidance about reporting any retaliatory conduct, and available community and campus resources and services.

3. Standard of Review

In making a determination about whether a Policy violation has occurred, the standard of review is preponderance of the evidence. A preponderance of the evidence means “it is more likely than not.” Thus, at the conclusion of the investigation phase, based on the information gathered, a recommended finding will be made as to whether, based on the information gathered, it is more likely than not that the reported conduct constituted Prohibited Conduct in violation of the Policy.

4. Role of the Investigator

The Title IX Officer or designee will designate one or more an Investigator(s) from the OCRSM and/or an external Investigator to conduct a prompt, thorough, fair, and impartial investigation. All Investigators will receive annual training on issues related to sexual and gender-based harassment, sexual assault, dating violence, domestic violence and stalking; and how to conduct a fair and impartial investigation that provides parties with notice and a meaningful opportunity to be heard and protects the safety of complainants and the University community while promoting accountability.

5. Overview of the Investigation

The investigation is an impartial fact-gathering process. It is an important stage of the process in which both parties have an opportunity to be heard regarding the complaint. During the investigation the parties will each have an opportunity to meet and speak with the Investigator, provide any relevant information about the reported conduct, and identify persons they believe the Investigator should speak with because they believe they have relevant information. The Investigator will speak separately with both parties and any other individuals who may have relevant information. The Investigator will also gather any available physical evidence or documents, including prior statements by the parties or witnesses, communications between the parties, email messages, social media materials, and other records, as appropriate and available.

a. Special Considerations

Information related to the prior sexual history of either party is generally not relevant to the determination of a Policy violation. However, prior sexual history between the parties may be relevant in very limited circumstances. For example, where there was a prior or ongoing consensual relationship between the parties, and where Consent is at issue in the case at hand, evidence as to the parties’ prior sexual history as it relates to Consent may be relevant to assess the manner and nature of communications between the parties. As noted in the Policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute Consent. Sexual history will never be used for purposes of illustrating either party’s individual character or reputation. The Investigator will

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determine the relevance of prior sexual history and inform the parties if information about the parties' sexual history with each other is deemed relevant.

At the discretion of the OCRSM, multiple reports may be consolidated in one investigation if the information related to each incident is relevant in reaching a determination. Matters may be consolidated where they involve multiple Complainants, multiple Respondents, or related conduct involving the same parties, provided that it does not delay the prompt investigation and resolution of complaints.

b. Draft Report

At the conclusion of the investigation, the Investigator will draft a written investigation report that summarizes the information gathered (including, but not limited to, the names of witnesses and summaries of their statements), and synthesizes the areas of agreement and disagreement between the parties.

c. Notice of Opportunity to Review the Draft Investigation Report

Before the investigation report is finalized, the parties will be given an opportunity to review and respond to the draft report. Upon receipt of notice to review the draft report, the parties will each have five (5) business days to review the report and all underlying documents and submit comments, information and/or ask questions. If there is any new or additional information to be provided by either party, it must be presented to the Investigator at this time. If further investigation is warranted based on the comments, information and/or questions provided during the review period, the Investigator will continue the investigation, as needed.

6. Investigation Outcome/Finding

Upon timely receipt of any additional information or comments from the parties or after the five (5) business day comment period has lapsed with no comments provided, and the investigation is complete, the Investigator will finalize the investigation report.

The final investigation report will include a summary of all relevant information obtained in the course of the investigation, an analysis of the material facts, and a finding of whether or not a Policy violation occurred by a preponderance of the evidence. The notice will also include a range of potential disciplinary action associated with such findings. The Title IX Officer or designee will review the final investigation report.

A *Notice of Investigation Finding* will be issued by the OCRSM and sent to the Complainant and Respondent and their respective Dean, Department Chair and/or Unit Head(s), along with a copy of the final investigation report.

Both parties will be contacted by, and required to meet with, their respective Dean or Department Chair, or Director of Student Conduct if a student, separately, to discuss the investigation finding/outcome and next steps.

Either or both parties may appeal the investigation finding in accordance with Section VII below.

VI. APPEALS

Either or both parties may appeal the investigation finding. An appeal must be submitted in writing within five (5) business days of the date of receipt of the *Notice of Investigation Finding*.

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Appeals submitted after five (5) business days shall be denied. If an appeal is received by the OCRSM, the other party will be notified and given five (5) business days from the date of receipt of the notice to respond. Responses shall be submitted directly to the OCRSM. Appeals and responses filed by each party will be shared with the other party and considered together in one appeal review process. If neither party submits an appeal, the investigation finding is final after five (5) business days.

A. Overview

The scope of the appeal is limited to the grounds set forth below. Dissatisfaction with the investigation outcome is not a valid basis for appeal. Appeals are not intended to allow for a second review of the same facts of the case or to redetermine whether there was a Policy violation based on the same facts of the case. In most cases, appeals are confined to a review of the written record and the grounds for appeal submitted by the parties.

B. Grounds for Appeal

Grounds for appeal shall be limited to:

1. Substantial Procedural Error

Specified procedural errors or errors in interpretation of University policy were so substantial as to effectively deny a Complainant or a Respondent notice or a fair opportunity to be heard. Mere deviations from procedures that were not so substantial as to deny a Complainant or Respondent notice or a fair opportunity to be heard will not be a basis for sustaining an appeal.

2. New Evidence

New and significant relevant information has become available which a reasonably diligent person could not have discovered during the Investigation.

When the basis of the Appeal is new evidence, the Title IX Officer or designee, will determine whether the information is new and was unavailable at the time of the investigation. If the information is determined not to be new, the Appeal will be denied.

If the information is determined to be new and unavailable at the time of the investigation, it will be sent to the Appellate Body for review and determination as to whether the new information could change the outcome of the investigation. If the Appellate Body determines that the new evidence could change the outcome, the case will be sent back to the OCRSM Investigator for further investigation. The OSCR Investigator will report the outcome of any further investigation to the Appellate Body.

C. Appellate Body

The Standing Review Committee (SRC) is the designated Appellate Body for all cases involving allegations of sexual misconduct by faculty. The SRC is composed of three (3) members from the University community who have had no previous involvement with the case, and have been trained to review such cases. Deference shall be given to the determinations of the Investigator.

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D. Appeal Outcome

The SRC may:

- Affirm the Investigation Finding;
- Reject the Investigation Finding;
- Remand the case back to the Investigator for further investigation.

The SRC Chair will render a written decision on the appeal to the Title IX Officer or designee, with a copy to the Senior Vice President and Provost or designee within five (5) business days from the date of the submission of all appeal documents. No further appeal is available from the SRC Decision.

VII. REMEDIES & DISCIPLINARY ACTION

A. Impact and Mitigation Statements

Whenever there is a finding of responsibility, before the University issues any remedies or imposes disciplinary action, if any, both parties have the opportunity to submit statements for consideration by the relevant Dean, department chair, unit head or designee in consultation with the Title IX Officer or designee, within three (3) business days from the date of receipt of the decision.

The Complainant may submit a written statement describing the impact of the Prohibited Conduct on the Complainant, and/or request to meet with the relevant Dean, department chair, unit head or designee and Title IX Officer or designee to provide their statement verbally.

The Respondent may submit a written statement explaining any factors the Respondent believes should mitigate or otherwise be considered in determining appropriate remedies and/or recommended discipline, if any, and/or request to meet with the relevant Dean, Department Chair or unit head, and the Title IX Officer or designee to provide their statement verbally.

The parties' respective statements will not be shared with the other party.

B. Remedies

The Title IX Officer or designee, in consultation with the relevant Dean, department chair, unit head or designee, will identify reasonable short-term and/or long-term remedies to address the effects of the conduct on the Complainant and prevent its reoccurrence. Such remedies seek to restore to the Complainant, to the extent possible and within reason, the benefits and opportunities lost as a result of the Prohibited Conduct. The Title IX Officer or designee may also identify remedies, such as training for specific audiences, to address the effects of the conduct on the larger University community.

Remedies for student Complainants under these may include, but are not limited to:

- **Support measures** such as extended classwork deadline, or flexible deadlines, change of venue for taking an exam, change in exam date, and/or retaking of an exam.
- **Academic accommodations** such as: retroactive drop from a particular class, retroactive withdrawal from a semester, policy exemption requests, and/or tuition reimbursement.

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Remedies for faculty Complainants may include, but are not limited to:

- Workplace modifications and other administrative changes, no contact orders, denial of access, housing accommodations, schedule changes, counseling and/or referral to outside agencies.

C. Disciplinary Action

When there is a finding of responsibility, and all appeals under these Faculty Procedures, if any, have been exhausted, the respective Dean, department chair, unit head or designee will consult with the Title IX Officer or designee in determining the appropriate disciplinary action, if any.

To determine what type of disciplinary action is most appropriate, the Dean, department chair, unit head or designee in consultation with other appropriate administrator(s) shall consider the following:

- The nature of the misconduct at issue;
- The impact of the misconduct on the Complainant;
- The impact or implications of the misconduct on the community or the University;
- Any prior sexual misconduct by the Respondent at the University or elsewhere that is known to the University;
- Respondent's prior disciplinary history at the University; and
- Any other mitigating, aggravating, or compelling circumstances.

Discipline shall be imposed in accordance with all procedural due process rights afforded faculty based on their status in accordance with University policy and Maryland State law. All faculty disciplinary action shall be approved by the Senior Vice President and Provost or designee.

1. Notice of Disciplinary Action

When disciplinary action is to be imposed, upon approval by the Senior Vice President and Provost or designee, the relevant Dean or Department Chair or designee will issue a *Notice of Disciplinary Action* to the Respondent.

Disciplinary action will depend on the specific circumstances in each case and may include discipline ranging from a written reprimand up to and including termination of employment. Other administrative and/or non-disciplinary remedies may also be imposed, including but not limited to, no contact directives, and/or a change in work duties, work locations, or work schedules.

Discipline shall be imposed in accordance with all procedural due process rights afforded faculty based on their status in accordance with University policy and Maryland State law.

VIII. GRIEVANCE RIGHTS

Faculty may grieve disciplinary action in accordance with the rights afforded to them based on their specific faculty status. During the grievance process, the *Notice of Investigation Finding* may also be reviewed, as it relates to the resulting disciplinary action.

IX. FINAL OUTCOME

APPENDIX C: FACULTY SEXUAL MISCONDUCT COMPLAINT PROCEDURES

When all the procedures and/or grievance processes afforded to both parties under these Faculty Procedures, and the rights afforded to them based on their specific employment status have been exhausted, the Senior Vice President and Provost or designee will promptly notify the Title IX Officer or designee of any modification of the final outcome. The Title IX Officer or designee will notify the parties of any modification to the final outcome, except as prohibited by Maryland and federal law.

X. RECORDS RETENTION

The OCRSM shall maintain investigation and outcome records in accordance with the University's record retention schedule.

The Office of the Senior Vice President and Provost, the department/unit head and/or Office of the Dean will maintain records of all disciplinary action, remedies, workplace modifications and other administrative changes and remedies related to a complaint and any Alternative Resolution agreements.

XI. POST-RESOLUTION FOLLOW-UP

After any disciplinary action, workplace modifications, administrative changes and/or other remedies are issued, if the Complainant agrees, the Title IX Officer or designee may periodically contact the Complainant to ensure the Prohibited Conduct has ended and to determine whether additional remedies are necessary. The Complainant may decline future contact at any time. The Title IX Officer or designee may periodically contact the Respondent to assure compliance with the intent and purpose of any disciplinary action, workplace modification, administrative change and/or remedies that have been imposed. Any violation by a Respondent of the intent and purpose of any disciplinary action, workplace modification, administrative change and/or remedies imposed under the Policy, or a failure by a University employee to provide a specified remedy should be reported to the OCRSM.

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

APPENDIX C: FACULTY SEXUAL MISCONDUCT COMPLAINT PROCEDURES

I. INTRODUCTION

These procedures accompany the University of Maryland Sexual Misconduct Policy and are to be used when responding to, investigating and adjudicating complaints of sexual misconduct against UMD faculty. Faculty include all University employees with faculty rank as described in II-1.00(A) University of Maryland Policy on Appointment, Promotion and Tenure of Faculty at <http://www.president.umd.edu/policies/2014-ii-100a.html>. These procedures replace all procedures previously in effect pertaining to the investigation and adjudication of sexual misconduct against faculty at the University of Maryland, College Park. For purposes of this Policy and Procedures, coaches are deemed staff and are governed by the Staff Sexual Misconduct Complaint Procedures (*See Appendix B*).

Note: Reports by Responsible University Employees (RUEs) of sexual misconduct made to the Office of Civil Rights & Sexual Misconduct (OCRSM) DO NOT constitute a formal complaint. An individual must file a formal complaint in order for the complaint process to ensue. The University, through the OCRSM, retains the right to initiate the formal complaint process independent of any formal complaint filed by an individual.

II. FILING A COMPLAINT

Complaints of sexual misconduct should be made to the Office of Civil Rights & Sexual Misconduct (OCRSM). Upon filing a complaint, the Complainant will receive a *Notice of Rights & Responsibilities*.

A. Initial Assessment

Upon receipt of a complaint, OCRSM will conduct an Initial Assessment to determine whether the complaint may constitute a potential Policy violation, and whether any immediate action is warranted based on the reported conduct. The Initial Assessment will consider:

- The nature and circumstances of the allegation, including the severity and duration of the conduct;
- The safety of the Complainant and others in the campus community;
- Pattern evidence or other similar conduct by the Respondent; and
- The Complainant's expressed preference regarding resolution.

Following the Initial Assessment, the Title IX Officer will determine whether to proceed with an investigation, take no action, or refer the report to other campus units, including but not limited to the Faculty Ombudsperson, for appropriate action because the complaint does not rise to Prohibited Conduct under the Policy. The Title IX Officer will notify the Complainant of the results of the Initial Assessment.

APPENDIX C: FACULTY SEXUAL MISCONDUCT COMPLAINT PROCEDURES

B. Interim Protective Measures

Based on the nature and circumstances of the complaint, the Title IX Officer may take immediate and appropriate steps to eliminate sexual misconduct in violation of the Policy, address its affects, and prevent its recurrence. As appropriate, and on a need-to-know basis only, Interim Protective Measures will be made in consultation with the appropriate supervisor or unit head/administrator(s) and/or Associate Provost for Faculty Affairs.

III. SEXUAL MISCONDUCT INVESTIGATION

Following the Initial Assessment, and in consultation with the Complainant, the OCRSM may initiate an investigation if the conduct constitutes a potential violation of the Policy. A Special Investigator will be assigned to conduct the investigation.

A. Notice of Investigation

In the event of an investigation, OCRSM will send a written *Notice of Investigation and Notice of Rights and Responsibilities* to both parties. The *Notice of Investigation* will contain a summary of the allegation(s) at issue. Once a Notice of Investigation has been delivered to the parties, OCRSM will begin its Investigation.

The Investigation is designed to provide an impartial, prompt and fair gathering of the facts. All individuals, including the Complainant, the Respondent, and any third party witnesses, will be treated with appropriate sensitivity and respect throughout the Investigation. At all times the OCRSM seeks to safeguard the privacy of the individuals involved in a manner consistent with federal and state law and University policy.

B. Investigation

During the Investigation, the Complainant and Respondent will each have an opportunity to be heard, submit information, and identify witnesses who may have relevant information. The Special Investigator will speak separately with the Complainant, the Respondent, and any other individuals who have information relevant to the investigation. The Special Investigator may gather or receive information that is relevant to the determination of an appropriate sanction or remedy, including information about the impact of the alleged incident on the parties. The Special Investigator will also gather any available physical or documentary evidence, including prior statements by the parties or witnesses, communications between the parties, email messages, social media materials, text messages, and other records as appropriate and available.

C. Notice of Opportunity to Review Investigation Report

At the conclusion of the Investigation, the Special Investigator will draft a written report that summarizes the information gathered, synthesizes the areas of agreement and disagreement between the parties and includes relevant written documentation gathered

APPENDIX C: FACULTY SEXUAL MISCONDUCT COMPLAINT PROCEDURES

in the course of the investigation. The parties will be issued a written *Notice of Opportunity to Review the Investigation Report*. The Complainant and Respondent will each have an opportunity to review the draft Investigation Report and supporting evidence, and submit written comments on the accuracy of their statements, pose questions and submit additional information or evidence. Additional comments or information must be provided to the Special Investigator within five (5) business days of the date of the *Notice of Opportunity to Review the Investigation Report*. If further investigation is warranted based on information provided during the review period, the Special Investigator will continue the investigation until all relevant information and evidence is gathered.

D. Investigation Outcome - Finding

When the review period has ended, and the investigation is complete, the Special Investigator will finalize the Investigation Report, taking into account any additional information provided, and issue a Finding in consultation with the Title IX Officer. All information relied on by the Special Investigator shall be included in the final Investigation Report. The final Investigation Report will state whether the preponderance of the evidence supports a Policy violation, or not, and include a summary of the evidence relied on by the Special Investigator in reaching this determination. A preponderance of evidence means that it is more likely than not a violation of the Policy occurred.

E. Notice of Finding of Policy Violation

Both parties will be informed, separately, in writing, as to whether or not the investigation resulted in a finding of a policy violation.

IV. DISCIPLINARY ACTION

Upon receipt of the final Investigation Report and Finding, the relevant Department Chair and/or Dean or Associate Dean in consultation with the next level administrator(s), and/or Provost, or designee and the Title IX Officer, will determine appropriate disciplinary action, if any.

Notice of Disciplinary Action

In the event disciplinary action is to be imposed, the Department Chair and/or Dean or Associate Dean will issue a *Notice of Policy Violation and Disciplinary Action*. The Notice will be shared with both the Respondent and Complainant.

Disciplinary action will depend on the specific circumstances in each case and may include sanctions ranging from written reprimand up to and including termination of employment. Other administrative and/or non-disciplinary remedies may also be imposed, such as no contact directives, change in work duties, locations or schedules.

APPENDIX C: FACULTY SEXUAL MISCONDUCT COMPLAINT PROCEDURES

To determine what type of disciplinary action is most appropriate (administrative or other remedies) the relevant Department Chair and/or Dean or Associate Dean, in consultation with other appropriate administrator(s) and the Title IX Officer, shall consider the following:

- The nature of the misconduct at issue;
- The impact of the misconduct on the Complainant;
- The impact or implications of the misconduct on the community or the University;
- Any prior sexual misconduct by the Respondent at the University or elsewhere that is known to the University;
- Respondent's prior disciplinary history at the University; and
- Any other mitigating, aggravating, or compelling circumstances.

Discipline shall be imposed in accordance with all procedural due process rights afforded employees based on their status in accordance with University policy and Maryland State law.

V. GRIEVANCE RIGHTS

Employees may grieve disciplinary action in accordance with the rights afforded to them based on their specific employee status.

A. Termination of Appointment of a Tenured or Tenure-Track Faculty Member

A tenured or tenure-track faculty member may be terminated in accordance with Section III. C. 7(a)-(c) and (8) of II-1.00 University System Policy on Appointment, Rank and Tenure of Faculty and Section III.C.6 (a)-(c) and 7 of the University of Maryland Policy on Appointment, Promotion and Tenure of Faculty ("APT policy") at <http://www.president.umd.edu/policies/2014-ii-100a.html>.

A tenured or tenure-track faculty member whose employment has been terminated for cause by the President may appeal to the Board of Regents in accordance with II-1.04 Procedures for Appeals to the University System of Maryland (USM) Board of Regents of Decisions to Terminate Tenured or Tenure-Track Faculty Members at <http://www.usmh.usmd.edu/regents/bylaws/SectionII/II104.html>.

B. Suspension of a Faculty Member

Any faculty member holding an appointment at ranks set forth in Paragraphs I.A. through I.E. of the University Policy II-1.00(A) University of Maryland Policy on Appointment, Promotion and Tenure of Faculty may be suspended in accordance with II-9.00(A) University of Maryland Policy on Suspension of Faculty at <http://www.president.umd.edu/policies/2014-ii-900a.html> ("Faculty Suspension Policy").

C. Other Disciplinary Action against a Faculty Member

Any faculty member who receives a disciplinary action other than suspension or termination based on a violation of this Policy may grieve the discipline and/or other

APPENDIX C: FACULTY SEXUAL MISCONDUCT COMPLAINT PROCEDURES

action in accordance with the procedures set forth in II-4.00(A) University of Maryland Policies and Procedures Governing Faculty Grievances (“Faculty Grievance policy”) at <http://www.president.umd.edu/policies/2014-ii-400a.html>.

D. Adjunct Faculty

Adjunct faculty who receive a disciplinary action other than termination or suspension based on a violation of this Policy may grieve the discipline and/or other action in accordance with the procedures set forth in II-4.00(A) University of Maryland Policies and Procedures Governing Faculty Grievances at <http://www.president.umd.edu/policies/2014-ii-400a.html>

VI. FINAL OUTCOME

After the completion of all review and/or grievance processes initiated by either party, the Title IX Officer will promptly notify the Complainant of any modification of the final outcome, except as prohibited by State or Federal law.

Records Retention

The OCRSM shall maintain investigation and outcome records in accordance with the University’s record retention schedule.

The Respondent’s Unit Head, the OCRSM, and the Office of Faculty Affairs shall maintain records of any discipline, administrative, and/or other remedies in accordance with the University’s record retention schedule and standard University protocols regarding the retention of personnel records.



University Senate TRANSMITTAL FORM

Senate Document #:	14-15-26
Title:	Review of the Interim Sexual Misconduct Staff Procedures
Presenter:	Brandon Dula, Chair, Senate Staff Affairs Committee
Date of SEC Review:	April 19, 2016
Date of Senate Review:	April 28, 2016
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>In fall 2014, the Office of Civil Rights & Sexual Misconduct (OCRSM) and the University administration developed interim procedures for resolving complaints of sexual misconduct brought against faculty and staff at the University. The procedures were approved on an interim basis in January 2015. In February 2015, the Senate Executive Committee (SEC) charged the Staff Affairs Committee with review of the interim University of Maryland Staff Sexual Misconduct Investigation & Adjudication Procedures, Appendix B of the University of Maryland Sexual Misconduct Policy & Procedures.</p>
Relevant Policy # & URL:	<p>VI-1.60(A) University of Maryland Sexual Misconduct Policy & Procedures – Appendix B http://umd.edu/policies/docs/VI-160A.pdf</p>
Recommendation:	<p>The Staff Affairs Committee recommends that the Staff Sexual Misconduct Complaint Procedures (Appendix B of VI-1.60[A] University of Maryland Sexual Misconduct Policy & Procedures) be amended as indicated in the procedures document immediately following the committee’s report.</p> <p>The Staff Affairs Committee recommends that any <i>Notice of Disciplinary Action</i> sent to Respondents under the Staff Sexual Misconduct Complaint Procedures provide guidance on grievance processes at the University (e.g., by stating that the Staff Ombuds Officer is available to assist staff in understanding grievance policies and rights based on specific employee status), as appropriate. In addition, the committee recommends that University Human Resources and the OCRSM ensure that their websites provide guidance for employees on staff grievance</p>

	rights and policies, as they relate to the Staff Sexual Misconduct Complaint Procedures, where appropriate.
Committee Work:	<p>The Staff Affairs Committee began reviewing the charge in spring 2015. The committee reviewed the work of the Senate Equity, Diversity, and Inclusion (EDI) Committee on the Sexual Misconduct Policy, and discussed how sexual misconduct cases involving staff have been handled in the past at the University, as well as at other institutions of higher education. The committee consulted with University Human Resources (UHR), the Office of General Counsel (OGC), and the OCRSM. The committee also sought to remain apprised of revisions to the Sexual Misconduct Procedures for faculty and students through the parallel Senate committee processes.</p> <p>The committee developed a number of potential edits for the interim procedures. UHR and the Office of Staff Relations also submitted several comments about the interim procedures for consideration by the committee, which the committee discussed in detail with the Title IX Officer.</p> <p>In fall 2015, the Senate Office received word that the OCRSM and the administration were developing revised versions of all three sets of the interim procedures. Revised procedures for faculty and staff were approved by the President on an interim basis on October 1, 2015. The committee reviewed the new interim staff procedures, and focused on a number of areas of change in the procedures, which it discussed thoroughly.</p> <p>After final review, the Staff Affairs Committee approved the revised Staff Sexual Misconduct Complaint Procedures and an administrative recommendation related to grievance rights via an email vote ending November 16, 2015. The committee sent its recommendations forward for review by the SEC. However, at the same time, the Office of the Attorney General (OAG) of the State of Maryland determined that it needed to conduct a holistic review of all policies and procedures related to sexual misconduct at all University System of Maryland (USM) institutions. As a result, the procedures developed by the committee were not sent to the Senate for review. In March 2016, after extensive consultation between the OAG, the OGC, and the OCRSM, the Senate Office received revised interim procedures for review.</p> <p>The committee reviewed the revised interim procedures during March 2016. The committee discussed issues related to Interim Protective Measures, the Initial Assessment, the Appeals process,</p>

	and other areas of the procedures. After consultation with the OGC and OCRSM, and after deliberation as a committee, the Staff Affairs Committee voted to approve its proposed revisions to the new interim procedures via an email vote, concluding April 15, 2016.
Alternatives:	The Senate could reject the recommendations. However, the Senate would lose an opportunity to revise the Staff Sexual Misconduct Complaint Procedures.
Risks:	There are no associated risks.
Financial Implications:	There are no financial implications.
Further Approvals Required:	Senate approval, Presidential approval.

Senate Staff Affairs Committee

Report on Senate Document # 14-15-26

Review of the Interim Sexual Misconduct Staff Procedures

April 2016

2015-2016 Staff Affairs Committee Members

Brandon Dula, Chair

Colleen Dove Auburger, Ex-Officio, VP Administration & Finance Rep

Andrea Goltz, Ex-Officio, Provost's Rep

Jennifer Matthews, Ex-Officio, University Human Resources Rep

Brooke Supple, Ex-Officio, VP Student Affairs Rep

Dylan Baker, Ex-Officio, CUSS Rep

Maureen Schrimpe, Ex-Officio, CUSS Rep

Dana Wimbish, Ex-Officio, CUSS Rep

Sarah Goff-Tlemsani, Ex-Officio, CUSS Alternate Rep (non-voting)

Deborah Grover, Ex-Officio, CUSS Alternate Rep (non-voting)

David Klossner, Ex-Officio, CUSS Alternate Rep (non-voting)

Carol Bonkosky, Non-Exempt Staff

Jasmine Cooper, Non-Exempt Staff

Marci Deloatch, Non-Exempt Staff

Rosanne Hoaas, Non-Exempt Staff

Michelle DeOrnellas, Exempt Staff

Ingrid Farrell, Exempt Staff

Marchon Jackson, Exempt Staff

Maribeth Kibbey, Non-Exempt Staff Contingent II

Gregory Stoker, Exempt Staff Contingent II

Jo Zimmerman, Faculty

Shayna Mazel, Graduate Student

BACKGROUND

In fall 2014, the Office of Civil Rights & Sexual Misconduct (OCRSM) and the University administration worked together to develop interim procedures for resolving cases of sexual misconduct brought against faculty and staff at the University. The procedures were approved on an interim basis in January 2015 and subsequently sent to the Senate for review.

On February 9, 2015, in conjunction with the Senate's review of the interim University of Maryland Sexual Misconduct Policy (Senate Doc. 14-15-11), the Senate Executive Committee (SEC) charged the Staff Affairs Committee with review of the interim University of Maryland Staff Sexual Misconduct Investigation & Adjudication Procedures, which appeared as Appendix B of the University of Maryland Sexual Misconduct Policy. The SEC asked the Staff Affairs Committee to make recommendations on whether these interim procedures are appropriate for the University (Appendix 1).

COMMITTEE WORK

The Staff Affairs Committee began reviewing the charge during the spring 2015 semester. The committee reviewed the work of the Senate Equity, Diversity, and Inclusion (EDI) Committee on the Sexual Misconduct Policy (Senate Doc. 14-15-11), and discussed how sexual misconduct cases involving staff have been handled in the past at the University, as well as at other institutions of higher education. Throughout its review process, the Staff Affairs Committee consulted with University Human Resources, the Office of General Counsel (OGC), and the OCRSM. The committee met with the University's Title IX Officer on a number of occasions, to discuss the interim procedures in detail. The committee also sought to remain apprised of concurring revisions to the Sexual Misconduct Procedures for faculty and students through the parallel processes in the Senate Faculty Affairs and Student Conduct Committees.

The committee first met with a representative of the Office of General Counsel on March 12, 2015 to discuss the interim procedures. Additionally, the committee met with the Assistant Vice President for Human Resources on April 13, 2015, and the Title IX Officer on May 7, 2015.

The 2014-2015 Staff Affairs Committee developed a number of potential edits for the interim procedures. Likewise, University Human Resources and the Office of Staff Relations submitted several comments about the interim procedures for consideration by the committee. Most of the comments focused on assurance of due process, equity, and fairness. The committee discussed these comments, and other matters, at length with the Title IX Officer at the end of the 2014-2015 academic year.

In fall 2015, the Senate Office received word that the OCRSM and the administration were developing revised versions of all three sets interim procedures, due to issues with the procedures found while conducting investigations in spring and summer 2015. The OCRSM determined that immediate changes were needed in order to streamline processes. Revised procedures for faculty and staff were approved by the President on an interim basis on October 1, 2015 (Appendix 3). The new interim procedures were re-named as the Staff Sexual Misconduct Complaint Procedures. The 2015-2016 Staff Affairs Committee immediately began reviewing these new interim procedures by considering revisions to align with the procedures for faculty and students, and highlighted substantive changes in the procedures for further discussion.

As it reviewed the new interim procedures, the committee focused on a number of areas of change in the procedures, including the absence of a process for the parties to appeal the Finding by the Special Investigator, which had previously existed in the January interim procedures. The committee's coordinator frequently presented suggested changes and edits to the procedures that were concurrently being reviewed by the Faculty Affairs Committee and the Student Conduct Committee, for the Staff

Affairs Committee's consideration. Some of these revisions included clarification of the difference between making a report of sexual misconduct and officially filing a complaint of sexual misconduct with the OCRSM, and the addition of a Finding by a Standing Review Committee (SRC). The committee was in support of adding an automatic independent review of the Finding to the new interim procedures, in order to provide an adequate level of oversight of the Finding by the Special Investigator, while staying sensitive to the overall timeline of the resolution process.

The interim procedures included a list of existing grievance policies and procedures that staff may be able to use, depending on disciplinary action given and the staff member's employee status at the University. However, through further discussion with the Title IX Officer and the Office of General Counsel, it was suggested that this information be removed. The committee considered this recommendation and was somewhat concerned about the lack of information in the procedures on how to initiate a grievance, if needed. After consideration of possible alternatives, the committee voted to approve an administrative recommendation that University Human Resources and the OCRSM should ensure that their websites provide guidance for employees on staff grievance rights and policies, as they relate to the Staff Sexual Misconduct Complaint Procedures, where appropriate. The committee decided to recommend that the *Notice of Disciplinary Action*, which may be sent to Respondents under the Staff Sexual Misconduct Complaint Procedures if they are to receive disciplinary action, should provide guidance on grievance processes at the University (e.g., by stating that the Staff Ombuds Officer is available to assist staff in understanding grievance policies and rights based on specific employee status), as appropriate.

After a final discussion and thorough review of the procedures as edited by the committee, the Staff Affairs Committee approved the revised Staff Sexual Misconduct Complaint Procedures, and the administrative recommendation related to grievance rights, via an email vote ending Monday, November 16, 2015. The committee sent its recommendations forward for review by the SEC. However, at the same time, the Office of the Attorney General (OAG) of the State of Maryland determined that it needed to conduct a holistic review of all policies and procedures related to sexual misconduct at all University System of Maryland (USM) institutions. As a result, the procedures developed by the Staff Affairs Committee were not sent to the Senate for review. In March 2016, after extensive consultation between the OAG, the OGC, and the OCRSM, the Senate Office received revised interim procedures for review (Appendix 2).

The revised interim procedures incorporate a few key issues discussed by the committee during its fall 2015 review. For instance, the procedures expressly state that all Complainants and Respondents will have the opportunity to have one Support Person and one Advisor with them during the process, at their own expense and initiation. The procedures also clarify many technical issues raised by the Staff Affairs and the Faculty Affairs Committees as proposed amendments in their fall 2015 drafts. The coordinators for both committees ensured that concerns shared by the committees were addressed by the OGC and the OCRSM for clarification during committee discussions.

After consultation with the OGC and OCRSM, and after deliberation as a committee, the Staff Affairs Committee voted to approve its proposed revisions to the new interim procedures via an email vote, concluding April 15, 2016.

RECOMMENDATIONS

The Staff Affairs Committee recommends that the Staff Sexual Misconduct Complaint Procedures (Appendix B of VI-1.60[A] University of Maryland Sexual Misconduct Policy & Procedures) be amended as indicated in the procedures document immediately following this report.

The Staff Affairs Committee recommends that any *Notice of Disciplinary Action* sent to Respondents under the Staff Sexual Misconduct Complaint Procedures provide guidance on grievance processes at the University (e.g., by stating that the Staff Ombuds Officer at UMD is available to assist staff in understanding grievance policies and rights based on specific employee status), as appropriate. In addition, the committee recommends that University Human Resources and the OCRSM ensure that their websites provide guidance for employees on staff grievance rights and policies, as they relate to the Staff Sexual Misconduct Complaint Procedures, where appropriate.

APPENDICES

Appendix 1 – Charge from the Senate Executive Committee on the Review of the Interim Sexual Misconduct Staff Procedures (dated February 9, 2015)

Appendix 2 – Revised Staff Sexual Misconduct Complaint Procedures (approved on an interim basis on March 21, 2016)

Appendix 3 – Interim Staff Sexual Misconduct Complaint Procedures (approved on interim basis on October 1, 2015)

APPENDIX B: STAFF SEXUAL MISCONDUCT COMPLAINT PROCEDURES

Recommended Changes to the Interim Staff Sexual Misconduct Complaint Procedures
New Text in Blue/Bold (**example**), Removed Text in Red/Strikeout (~~example~~), Moved Text in Green (**example**)

I. Overview

II. Rights to Support Person and Advisor

- A. Support Person
- B. Advisor
- C. Party Obligations
- D. Non-Party Participant Requirements

III. Reporting

IV. Complaint Intake Process

- A. Notification to Complainant
- B. Requests for Confidentiality
- C. Initial Assessment
- D. Interim Protective Measures

V. Resolution Processes

- A. Time Frame for Resolution
- B. Alternative Resolution Process
- C. Investigation Process

VI. Appeals of Finding

- A. Overview
- B. Grounds for Appeal
- C. SRC Appellate Body
- D. Appeal Outcome

VII. Remedies & and Disciplinary Action

- A. Impact Statement & and Mitigation Statements
- B. Remedies
- C. Disciplinary Action

VIII. Grievance Rights

IX. Final Outcome

X. Records Retention

XI. Post-Resolution Follow-Up

APPENDIX B: STAFF SEXUAL MISCONDUCT COMPLAINT PROCEDURES

I. OVERVIEW

These procedures (“**Staff Procedures**”) set forth in Appendix B accompany the University of Maryland (UMD) Sexual Misconduct Policy (the “Policy”) and are the exclusive procedures that govern the handling of all reports or complaints of **sSexual mMisconduct** against UMD staff. Key terms used herein are defined in the Policy. For example, **sSexual mMisconduct** is an umbrella term defined in the Policy that encompasses **dDating vViolence**, **dDomestic vViolence**, **sSexual vViolence**, **sSexual hHarassment**, **sSexual aAssault**, **sSexual eExploitation**, **sSexual iIntimidation**, **rRelationship vViolence**, and **sStalking**.

For purposes of the Policy and these Staff Procedures, staff include University coaches and all University employees other than those with faculty rank as described in II-1.00(A) University of Maryland Policy on Appointment, Promotion, and Tenure of Faculty at <http://www.president.umd.edu/policies/2014-ii-100a.html>¹.

Employees with faculty rank are governed by the Faculty Sexual Misconduct Complaint Procedures (*see Appendix C*). These **Staff pProcedures** replace all procedures previously in effect pertaining to the investigation and resolution of **sSexual mMisconduct** complaints against staff at ~~the University of Maryland~~-UMD.

II. RIGHTS TO SUPPORT PERSON AND ADVISOR

Throughout the process, any party may be accompanied to any meeting related to an investigation and resolution of a complaint by up to two (2) other people: (1) a Support Person, and/or (2) an Advisor. Meetings include, but are not limited to, meetings with **the** Office of Civil Rights & Sexual Misconduct (OCRSM), investigative interviews, ~~and~~ document reviews, and alternative resolutions.

A. Support Person

A party may choose to be accompanied by a Support Person of their choice, at their own initiation and expense. A Support Person is someone who can provide emotional, logistical, or other kinds of assistance. The Support Person cannot be a witness or provide evidence in the case. The Support Person is a non-participant who is present to assist a Complainant or Respondent by taking notes, providing emotional support and reassurance, organizing documentation, or consulting directly with the party in a way that does not disrupt or cause any delay. A Support Person shall not be an active participant and the parties must speak for themselves.

B. Advisor

A party may choose to be assisted by an Advisor of their choice, including an attorney, at their own initiation and expense. The Advisor is a non-participant who is present to provide advice and consultation to a party. An Advisor cannot be a witness or provide evidence in a case. If necessary, a party may request a recess in order to speak privately with an Advisor. An Advisor shall not be an active participant. The parties must speak for themselves. An Advisor may not delay, or otherwise interfere with, the University’s process.

C. Party Obligations

¹ **Complaints against law enforcement officers will be investigated and adjudicated consistent with the requirements of the Law Enforcement Officers’ Bill of Rights (LEOBR), Md. Code Ann., Public Safety Article, Title 3, Subtitle 1.**

APPENDIX B: STAFF SEXUAL MISCONDUCT COMPLAINT PROCEDURES

Throughout the process, the Title IX Officer or designee, Investigators, and other University representatives will communicate and correspond directly with the parties, not through a Support Person or Advisor. Parties are responsible for **having ensuring that** Support Persons and Advisors follow the non-party participation requirements below. When a party wishes to have a Support Person **and/or** Advisor accompany them to a meeting, the **individual party** must notify **the** OCRSM in advance. Parties are also responsible for making sure appropriate authorization exists for the University to communicate **the** non-party participation requirements below to any Support Person or Advisor.

D. Non-Party Participant Requirements

All Support Persons and Advisors must review the materials about the scope of their respective roles, prior to accompanying a party to any meeting or other activity. These materials may be obtained online at the OCRSM website, www.umd.edu/ocrsm/ or from **the** OCRSM directly. This is to ensure the Support Persons and Advisors are informed about the process and their respective roles. All parties, Support Persons, and Advisors are expected to understand their roles and adhere to the University's expectations regarding decorum and privacy considerations.

III. REPORTING

Complaints and other reports of **sSexual mMisconduct** against staff may be made to the OCRSM. **Complaints Reports** may also be made to any Responsible University Employee (RUE). An RUE, as defined by **this the** Policy, includes all University administrators, supervisors in non-confidential roles, faculty members, campus police, coaches, athletic trainers, resident assistants, and non-confidential first responders. **Responsible University Employees RUEs** are required to share all reports of **sSexual mMisconduct** they receive, promptly with the Title IX Officer or designee.

Students **Complainants** may also report **sSexual mMisconduct** against staff to the Office of Student Conduct (**OSC**), or **to** the Office of Rights & Responsibilities (R&R) in the Department of Resident Life.

Prompt reporting of Prohibited Conduct is encouraged so that the University can take immediate and corrective action to eliminate the misconduct, prevent its recurrence, and address its effects. The University will provide support and assistance to the Complainant and respond according to the steps outlined in these Staff Procedures. **As described in section IV. C,** **U**pon receipt of any report, the Title IX Officer or designee will make an immediate assessment of the risk of harm to the parties or to the **campus University** community and will take steps necessary to address any risks. These steps may include working with ~~the Office of Staff Relations in~~ University Human Resources and other campus offices to facilitate Interim Protective Measures (**as described in section IV. D**) that provide for the safety of the parties and the **campus University** community, when appropriate.

A Complainant may choose to make a report to the University and pursue resolution under these Staff Procedures, and may also choose to make a report to law enforcement. A Complainant may pursue either of these options or both options at the same time. The criminal process and the University's internal process under these Staff Procedures are separate and independent. A Complainant who wishes to pursue criminal action should contact campus police or external law enforcement directly. See Policy **S**ection VII for more information on criminal reporting.

The University recognizes that deciding whether to report **sSexual mMisconduct** and proceed with a formal complaint under these Staff Procedures is a personal decision that may evolve over time. While prompt reporting is strongly encouraged, there is no time limit for reporting **a-complaint-of sSexual mMisconduct**. The OCRSM will coordinate with the appropriate University office to provide support and assistance to each Complainant in making important decisions related to reports of **sSexual mMisconduct**.

APPENDIX B: STAFF SEXUAL MISCONDUCT COMPLAINT PROCEDURES

Consistent with the goal of safety for all **University** community members, the University will make every effort to respect a Complainant's autonomy in making their own personal decisions after reporting ~~s~~Sexual ~~m~~Misconduct. However, when appropriate, the University, through the OCRSM, retains the right to initiate a formal complaint on its own, independent of any individual's decision as to how they wish to proceed.

IV. COMPLAINT INTAKE PROCESS

A. Notification to the Complainant

Upon receipt of a complaint, the OCRSM will ensure that the Complainant is provided with a copy of the Policy and Staff Procedures and is informed of their rights and responsibilities. The OCRSM will provide information to the Complainant about the University's internal; administrative complaint process and review with them their respective rights and responsibilities. The Complainant will be informed of available community and campus resources and services; their right to a Support Person and the Support Person's role; their right to an Advisor and the Advisor's role; their right to file a report with law enforcement; ~~or not~~; and the University's prohibition against retaliation. The Complainant will have an opportunity to ask questions and seek additional information.

B. Requests for Confidentiality

Whenever possible, the OCRSM will take action consistent with the Complainant's expressed wishes regarding confidentiality. The University's ability to fully investigate and respond to a complaint may be limited if the Complainant requests that their name not be disclosed to the Respondent or declines to participate in an Investigation. When a Complainant requests their name or other identifiable information not be disclosed and/or that no further action be taken, the Title IX Officer or designee will seek to honor such requests, balancing the Complainant's wishes for confidentiality with the University's obligation to provide a safe and non-discriminatory environment for all members of the University community. The University retains the right to proceed with a complaint as necessary to meet its obligations, and in some cases, may not be able to honor a request for confidentiality.

C. Initial Assessment of Complaint

When the University receives a complaint, the OCRSM will conduct an Initial Assessment. The Initial Assessment will determine whether the reported conduct constitutes a potential violation of the Policy, ~~and if~~ **whether** further action is warranted based on the reported conduct, **and whether the University has jurisdiction over the parties**.

The first step in the Initial Assessment is a preliminary meeting between the Complainant and the OCRSM to gather information that will enable the OCRSM, ~~in consultation with other offices, as appropriate~~, to:

- Assess the nature and circumstances reported in the complaint;
- Assess the safety of the Complainant and of the ~~e~~ampus **University** community;
- Implement any appropriate ~~i~~nterim ~~p~~rotective ~~m~~Measures;
- Assess for pattern evidence or other similar conduct by the Respondent when relevant to the safety assessment;
- Assess the Complainant's expressed preference regarding resolution, including any request that no further action be taken;
- Assess any request by the Complainant for confidentiality or anonymity; and

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- Assess the reported conduct for possible referral to the University of Maryland Police Department (UMPD) for a timely warning under the Clery Act.

During the Initial Assessment, information will be shared with other units/administrators only as necessary and confidentiality will be maintained by the OCRSM and other administrators, to the extent possible.

At the conclusion of the Initial Assessment, the OCRSM will determine the appropriate next step(s), including but not limited to: no further action, the imposition of Interim **Protective** Measures, Alternative Resolution, and/or proceeding with an investigation.

When the Initial Assessment determines the reported conduct does not ~~rise to the level of~~ **constitute** a potential violation under ~~this~~ **the** Policy, but may violate another University policy, the complaint may be referred to another appropriate University official for review and resolution.

~~Where~~ **When** the Initial Assessment **determines the alleged reported conduct does constitute a potential violation under the Policy, but** reveals that the University lacks jurisdiction over the Respondent, the University will take available and reasonable steps to address the Sexual Misconduct, prevent its recurrence, and address its effects at the University.

D. Interim Protective Measures

Based on the nature and circumstances of the complaint, the Title IX Officer or designee in consultation with appropriate ~~Unit heads and other~~ University administrators may authorize ~~i~~Interim ~~p~~Protective ~~m~~Measures to ensure the safety and well-being of the Complainant and others in the campus community, as appropriate. The Title IX Officer or designee will promptly inform the Respondent (if they are a member of the University community) of any ~~i~~Interim ~~p~~Protective ~~m~~Measures that will directly impact the Respondent and provide an opportunity for the Respondent to respond.

The OCRSM retains discretion to impose and/or modify any ~~i~~Interim ~~p~~Protective ~~m~~Measures based on all available information. Interim ~~p~~Protective ~~m~~Measures will remain in effect until the University's final resolution of the ~~s~~Sexual ~~m~~Misconduct complaint. **Interim Protective Measures may be made permanent, as needed, after adjudication.** A party may challenge the imposition of ~~i~~Interim ~~p~~Protective ~~m~~Measures, or a decision not to impose ~~i~~Interim ~~p~~Protective ~~m~~Measures, by contacting the OCRSM **and University Human Resources** to address any concerns. Information about ~~i~~Interim ~~p~~Protective ~~m~~Measures can be found on pages ~~11~~-12 of the Policy.

V. RESOLUTION PROCESSES

A. Time Frame for Resolution

Consistent with the goal of maximizing educational and working opportunities, remedying the effects of Prohibited Conduct and promoting campus safety while minimizing the possible disruptive nature of the process, the OCRSM will strive to resolve all complaints within sixty (60) business days of receipt. In general, the investigation phase may last approximately four to five weeks and the adjudication phase may last an additional estimated four to five weeks. Good faith efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with the importance of resolving complaints in a timely and expeditious manner. The Title IX Officer may extend the general time frames for the completion of all required actions. If such an extension occurs, the parties will be notified in writing by the OCRSM.

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B. Alternative Resolution Process

The Title IX Officer or designee has the discretion to determine whether a complaint is appropriate for Alternative Resolution and may propose Alternative Resolution to the Complainant as an option. ~~In some cases,~~ †The Complainant may **then** seek Alternative Resolution in lieu of **an** investigation and adjudication.

Alternative Resolution is a process whereby remedies and interventions may serve to address the alleged Prohibited Conduct without proceeding to an investigation and adjudication. Alternative Resolution is not appropriate for complaints involving ~~sSexual~~ †Violence, including ~~sSexual~~ †Assault. **Neither party is required to accept responsibility for the alleged Prohibited Conduct in order to proceed with Alternative Resolution.** The parties may decide not to proceed with Alternative Resolution and may request an investigation and adjudication at any time. ~~The Title IX Officer or designee has the discretion to determine whether a complaint is appropriate for Alternative Resolution and~~ **The Title IX Officer** retains discretion to terminate an ongoing Alternative Resolution process at any time.

The purpose of Alternative Resolution is to take appropriate action by imposing individual and community interventions and remedies designed to maximize the Complainant's access to educational, extra-curricular and/or employment activities at the University; **and/or to address the effects of the conduct on the larger University community.** Any combination of interventions and remedies may be utilized, including but not limited to:

- ~~• Increased monitoring, supervision and/or security at locations or activities where the Prohibited Conduct occurred or is likely to reoccur;~~
- Targeted or broad-based educational programming or training for relevant individuals or groups;
- **Academic and/or housing modifications for Student Complainants;**
- Workplace modifications and other administrative changes;
- Completion of projects, programs, or requirements designed to help the Respondent manage behavior, refrain from engaging in Prohibited Conduct and understand why the Prohibited Conduct is prohibited; and
- ~~Compliance with orders of no~~ **Agreements to cease** contact ~~that~~ **and** limit access to specific University buildings or areas or forms of contact with particular persons.

The imposition of remedies or interventions obtained through Alternative Resolution may be achieved by an agreement acceptable to the parties and **the** University. **The Title IX Officer or designee will work with University Human Resources to facilitate the development of this agreement.** In ~~such~~ cases **where an agreement is reached**, the terms of the agreement are implemented and the matter is resolved and closed. In cases where an agreement is not reached, and the Title IX Officer or designee determines that further action is necessary, or if a Respondent fails to comply with the terms of the Alternative Resolution agreement, the matter may be referred for investigation and resolution under these Staff Procedures.

Where the Complainant, **and** Respondent, and **the** University have reached an Alternative Resolution agreement, the parties will be provided **with a** ~~written notice of the outcome~~ **copy of the agreement.** **Entering into Alternative Resolution and signing an agreement does not mean that the Respondent admits responsibility; nor does it mean that there has been a finding of a Policy violation.**

C. Investigation Process

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When the Initial Assessment determines the University has jurisdiction over the Respondent and the alleged conduct, and where Alternative Resolution is not appropriate or Respondent fails to comply with the terms of an Alternative Resolution agreement, an investigation will occur.

1. Notice of Investigation

In the event of an investigation, the Investigator will send a written *Notice of Investigation and Notice of Rights and Responsibilities* to both parties.

The *Notice of Investigation* will contain the circumstances of the alleged incident (which generally will include, to the extent known, the name of the Complainant and the date, time, and location), the Prohibited Conduct alleged as defined by the Policy, and the range of potential disciplinary action associated with the Prohibited Conduct. Both parties will also be informed that they will have an opportunity to be heard regarding the complaint during the investigation process, including the opportunity to be heard during ~~an~~ **separate** interviews with an Investigator regarding the alleged ~~s~~**Sexual** ~~m~~**Misconduct**.

2. Notice of Rights and Responsibilities

Both parties will be provided with a copy of the Policy and Staff Procedures and informed of their rights and responsibilities pursuant to the Policy. This includes but is not limited to: no contact directives (and provided a copy), prohibitions against retaliation and guidance about reporting any retaliatory conduct, and available community and campus resources and services.

3. Standard of Review

In making a determination about whether a Policy violation has occurred, the standard of review is preponderance of the evidence. A preponderance of the evidence means “~~it~~ it is more likely than not~~?”~~”. Thus, at the conclusion of the investigation phase, based on the information gathered, a recommended finding will be made ~~to~~ as to whether it is more likely than not that the reported conduct **occurred and that it** constituted Prohibited Conduct in violation of the Policy.

4. Role of the Investigator

The Title IX Officer or designee will designate one or more Investigator(s) from the OCRSM and/or an external Investigator to conduct a prompt, **thorough**, fair, and impartial investigation. All Investigators will receive annual training on issues related to sexual and gender-based harassment, ~~s~~**Sexual** ~~a~~**Assault**, ~~d~~**Dating** ~~v~~**Violence**, ~~d~~**Domestic** ~~v~~**Violence**, and ~~s~~**Stalking**~~;~~. **The training will also include** ~~and~~ how to conduct a fair and impartial investigation that provides parties with notice and a meaningful opportunity to be heard, **as well as how to** ~~and~~ protect~~s~~ the safety of ~~e~~**C**omplainants and the University community while promoting accountability.

5. Overview of the Investigation

The investigation is an impartial fact-gathering process. It is an important stage ~~of the process~~ in which both parties have an opportunity to be heard regarding the complaint. During the investigation the parties will each have an opportunity to meet and speak with the Investigator, provide any relevant information about the reported conduct, and identify persons they believe the Investigator should speak with because they believe they have relevant information. The Investigator will speak separately with both parties and any other individuals who may have relevant information. The Investigator will also gather any available physical evidence or documents, including prior statements by the parties or witnesses, communications

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between the parties, email messages, **text messages**, social media materials, and other records, as appropriate and available.

a. Special Considerations

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

At the discretion of the OCRSM, multiple reports may be consolidated in one investigation if the information related to each incident is relevant in reaching a determination. Matters may be consolidated where they involve multiple Complainants, multiple Respondents, or related conduct involving the same parties, provided that it does not delay the prompt investigation and resolution of complaints.

b. Draft Report

At the conclusion of the investigation, the Investigator will draft a written investigation report that summarizes the information gathered (including, but not limited to, the names of witnesses and summaries of their statements), and synthesizes the areas of agreement and disagreement between the parties.

c. Notice of Opportunity to Review the Draft Investigation Report

Before the investigation report is finalized, the parties will be given an opportunity to review and respond to the draft report. Upon receipt of notice to review the draft report, the parties will each have five (5) business days to review the report and all underlying documents and submit **written** comments, information, and/or **ask** questions **to the Investigator**. If there is any new or additional information to be provided by either party, it must be presented to the Investigator at this time. If further investigation is warranted based on the comments, information, and/or questions provided during the review period, the Investigator will continue the investigation, as needed.

6. Recommended ~~Investigation Outcome~~/Finding

Upon timely receipt of any additional information or comments from the parties or after the five (5) business day comment period has lapsed with no comments provided, and the investigation is complete, the Investigator will finalize the investigation report.

The final investigation report will include ~~a summary of~~ all relevant information obtained in the course of the investigation, an analysis **and proposed findings** of ~~the~~ material facts, and a **recommended** finding of whether or not a Policy violation occurred by a preponderance of the evidence. ~~The notice will also include a range of potential disciplinary action associated with such findings. The Title IX Officer or designee will review the final investigation report.~~

7. Independent Review of the Finding

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The final investigation report and the recommended finding will be automatically reviewed by a Standing Review Committee (SRC). Each SRC is composed of three (3) individuals (faculty, staff, and/or students). SRC members shall be members of the University community who have had no previous involvement with the case, and have been trained to review such cases. SRC members are obligated to disclose to the OCRSM any known conflicts prior to participating in any specific SRC review. Conflicts or familiarity with the individuals involved in the matter that are disclosed to the OCRSM will automatically disqualify an individual SRC member from participation in any particular review.

The SRC will review the final investigation report and consider whether the recommended finding is supported by the information obtained in the course of the investigation. The SRC will confine its consideration to a review of the written record. The SRC may speak with the Investigator when clarification about the final investigation report is needed and/or to issue specific instructions to the Investigator for further investigation. The results of any additional requested investigation will be reported to the SRC.

Once any additional investigation is complete, the SRC will issue its determination on the recommended finding. The SRC will make one of two possible decisions:

- Approve the recommended finding; or
- Reject the recommended finding.

The SRC must issue a written decision to the OCRSM within five (5) business days of receipt of the final investigation report and/or receipt of any additional information resulting from additional requests to the Investigator by the SRC.

After the SRC issues its written determination, the OCRSM will issue a *Notice of Investigation Finding*, which will ~~be issued by the OCRSM and~~ include a range of potential disciplinary actions associated with the finding. The *Notice of Finding* will be sent to the ~~Complainant and Respondent parties and their respective Unit Head(s)~~ University Human Resources, along with the SRC determination and a copy of the final investigation report, including any additional information resulting from additional investigation.

~~Both parties will be contacted by, and required to meet with, their respective Unit Head(s), or the Director of Student Conduct if a student, separately, to discuss the investigation finding/outcome and next steps.~~

Either party may submit Impact and Mitigation Statements within three (3) business days of receipt of the *Notice of Finding* in accordance with section VII. A.

After the issuance of the *Notice of Finding*, University Human Resources in conjunction with the Respondent's unit head may initiate disciplinary action against the Respondent as set forth in section VII. C.

Regardless of whether a disciplinary action is initiated, ~~Either or both parties~~ party may appeal the ~~investigation~~ finding in accordance with ~~S~~section VII below.

The Respondent has a separate right to grieve any discipline imposed in accordance with the grievance rights afforded to them based on their specific employment status. Filing an appeal of the finding with the OCRSM does not initiate a grievance of discipline imposed as a result of a finding.

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VI. APPEALS OF FINDING

Either or both parties may appeal the ~~investigation~~ finding. An appeal must be submitted **to the OCRSM or designee** in writing within five (5) business days of the date of receipt of the *Notice of ~~Investigation Finding~~*. Appeals ~~submitted received~~ after five (5) business days shall be denied. If an appeal is received ~~by the OCRSM on time~~, the other party will be notified and given five (5) business days from the date of receipt of the notice to respond. Responses shall be submitted directly to the OCRSM **or designee**. Appeals and responses filed by each party will be shared with the other party and considered together in one appeal review process. If neither party submits an appeal, the ~~investigation~~ finding is final after five (5) business days. **Appeals will be decided by an SRC Appellate Body (as defined in section VI. C below).**

A. Overview

The scope of the appeal is limited to the grounds set forth below. ~~D~~issatisfaction with the investigation outcome is not a valid basis for appeal. Appeals are not intended to allow for a second review of the same facts of the case or to ~~redetermine reconsider~~ whether there was a Policy violation based on the same facts of the case. In most cases, appeals are confined to a review of the written record and the grounds for appeal submitted by the parties.

B. Grounds for Appeal

Grounds for appeal shall be limited to:

1. Substantial Procedural Error

Specified procedural errors or errors in interpretation of University policy **that** were so substantial as to effectively deny a Complainant or a Respondent notice or a fair opportunity to be heard. Mere deviations from procedures that were not so substantial as to deny a Complainant or Respondent notice or a fair opportunity to be heard will not be a basis for sustaining an appeal.

2. New Evidence

New and significant relevant information has become available which a reasonably diligent person could not have discovered during the Investigation.

When the basis of the Appeal is new evidence, the ~~Title IX Officer or designee~~ **SRC Appellate Body** will determine whether the information is new and was unavailable at the time of the investigation. If the **SRC Appellate Body determines that the** information is ~~determined~~ not ~~to be~~ new **and was available at the time of the investigation**, the Appeal will be denied. If the information is determined to be new and unavailable at the time of the investigation, ~~it will be sent to the~~ **SRC Appellate Body for review and will make** a determination as to whether the new information could change the outcome of the investigation. If the **SRC Appellate Body** determines that the new evidence could change the outcome, the case will be sent back to the OCRSM Investigator for further investigation. ~~The OCRSM Investigator will report the outcome of any further investigation to the Appellate Body. After new evidence is considered, the OCRSM will then provide the SRC Appellate Body with a modified report and findings, as appropriate. Copies of the modified report and findings, if any, will also be provided to the parties. The modified report will be considered by the SRC Appellate Body. The SRC Appellate Body will then decide to affirm the recommendations of the modified report, reject them, or ask for additional investigation.~~

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C. SRC Appellate Body

The Standing Review Committee (SRC) **Appellate Body** is the designated ~~A~~ appellate ~~B~~ body for all ~~cases involving allegations of sexual misconduct by staff~~ **appeals of findings under these Staff Procedures**. The SRC **Appellate Body** is composed of three (3) members (**faculty, staff, and/or students**). **SRC Appellate Body members shall be members** from the University community who have had no previous involvement with the case, and have been trained to review such cases.

D. Appeal Outcome

The SRC **Appellate Body** may:

- Affirm the ~~Investigation F~~ finding;
- Reject the ~~Investigation F~~ finding; **or**
- Remand the case back to the Investigator for further investigation.

The SRC **Appellate Body** Chair will render a written decision on the appeal to the Title IX Officer or designee within five (5) business days from the date of the submission of all appeal documents. **The SRC Appellate Body decision is the final determination of a Policy violation and may not be further appealed under these Staff Procedures. If an appeal outcome changes the finding against an employee covered by the Exempt MOU or Nonexempt MOU, University Human Resources will review the appeal outcome and revise discipline imposed or in process, as appropriate. ~~No further appeal is available from the SRC Decision.~~**

VII. REMEDIES ~~&~~ AND DISCIPLINARY ACTION

A. Impact **Statement** and Mitigation **Statements**

Whenever there is a finding of responsibility, **the parties may choose to submit statements to University Human Resources, within three (3) business days from the date of the Notice of Finding or SRC Appellate Body decision, if an appeal was filed.** ~~before the University issues any remedies or imposes disciplinary action, if any, both parties have the opportunity to submit statements for consideration by the relevant supervisor, unit head or designee in consultation with the Title IX Officer or designee, within three (3) business days from the date of receipt of the decision.~~

The Complainant may submit a written **Impact sStatement to University Human Resources** describing the impact of the Prohibited Conduct on the Complainant, ~~and/or request to meet with the relevant supervisor, unit head or designee and Title IX Officer or designee to provide their statement verbally.~~

The Respondent may submit a written **Mitigation sStatement to University Human Resources** explaining any factors the Respondent believes should mitigate or otherwise be considered in determining appropriate remedies and/or recommended discipline **either issued or being considered**, if any, ~~and/or request to meet with the relevant unit head or designee and Title IX Officer or designee to provide their statement verbally.~~

The parties' respective statements will **be considered by University Human Resources and** not ~~be~~ shared with the other party.

B. Remedies

The Title IX Officer or designee, **in consultation with and** University Human Resources, ~~as or other~~ appropriate **administrators**, ~~in consultation with the relevant supervisor, unit head or designee, as~~

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~~appropriate~~, will identify reasonable short-term and/or long-term remedies to address the effects of the conduct on the Complainant and prevent its reoccurrence. Such remedies seek to restore to the Complainant, to the extent possible and within reason, the benefits and opportunities lost as a result of the Prohibited Conduct. The Title IX Officer or designee may also identify remedies, such as training for specific audiences, to address the effects of the conduct on the larger University community. **Remedies are separate from disciplinary action and may occur independently of or concurrently with any discipline that is imposed.**

Remedies for student Complainants **under these Staff Procedures** may include, but are not limited to:

- **Support measures** such as extended classwork deadline, or flexible deadlines, change of venue for taking an exam, change in exam date, and/or retaking of an exam.
- **Academic accommodations** such as retroactive drop from a particular class, retroactive withdrawal from a semester, policy exemption requests, and/or tuition reimbursement; **and**
- **Housing accommodations.**

Other Remedies for ~~staff~~ Complainants ~~and Respondents~~ may include, but are not limited to:

- Workplace modifications and other administrative changes, no contact orders, denial of access, schedule changes, counseling and/or referral to outside agencies.

C. Disciplinary Action

University Human Resources in conjunction with the Respondent's unit head may initiate disciplinary action, if any, based on a violation of this Policy, after a finding of responsibility and the issuance of the *Notice of Finding* set forth in section V. C. 7 above, or in the event of an appeal, after all appeals under these Staff Procedures, if any, have been exhausted.

Discipline imposed on Respondents covered by the Exempt MOU and Nonexempt MOU will comply with the applicable provisions of the MOU. Discipline imposed on Respondents not covered by an MOU shall be in accordance with applicable University and University System of Maryland (USM) policies.

University Human Resources in conjunction with the Respondent's unit head will ~~When there is a finding of responsibility, and all appeals under these Procedures, if any, have been exhausted, the respective unit head or designee will consult with the Title IX Officer or designee in determining~~ determine the appropriate disciplinary action, if any. To determine what type of disciplinary action is most appropriate, ~~the supervisor, unit head or designee in consultation with University Human Resources and other appropriate administrator(s) shall consider~~ the following **factors shall be considered:**

- The nature of the misconduct at issue;
- The impact of the misconduct on the Complainant;
- The impact or implications of the misconduct on the community or the University;
- Any prior ~~s~~Sexual ~~m~~Misconduct by the Respondent at the University or elsewhere that is known to the University;
- Respondent's prior disciplinary history at the University; and
- Any other mitigating, aggravating, or compelling circumstances.

Discipline shall be imposed in accordance with all procedural due process rights afforded staff based on their employment status in accordance with University policy and Maryland ~~State~~ law. All staff

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disciplinary action **under these Staff Procedures** shall be approved by the Assistant Vice President ~~of~~ **for University** Human Resources or designee.

1. Notice of Disciplinary Action

When disciplinary action is to be imposed, upon the approval by the Assistant Vice President ~~of~~ **for University** Human Resources or designee, **University Human Resources** ~~the appropriate unit head or designee~~ **will ensure that** ~~issue~~ a *Notice of Disciplinary Action* **is issued** to the Respondent.

Disciplinary action will depend on the specific circumstances in each case and may include discipline ranging from a written reprimand up to and including termination of employment. Other administrative and/or non-disciplinary remedies may also be imposed, including but not limited to, no contact directives, and/or a change in work duties, work locations, or work schedules.

Discipline shall be imposed in accordance with all procedural due process rights afforded staff based on their employment status in accordance with University policy and Maryland law.

VIII. GRIEVANCE RIGHTS

Staff may grieve disciplinary action in accordance with the rights afforded to them based on their specific employment status. **Filing an appeal of the finding is not the same as grieving disciplinary action. The review and appeal processes under these Staff Procedures are separate from any grievance rights.** ~~An employee's grievance rights and associated time limits are separate and unrelated to the Appeal process and Impact and Mitigation Statements outlined in these Staff Procedures. During the grievance process, the Notice of Investigation Finding may also be reviewed, as it relates to the resulting disciplinary action.~~

IX. FINAL OUTCOME

When all the procedures and/or grievance processes afforded to both parties under these Staff Procedures, and the rights afforded to them based on their specific employment status have been exhausted, the Assistant Vice President ~~of~~ **for University** Human Resources or designee will promptly notify the Title IX Officer or designee of any modification of the final outcome. The Title IX Officer or designee will notify the parties of any modification to the final outcome, except as prohibited by Maryland and federal law.

X. RECORDS RETENTION

The OCRSM shall maintain **Initial Assessment**, investigation, and outcome records in accordance with the University's record retention schedule.

University Human Resources and the department/unit head will maintain records of all disciplinary action, **remedies, and grievances** ~~workplace modifications and other administrative changes and remedies~~ related to a complaint and any Alternative Resolution agreements.

XI. POST-RESOLUTION FOLLOW-UP

After any disciplinary action, ~~workplace modifications, administrative changes~~ and/or ~~other~~ remedies are issued, if the Complainant agrees, the Title IX Officer or designee may periodically contact the Complainant to ensure the Prohibited Conduct has ended and to determine whether additional remedies are necessary. The Complainant may decline future contact at any time. The Title IX Officer or designee may periodically contact the Respondent to assure compliance with the intent and purpose of any


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disciplinary action, ~~workplace modifications, administrative changes~~ and/or remedies that have been imposed. Any violation by a Respondent of the intent and purpose of any disciplinary action, ~~workplace modification, administrative change~~ and/or remedies imposed under the Policy, or a failure by a **the** University **employee** to provide a specified disciplinary action, ~~workplace modification, administrative change~~ and/or remedy should be reported to the OCRSM.

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



**University Senate
CHARGE**

Date:	February 9, 2015
To:	Gloria Aparicio Blackwell Chair, Staff Affairs Committee
From:	Donald Webster  Chair, University Senate
Subject:	Review of the Interim Sexual Misconduct Staff Procedures
Senate Document #:	14-15-26
Deadline:	November 6, 2015

The Senate Executive Committee (SEC) requests that the Staff Affairs Committee review the attached interim Staff Sexual Misconduct Investigation & Adjudication Procedures and make recommendations on whether they are appropriate.

The U.S. Department of Education’s Office for Civil Rights (OCR) provided guidance regarding the Violence Against Women Act (VAWA), which was reauthorized in 2013. This guidance required higher education institutions to develop specific sexual misconduct policies and procedures. As a result, the University System of Maryland (USM) revised its Policy on Sexual Misconduct (V-1.60) and asked all USM institutions to align their policies accordingly. In addition, the University was charged with developing procedures for each of its major constituencies. The attached staff procedures were developed as an element of the University of Maryland Sexual Misconduct Policy & Procedures (VI-1.60[A]), which has been approved on an interim basis pending University Senate review. Complaints against staff based on a violation of the policy will be reviewed in accordance with these procedures.

Specifically, we ask that you:

1. Review the interim University of Maryland Staff Sexual Misconduct Investigation & Adjudication Procedures (Appendix B of the University of Maryland Sexual Misconduct Policy & Procedures (VI-1.60[A])).
2. Consult with the University’s Title IX Coordinator, a representative of University Human Resources, and Staff Relations (as needed) regarding the development of the interim staff procedures.

3. Review similar staff procedures for complaints of sexual misconduct at our peer institutions and other Big 10 and USM institutions.
4. Review the University's past process for handling staff sexual misconduct cases.
5. Review the interim University of Maryland Sexual Misconduct Policy & Procedures ([VI-1.60\[A\]](#)) and consider whether the proposed staff procedures align with the University's interim policy, USM policy, and VAWA guidelines.
6. Consult with the Senate Faculty Affairs Committee regarding any potential revisions to the faculty procedures.
7. Consult with the University's Office of General Counsel on any recommended revisions.
8. If appropriate, recommend whether the interim staff procedures should be revised.

We ask that you submit your report and recommendations to the Senate Office no later than November 6, 2015. If you have questions or need assistance, please contact Reka Montfort in the Senate Office, extension 5-5804.

Attachment

DW/rm

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APPENDIX B

INTRODUCTION

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INTRODUCTION

These procedures accompany the University of Maryland Sexual Misconduct Policy and are to be used when responding to, investigating and adjudicating complaints of sexual misconduct against UMD staff. These procedures replace all procedures previously in effect pertaining to the investigation and adjudication of sexual misconduct against staff at the University of Maryland, College Park. For purposes of this Policy and Procedures, Staff include University coaches and all University employees other than those with faculty rank as described in II-1.00(A) University of Maryland Policy on Appointment, Promotion and Tenure of Faculty at <http://www.president.umd.edu/policies/2014-ii-100a.html>.

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I. FILING A COMPLAINT

A complaint of sexual misconduct against staff should be made to the Office of Sexual Misconduct & Relationship Violence (OSM). The Complainant will be interviewed and asked to submit a signed written complaint. The Complainant will also be provided with Notice of her/his Rights and Responsibilities.

Disclosures of sexual misconduct to persons or entities other than those specifically listed as Confidential Resources in Section VI of the Policy are not confidential. Any report of sexual misconduct that is brought to the attention of a Responsible University Employee (“RUE”) as defined in Section III of the Policy must be reported promptly to the Title IX Officer in the OSM. An RUE includes any University administrator, supervisor, faculty member, campus police, coach, trainer, resident assistant¹ or non-confidential first responder who has the authority to take action to redress sexual misconduct or whom a student or staff person could reasonably believe has such authority or duty.

No persons other than the Title IX Officer or designee are authorized to investigate allegations of sexual misconduct in violation of this Policy.

A. Initial Assessment

Upon receipt of a complaint of sexual misconduct, the Title IX Officer or designee, will conduct an Initial Assessment to determine whether the complaint may constitute a violation of the Policy, and whether further action is warranted based on the alleged conduct. The Initial Assessment will be based on the following considerations:

- The nature and circumstances of the allegation, including the severity and duration of the conduct;
- Pattern evidence or other similar conduct by the Respondent;
- The safety of Complainant and others in the campus community; and
- Complainant’s expressed preference regarding resolution.

B. Interim Measures

Based on the nature and circumstances of the complaint, the Title IX Officer may authorize Interim Measures in consultation with the supervisor or unit head/administrator(s) and/or Director of University Human Resources, or designee, as necessary, on a need-to-know basis.

¹ Under the Policy, for purposes of reporting, a student who is a resident assistant is an RUE and is obligated to report sexual misconduct that comes to her/his attention to the Title IX Officer. If a student who is a resident assistant is the subject of allegations of sexual misconduct, the complaint is handled under the Student Investigation and Adjudication Procedures (see Appendix A).

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II. COMPLAINT RESPONSE

Following the Initial Assessment, the Title IX Officer or designee will determine whether to proceed with an investigation, take no action, or refer the report back to the relevant unit head and/or supervisor to be considered as a personnel matter because it does not rise to the level of Prohibited Conduct as defined under the Policy in Section IV, pages 4-6. If the complaint is referred back to the unit or office from which it originated, the Complainant will be notified.

OSM may proceed with an investigation to ensure the safety and well being of the Complainant and/or others in the campus community even in the absence of a written complaint.

A. Sexual Misconduct Investigation

Following the Initial Assessment, and in consultation with the Complainant, the OSM will initiate a prompt, thorough, and impartial Investigation of the conduct that constitutes a potential violation of the Policy. The OSM will designate a Special Investigator who has training and experience investigating allegations of Prohibited Conduct. The Special Investigator will coordinate the gathering of information to make an investigative finding regarding whether the alleged conduct constitutes a violation of the Policy by a preponderance of the evidence. A preponderance of the evidence means that it is more likely than not that the conduct occurred.

OSM will take immediate and appropriate steps to eliminate sexual misconduct in violation of the Policy, address its affects and prevent its recurrence. Information gathered during the Investigation will be used to evaluate the appropriate course of action, provide for individual and campus safety, and identify the need for Interim Protective Measures and other remedies as necessary.

1. Notice of Investigation

The Title IX Officer or designee will send the Complainant and the Respondent a written *Notice of Investigation*. Once the *Notice of Investigation* has been delivered to the parties, the Investigation phase begins. The *Notice of Investigation* will contain a summary of the allegations at issue, the range of potential violations under the Policy, and the range of potential disciplinary sanctions and/or administrative and other remedies. Upon receipt of the *Notice of Investigation*, or at any stage in the process, the Respondent may choose to accept responsibility for the Policy violation.

Along with the *Notice of Investigation*, the Respondent will receive a *Notice of Rights and Responsibilities*.

The OSM will oversee the Investigation. The Investigation is designed to provide a fair and reliable gathering of the facts. All individuals, including the Complainant, the Respondent, and any third party witnesses, will be treated with appropriate sensitivity and respect throughout the Investigation. The Special Investigator will safeguard the privacy of the individuals involved in a manner consistent with federal and state law and University policy.

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During the Investigation, the Complainant and Respondent will have an equal opportunity to be heard, to submit information, and to identify witnesses who may have relevant information. The Special Investigator will speak separately with the Complainant, the Respondent, and any other individuals who are willing to participate and have information relevant to the investigation. The Special Investigator may gather or receive information that is relevant to the determination of an appropriate sanction or remedy, including information about the impact of the alleged incident on the parties. The Special Investigator will also gather any available physical or documentary evidence, including prior statements by the parties or witnesses, any communications between the parties, email messages, social media materials, text messages, and other records as appropriate and available.

Members of the University community are expected to cooperate with the Investigation.

B. Notice of Review Option

At the conclusion of the Investigation, the Special Investigator will prepare a draft written report that summarizes the information gathered, synthesizes the areas of agreement and disagreement between the parties with any supporting information or accounts. Prior to finalizing the Investigation Report and before reaching a finding, the Special Investigator will provide the Complainant and Respondent an opportunity to review the draft Investigation Report (absent a Finding).

A Complainant and Respondent may submit any additional comment or information to the Special Investigator within five (5) business days of the date of the *Notice of Review Option* to review the draft Investigation Report. This is the final opportunity for the parties to identify any additional information or witnesses and review their statements for accuracy. Both parties will be provided electronic password protected access to the report. In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the Special Investigator at this juncture will not be considered by the Special Investigator or Standing Review Committee (SRC).

C. OSM Investigation Outcome

Once the draft Investigation Report is reviewed by the parties and any additional information is incorporated, or after the five (5) business day comment period has lapsed without comment by either party, the Special Investigator will finalize the Investigation Report and make a finding as to whether there has been a violation of the Policy.

The finding will be based on the Special Investigator's assessment of the evidence gathered in the course of the investigation, using a standard of preponderance of evidence (e.g., whether it is more likely than not that a violation of the Policy has occurred). In reaching this determination, the Special Investigator will consult with the Title IX Officer. The Special Investigator may also rely on information regarding the employee's prior disciplinary history and prior criminal history. All information relied on by the Special Investigator shall be included in the final Investigation Report. The OSM Finding will be appended to the Investigation Report and will constitute the OSM Investigation Outcome. The OSM Investigation Outcome will then be sent to

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the Standing Review Committee for an independent evaluation.

D. Independent Review by the Standing Review Committee

The Standing Review Committee (SRC) is an independent body, composed of five (5) persons made up of a combination of faculty, staff and students with a minimum of three (3) staff. All members of the SRC are adequately trained and are qualified to review findings of sexual misconduct policy violations and grounds for appeal related to those findings.

The Standing Review Committee will conduct an independent assessment of the OSM Investigation Outcome and determine whether there has been a violation of the Policy. The SRC may affirm or reject the finding of the OSM Outcome regarding the policy violation, and/or return the OSM Outcome to the Special Investigator to conduct additional investigation before completing its review. All SRC decisions require a super majority vote (4-1) and shall be accompanied by an explanation of the SRC's stated rationale for the decision.

The SRC will have five (5) business days to make a determination as to whether there is a violation of the Policy. In the event the SRC rejects the OSM Finding and requests additional investigation, the SRC shall review the revised OSM Outcome upon completion of any additional investigation by the Special Investigator. The five (5) day timeline may be extended by the Title IX Officer to accommodate any additional investigation and reconsideration by the SRC, as needed.

The SRC shall issue its determination (SRC Finding) to the Title IX Officer.

E. Notice of Standing Review Committee Finding

The Title IX Officer or designee will then issue a formal Notice of SRC Finding to both parties, separately and simultaneously. (In the event the investigation was initiated by the OSM without a formal Complainant, only the Respondent shall be notified.) The Notice of SRC Finding shall include a reference to the specific prohibited conduct at issue, a summary of the investigation findings and the SRC's stated rationale for its decision. Copies of the Notice of SRC Finding shall also be sent to the appropriate supervisor and unit head, on a need-to-know basis, and to the Director of University of Human Resources, or designee.

III. APPEAL

Either party may appeal the SRC Finding to the SRC Appellate Body. Mere dissatisfaction with the outcome is not a valid basis for appeal. The appeal must be submitted in writing, within five (5) business days of receipt of the Notice of SRC Finding to OSM, using the *Notice of Appeal form*. The scope of the appeal is limited to three permissible grounds (listed below). If the appeal request moves forward, the other party will be notified and given five (5) business days to respond. Responses shall be submitted directly to the OSM. Appeals filed by each party will be considered together in one appeal review process. Receipt of any written appeals will be acknowledged in writing by the OSM.

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A. Grounds for Appeal

Grounds for appeal shall be limited to:

- Procedural Error: A violation of procedural due process means that the SRC Finding was negatively influenced by a failure of the Special Investigator and/or SRC to take a procedural step or fulfill a procedural requirement established by this Policy.
- New Evidence: New evidence is significant evidence that could not have been previously discovered and presented by the appellant through reasonable diligence.
- Substantive Due Process: A violation of substantive due process means that the SRC Finding was based upon an illegal or constitutionally impermissible consideration (e.g. party's gender, race, age, national origin, sexual orientation or exercise of first amendment rights).

If neither party submits an appeal, the SRC Finding becomes final after five (5) business days. Once an SRC Finding becomes final, the Title IX Office will issue a formal Notice of Policy Violation as described in Section D, below. Appeals submitted after five (5) business days will be denied.

B. Considerations

In any request for an appeal, the burden of proof lies with the party requesting the appeal. Appeals are not intended to allow for a rehearing of the complaint or a de novo investigation by the SRC Appellate Body. A review of the matter will be prompt and narrowly tailored to the specific grounds requested for appeal. In most cases, appeals are confined to a review of the written record and the pertinent documentation underlying the appeal. However, depending on the nature of the appeal, the SRC Appellate Body may speak to the Special Investigator, the SRC Conference Chair, or the parties, as deemed appropriate.

C. Standing Review Committee Appellate Body

The SRC Appellate Body is composed of three (3) members from the Standing Review Committee who did not participate previously in a review of the case. Depending on the basis of the requested appeal, the SRC Appellate Body may:

- Affirm the SRC Finding;
- Alter the SRC Finding; or
- Return the matter to the Title IX Officer with instructions to cure a procedural or substantive error or to assess the weight and impact of newly discovered information.

1. Notice of Appeal Outcome

An Appellate conference will be convened before a newly constituted SRC Appellate Body when the procedural or substantive error cannot be corrected by returning the matter to the

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original SRC. The SRC Appellate Body Chair will render a written decision on the appeal referred to as the *Notice of Appeal Outcome*, within ten (10) business days from the date the OSM receives all appeal documents. SRC Appellate determinations must be unanimous. In the event the SRC Appellate Body is unable to reach a unanimous decision, the appeal is deemed denied and the SRC Finding is affirmed. All SRC Appellate Body decisions are final and will be communicated to the parties via the Office of Sexual Misconduct.

D. Final Outcome Notice

After the SRC Finding becomes final and all appeals, if any, are exhausted, the Title IX Officer or designee shall issue a Final Outcome Notice to both parties, separately and simultaneously, in writing, and in person, when possible. Issuance of the Notice completes the investigation and adjudication of the complaint under this Policy.

IV. DISCIPLINE AND ADMINISTRATIVE OR OTHER REMEDIES

Discipline and/or administrative and/or other remedies may be imposed if the Final Outcome Notice reflects a Policy violation. In such an event, the appropriate supervisor and unit head, in consultation with other relevant administrators, as needed, shall consider the following to determine what type of discipline and/or administrative and/or other remedies is most appropriate:

- The nature of the misconduct at issue;
- The impact of the misconduct on the Complainant;
- The impact or implications of the misconduct on the community or the University;
- Any prior sexual misconduct by the Respondent at the University or elsewhere that is known to the University;
- Respondent's prior disciplinary history at the University; and
- Any other mitigating, aggravating, or compelling circumstances.

Discipline, remedies and other administrative action may include, but is not limited to, the following:

- Unit transfers;
- Reassignment of duties;
- Mandatory individualized sexual misconduct training;
- Oral Reminders;
- Written Reminders/Letters of Reprimand;
- Suspension without Pay;
- Suspension Pending Charges of Removal; and
- Termination

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V. GRIEVANCE RIGHTS

Employees may grieve disciplinary action depending on the rights afforded to them based on their employee status. Employees may not grieve administrative and/or other remedies that do not constitute formal disciplinary action.

A. Exempt Employees

Regular exempt employees found to have violated the Sexual Misconduct Policy may be terminated pursuant to VII-1.22 Policy on Separation for Regular Exempt Employees at <http://www.president.umd.edu/policies/2014-VII-122.html> either under *Section III Termination by Period of Notice* or under *Section IV Termination for Cause*.

A grievance of a termination action may be made pursuant to VII-8.00 USM Policy on Grievances for Exempt and Nonexempt Staff Employees at <http://www.usmh.usmd.edu/regents/bylaws/SectionVII/VII800.html> and VII-8.10 USM Policy on Special Action Appeals for Classified Employees at <http://www.usmh.usmd.edu/regents/bylaws/SectionVII/VII810.html>.

B. Nonexempt Employees

Regular nonexempt employees found to have violated this Policy may be terminated in accordance with VII-8.00 USM Policy on Grievances for Exempt and Nonexempt Staff Employees at <http://www.usmh.usmd.edu/regents/bylaws/SectionVII/VII800.html> and VII-8.10 Policy on Special Action Appeals for Classified Employees at <http://www.usmh.usmd.edu/regents/bylaws/SectionVII/VII810.html>.

C. Contingent I and II Employees

Contingent employees found to have violated this Policy may be terminated in accordance with the terms of their contract. Contingent employees do not have grievance rights. Any dispute regarding termination may be brought to the attention of the employee's supervisor or department head, or alternatively, may be brought to the attention of the University Human Resources-Office of Staff Relations.

D. Staff with Vested Status

Associate Staff, Classified-Exempt and employees with a Librarian job title employed at the time of implementation of Phase II-USM Exempt Pay Program (January 2, 2000) shall have grievance rights according to Sections III and IV of VII-9.01 USM Policy on Implementation of Phase II-Exempt of the USM Pay Program at <http://www.usmh.usmd.edu/regents/bylaws/SectionVII/VII901.html>

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STAFF SEXUAL MISCONDUCT INVESTIGATION & ADJUDICATION PROCEDURES

VI. FINAL OUTCOME

A. Records Retention

The OSM shall maintain investigation and outcome records in accordance with the University's record retention schedule.

The Respondent's Department and the Department of University Human Resources shall maintain records of any discipline, administrative and/or other remedies in accordance with the University's record retention schedule and standard University protocols regarding the retention of personnel records.

B. Additional Notification Following Any Grievance Initiated by the Respondent

After the completion of any grievance process initiated by the Respondent as a result of a personnel action taken based on a violation of this Policy, the Title IX Officer or designee will promptly notify the Complainant of any modification of the Final Outcome, except as prohibited by State or Federal law.

END OF DOCUMENT

APPENDIX B: STAFF SEXUAL MISCONDUCT COMPLAINT PROCEDURES

I. Overview

II. Rights to Support Person and Advisor

- A. Support Person
- B. Advisor
- C. Party Obligations
- D. Non-Party Participant Requirements

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IV. Complaint Intake Process

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V. Resolution Processes

- A. Time Frame for Resolution
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- A. Overview
- B. Grounds for Appeal
- C. Appellate Body
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VII. Remedies & Disciplinary Action

- A. Impact & Mitigation Statements
- B. Remedies
- C. Disciplinary Action

VIII. Grievance Rights

IX. Final Outcome

X. Records Retention

XI. Post-Resolution Follow-Up

I. OVERVIEW

These procedures set forth in Appendix B accompany the University of Maryland (UMD) Sexual Misconduct Policy (the "Policy") and are the exclusive procedures that govern the handling of all reports or complaints of sexual misconduct against UMD staff. Key terms used herein are defined in the Policy. For example, sexual misconduct is an umbrella term defined in the Policy that encompasses dating violence, domestic violence, sexual violence, sexual harassment, sexual assault, sexual exploitation, sexual intimidation, relationship violence and stalking.

APPENDIX B: STAFF SEXUAL MISCONDUCT COMPLAINT PROCEDURES

For purposes of the Policy and these Staff Procedures, staff include University coaches and all University employees other than those with faculty rank as described in II-1.00(A) University of Maryland Policy on Appointment, Promotion, and Tenure of Faculty at <http://www.president.umd.edu/policies/2014-ii-100a.html>.

Employees with faculty rank are governed by the Faculty Sexual Misconduct Complaint Procedures (see *Appendix C*). These procedures replace all procedures previously in effect pertaining to the investigation and resolution of sexual misconduct complaints against staff at the University of Maryland.

II. RIGHTS TO SUPPORT PERSON AND ADVISOR

Throughout the process, any party may be accompanied to any meeting related to an investigation and resolution of a complaint by up to two (2) other people: (1) a Support Person, and (2) an Advisor. Meetings include, but are not limited to, meetings with Office of Civil Rights & Sexual Misconduct (OCRSM), investigative interviews, and document reviews, and alternative resolutions.

A. Support Person

A party may choose to be accompanied by a Support Person of their choice, at their own initiation and expense. A Support Person is someone who can provide emotional, logistical, or other kinds of assistance. The Support Person cannot be a witness or provide evidence in the case. The Support Person is a non-participant who is present to assist a Complainant or Respondent by taking notes, providing emotional support and reassurance, organizing documentation, or consulting directly with the party in a way that does not disrupt or cause any delay. A Support Person shall not be an active participant and the parties must speak for themselves.

B. Advisor

A party may choose to be assisted by an Advisor of their choice, including an attorney, at their own initiation and expense. The Advisor is a non-participant who is present to provide advice and consultation to a party. An Advisor cannot be a witness or provide evidence in a case. If necessary, a party may request a recess in order to speak privately with an Advisor. An Advisor shall not be an active participant. The parties must speak for themselves. An Advisor may not delay, or otherwise interfere with, the University's process.

C. Party Obligations

Throughout the process, the Title IX Officer or designee, Investigators and other University representatives will communicate and correspond directly with the parties, not through a Support Person or Advisor. Parties are responsible for having Support Persons and Advisors follow the non-party participation requirements below. When a party wishes to have a Support Person or Advisor accompany them to a meeting, the individual must notify OCRSM in advance. Parties are also responsible for making sure appropriate authorization exists for the University to communicate non-party participation requirements below to any Support Person or Advisor.

D. Non-Party Participant Requirements

APPENDIX B: STAFF SEXUAL MISCONDUCT COMPLAINT PROCEDURES

All Support Persons and Advisors must review the materials about the scope of their respective roles, prior to accompanying a party to any meeting or other activity. These materials may be obtained online at the OCRSM website, www.umd.edu/ocrsm/ or from OCRSM directly. This is to ensure the Support Persons and Advisors are informed about the process and their respective roles. All parties, Support Persons and Advisors are expected to understand their roles and adhere to the University's expectations regarding decorum and privacy considerations.

III. REPORTING

Complaints and other reports of sexual misconduct against staff may be made to the OCRSM. Complaints may also be made to any Responsible University Employee (RUE). A RUE, as defined by this Policy, includes all University administrators, supervisors in non-confidential roles, faculty members, campus police, coaches, athletic trainers, resident assistants, and non-confidential first responders. Responsible University Employees are required to share all reports of sexual misconduct they receive, promptly with the Title IX Officer or designee.

Student Complainants may also report sexual misconduct against staff to the Office of Student Conduct, or the Office of Rights & Responsibilities (R&R) in the Department of Resident Life.

Prompt reporting of Prohibited Conduct is encouraged so that the University can take immediate and corrective action to eliminate the misconduct, prevent its recurrence, and address its effects. The University will provide support and assistance to the Complainant and respond according to the steps outlined in these Staff Procedures. Upon receipt of any report, the Title IX Officer or designee will make an immediate assessment of the risk of harm to the parties or to the campus community and will take steps necessary to address any risks. These steps may include working with the Office of Staff Relations in University Human Resources and other campus offices to facilitate Interim Protective Measures that provide for the safety of the parties and the campus community, when appropriate.

A Complainant may choose to make a report to the University and pursue resolution under these Staff Procedures, and may also choose to make a report to law enforcement. A Complainant may pursue either of these options or both options at the same time. The criminal process and the University's internal process under these Staff Procedures are separate and independent. A Complainant who wishes to pursue criminal action should contact campus police or external law enforcement directly. See Policy Section VII for more information on criminal reporting.

The University recognizes that deciding whether to report sexual misconduct and proceed with a formal complaint under these Staff Procedures is a personal decision that may evolve over time. While prompt reporting is strongly encouraged, there is no time limit for reporting a complaint of sexual misconduct. The OCRSM will coordinate with the appropriate University office to provide support and assistance to each Complainant in making important decisions related to reports of sexual misconduct. Consistent with the goal of safety for all community members, the University will make every effort to respect a Complainant's autonomy in making their own personal decisions after reporting sexual misconduct. However, when appropriate, the University, through the OCRSM, retains the right to initiate a formal complaint on its own, independent of any individual's decision as to how they wish to proceed.

APPENDIX B: STAFF SEXUAL MISCONDUCT COMPLAINT PROCEDURES

IV. COMPLAINT INTAKE PROCESS

A. Notification to the Complainant

Upon receipt of a complaint, the OCRSM will ensure that the Complainant is provided with a copy of the Policy and Staff Procedures and is informed of their rights and responsibilities. The OCRSM will provide information to the Complainant about the University's internal, administrative complaint process and review with them their respective rights and responsibilities. The Complainant will be informed of available community and campus resources and services; their right to a Support Person and the Support Person's role; their right to an Advisor and the Advisor's role; their right to file a report with law enforcement, or not; and the University's prohibition against retaliation. The Complainant will have an opportunity to ask questions and seek additional information.

B. Requests for Confidentiality

Whenever possible, the OCRSM will take action consistent with the Complainant's expressed wishes regarding confidentiality. The University's ability to fully investigate and respond to a complaint may be limited if the Complainant requests that their name not be disclosed to the Respondent or declines to participate in an Investigation. When a Complainant requests their name or other identifiable information not be disclosed and/or that no further action be taken, the Title IX Officer or designee will seek to honor such requests, balancing the Complainant's wishes for confidentiality with the University's obligation to provide a safe and non-discriminatory environment for all members of the University community. The University retains the right to proceed with a complaint as necessary to meet its obligations, and in some cases, may not be able to honor a request for confidentiality.

C. Initial Assessment of Complaint

When the University receives a complaint, the OCRSM will conduct an Initial Assessment. The Initial Assessment will determine whether the reported conduct constitutes a potential violation of the Policy, and if further action is warranted based on the reported conduct.

The first step in the Initial Assessment is a preliminary meeting between the Complainant and the OCRSM to gather information that will enable the OCRSM, in consultation with other offices, as appropriate, to:

- Assess the nature and circumstances reported in the complaint;
- Assess the safety of the Complainant and of the campus community;
- Implement any appropriate interim protective measures;
- Assess for pattern evidence or other similar conduct by the Respondent when relevant to the safety assessment;
- Assess the Complainant's expressed preference regarding resolution, including any request that no further action be taken;
- Assess any request by the Complainant for confidentiality or anonymity; and
- Assess the reported conduct for possible referral to the University of Maryland Police Department (UMPD) for a timely warning under the Clery Act.

APPENDIX B: STAFF SEXUAL MISCONDUCT COMPLAINT PROCEDURES

At the conclusion of the Initial Assessment, the OCRSM will determine the appropriate next step(s), including but not limited to: no further action, the imposition of Interim Measures, Alternative Resolution, and/or proceeding with an investigation.

When the Initial Assessment determines the reported conduct does not rise to the level of a potential violation under this Policy, but may violate another University policy, the complaint may be referred to another appropriate University official for review and resolution.

Where the Initial Assessment reveals that the University lacks jurisdiction over the Respondent, the University will take available and reasonable steps to address the Sexual Misconduct, prevent its recurrence, and address its effects at the University.

D. Interim Protective Measures

Based on the nature and circumstances of the complaint, the Title IX Officer or designee in consultation with appropriate Unit heads and other University administrators may authorize interim protective measures to ensure the safety and well-being of the Complainant and others in the campus community, as appropriate. The Title IX Officer or designee will promptly inform the Respondent (if they are a member of the University community) of any interim protective measures that will directly impact the Respondent and provide an opportunity for the Respondent to respond.

The OCRSM retains discretion to impose and/or modify any interim protective measures based on all available information. Interim protective measures will remain in effect until the University's final resolution of the sexual misconduct complaint. A party may challenge the imposition of interim protective measures, or a decision not to impose interim protective measures, by contacting the OCRSM to address any concerns. Information about interim protective measures can be found on pages 11-12 of the Policy.

V. RESOLUTION PROCESSES

A. Time Frame for Resolution

Consistent with the goal of maximizing educational and working opportunities, remedying the effects of Prohibited Conduct and promoting campus safety while minimizing the possible disruptive nature of the process, the OCRSM will strive to resolve all complaints within sixty (60) business days of receipt. In general, the investigation phase may last approximately four to five weeks and the adjudication phase may last an additional estimated four to five weeks. Good faith efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with the importance of resolving complaints in a timely and expeditious manner. The Title IX Officer may extend the general time frames for the completion of all required actions. If such an extension occurs, the parties will be notified in writing by the OCRSM.

B. Alternative Resolution Process

In some cases, the Complainant may seek Alternative Resolution in lieu of investigation and adjudication.

Alternative Resolution is a process whereby remedies and interventions may serve to address the alleged Prohibited Conduct without proceeding to an investigation and adjudication.

APPENDIX B: STAFF SEXUAL MISCONDUCT COMPLAINT PROCEDURES

Alternative Resolution is not appropriate for complaints involving sexual violence, including sexual assault. The parties may decide not to proceed with Alternative Resolution and may request an investigation and adjudication at any time.

The Title IX Officer or designee has the discretion to determine whether a complaint is appropriate for Alternative Resolution and retains discretion to terminate an ongoing Alternative Resolution process at any time.

The purpose of Alternative Resolution is to take appropriate action by imposing individual and community interventions and remedies designed to maximize the Complainant's access to educational, extra-curricular and/or employment activities at the University. Any combination of interventions and remedies may be utilized, including but not limited to:

- Increased monitoring, supervision and/or security at locations or activities where the Prohibited Conduct occurred or is likely to reoccur;
- Targeted or broad-based educational programming or training for relevant individuals or groups;
- Workplace modifications and other administrative changes;
- Completion of projects, programs, or requirements designed to help the Respondent manage behavior, refrain from engaging in Prohibited Conduct and understand why the Prohibited Conduct is prohibited; and
- Compliance with orders of no contact that limit access to specific University buildings or areas or forms of contact with particular persons.

The imposition of remedies or interventions obtained through Alternative Resolution may be achieved by an agreement acceptable to the parties and University. In such cases the terms of the agreement are implemented and the matter is resolved and closed. In cases where an agreement is not reached, and the Title IX Officer or designee determines that further action is necessary, or if a Respondent fails to comply with the terms of the Alternative Resolution agreement, the matter may be referred for investigation and resolution under these Staff Procedures.

Where the Complainant and Respondent and University have reached an Alternative Resolution agreement, the parties will be provided a written notice of the outcome.

C. Investigation Process

When the Initial Assessment determines the University has jurisdiction over the Respondent and the alleged conduct, and where Alternative Resolution is not appropriate or Respondent fails to comply with the terms of an Alternative Resolution agreement, an investigation will occur.

1. Notice of Investigation

In the event of an investigation, the Investigator will send a written *Notice of Investigation and Notice of Rights and Responsibilities* to both parties.

The *Notice of Investigation* will contain the circumstances of the alleged incident (which generally will include, to the extent known, the name of the Complainant and the date, time and location), the Prohibited Conduct alleged as defined by the Policy, and the range of potential

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disciplinary action associated with the Prohibited Conduct. Both parties will also be informed that they will have an opportunity to be heard regarding the complaint during the investigation process, including the opportunity to be heard during an interview with an Investigator regarding the alleged sexual misconduct.

2. Notice of Rights and Responsibilities

Both parties will be provided with a copy of the Policy and Staff Procedures and informed of their rights and responsibilities pursuant to the Policy. This includes but is not limited to: no contact directives (and provided a copy), prohibitions against retaliation and guidance about reporting any retaliatory conduct, and available community and campus resources and services.

3. Standard of Review

In making a determination about whether a Policy violation has occurred, the standard of review is preponderance of the evidence. A preponderance of the evidence means “it is more likely than not.” Thus, at the conclusion of the investigation phase, based on the information gathered, a recommended finding will be made as to whether it is more likely than not that the reported conduct constituted Prohibited Conduct in violation of the Policy.

4. Role of the Investigator

The Title IX Officer or designee will designate one or more Investigator(s) from the OCRSM and/or an external Investigator to conduct a prompt, fair, and impartial investigation. All Investigators will receive annual training on issues related to sexual and gender-based harassment, sexual assault, dating violence, domestic violence and stalking; and how to conduct a fair and impartial investigation that provides parties with notice and a meaningful opportunity to be heard and protects the safety of complainants and the University community while promoting accountability.

5. Overview of the Investigation

The investigation is an impartial fact-gathering process. It is an important stage of the process in which both parties have an opportunity to be heard regarding the complaint. During the investigation the parties will each have an opportunity to meet and speak with the Investigator, provide any relevant information about the reported conduct, and identify persons they believe the Investigator should speak with because they believe they have relevant information. The Investigator will speak separately with both parties and any other individuals who may have relevant information. The Investigator will also gather any available physical evidence or documents, including prior statements by the parties or witnesses, communications between the parties, email messages, social media materials, and other records, as appropriate and available.

a. Special Considerations

Information related to the prior sexual history of either party is generally not relevant to the determination of a Policy violation. However, prior sexual history between the parties may be relevant in very limited circumstances. For example, where there was a prior or ongoing consensual relationship between the parties, and where Consent is at issue in the case at hand, evidence as to the parties' prior sexual history as it relates to Consent may be relevant to assess the manner and nature of communications between the parties. As noted in the Policy, however, the mere fact of a current or previous dating or sexual relationship,

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by itself, is not sufficient to constitute Consent. Sexual history will never be used for purposes of illustrating either party's individual character or reputation. The Investigator will determine the relevance of prior sexual history and inform the parties if information about the parties' sexual history with each other is deemed relevant.

At the discretion of the OCRSM, multiple reports may be consolidated in one investigation if the information related to each incident is relevant in reaching a determination. Matters may be consolidated where they involve multiple Complainants, multiple Respondents, or related conduct involving the same parties, provided that it does not delay the prompt investigation and resolution of complaints.

b. Draft Report

At the conclusion of the investigation, the Investigator will draft a written investigation report that summarizes the information gathered (including, but not limited to, the names of witnesses and summaries of their statements), and synthesizes the areas of agreement and disagreement between the parties.

c. Notice of Opportunity to Review the Draft Investigation Report

Before the investigation report is finalized, the parties will be given an opportunity to review and respond to the draft report. Upon receipt of notice to review the draft report, the parties will each have five (5) business days to review the report and all underlying documents and submit comments, information and/or ask questions. If there is any new or additional information to be provided by either party, it must be presented to the Investigator at this time. If further investigation is warranted based on the comments, information and/or questions provided during the review period, the Investigator will continue the investigation, as needed.

6. Investigation Outcome/Finding

Upon timely receipt of any additional information or comments from the parties or after the five (5) business day comment period has lapsed with no comments provided, and the investigation is complete, the Investigator will finalize the investigation report.

The final investigation report will include a summary of all relevant information obtained in the course of the investigation, an analysis of the material facts, and a finding of whether or not a Policy violation occurred by a preponderance of the evidence. The notice will also include a range of potential disciplinary action associated with such findings. The Title IX Officer or designee will review the final investigation report.

A *Notice of Investigation Finding* will be issued by the OCRSM and sent to the Complainant and Respondent and their respective Unit Head(s), along with a copy of the final investigation report.

Both parties will be contacted by, and required to meet with, their respective Unit Head(s), or the Director of Student Conduct if a student, separately, to discuss the investigation finding/outcome and next steps.

Either or both parties may appeal the investigation finding in accordance with Section VII below.

VI. APPEALS

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Either or both parties may appeal the investigation finding. An appeal must be submitted in writing within five (5) business days of the date of receipt of the *Notice of Investigation Finding*. Appeals submitted after five (5) business days shall be denied. If an appeal is received by the OCRSM, the other party will be notified and given five (5) business days from the date of receipt of the notice to respond. Responses shall be submitted directly to the OCRSM. Appeals and responses filed by each party will be shared with the other party and considered together in one appeal review process. If neither party submits an appeal, the investigation finding is final after five (5) business days.

A. Overview

The scope of the appeal is limited to the grounds set forth below. Dissatisfaction with the investigation outcome is not a valid basis for appeal. Appeals are not intended to allow for a second review of the same facts of the case or to redetermine whether there was a Policy violation based on the same facts of the case. In most cases, appeals are confined to a review of the written record and the grounds for appeal submitted by the parties.

B. Grounds for Appeal

Grounds for appeal shall be limited to:

1. Substantial Procedural Error

Specified procedural errors or errors in interpretation of University policy were so substantial as to effectively deny a Complainant or a Respondent notice or a fair opportunity to be heard. Mere deviations from procedures that were not so substantial as to deny a Complainant or Respondent notice or a fair opportunity to be heard will not be a basis for sustaining an appeal.

2. New Evidence

New and significant relevant information has become available which a reasonably diligent person could not have discovered during the Investigation.

When the basis of the Appeal is new evidence, the Title IX Officer or designee will determine whether the information is new and was unavailable at the time of the investigation. If the information is determined not to be new, the Appeal will be denied.

If the information is determined to be new and unavailable at the time of the investigation, it will be sent to the Appellate Body for review and determination as to whether the new information could change the outcome of the investigation. If the Appellate Body determines that the new evidence could change the outcome, the case will be sent back to the OCRSM Investigator for further investigation. The OCRSM Investigator will report the outcome of any further investigation to the Appellate Body.

C. Appellate Body

The Standing Review Committee (SRC) is the designated Appellate Body for all cases involving allegations of sexual misconduct by staff. The SRC is composed of three (3) members from the University community who have had no previous involvement with the case, and have been trained to review such cases.

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D. Appeal Outcome

The SRC may:

- Affirm the Investigation Finding;
- Reject the Investigation Finding;
- Remand the case back to the Investigator for further investigation.

The SRC Chair will render a written decision on the appeal to the Title IX Officer or designee within five (5) business days from the date of the submission of all appeal documents. No further appeal is available from the SRC Decision.

VII. REMEDIES & DISCIPLINARY ACTION

A. Impact and Mitigation Statements

Whenever there is a finding of responsibility, before the University issues any remedies or imposes disciplinary action, if any, both parties have the opportunity to submit statements for consideration by the relevant supervisor, unit head or designee in consultation with the Title IX Officer or designee, within three (3) business days from the date of receipt of the decision.

The Complainant may submit a written statement describing the impact of the Prohibited Conduct on the Complainant, and/or request to meet with the relevant supervisor, unit head or designee and Title IX Officer or designee to provide their statement verbally.

The Respondent may submit a written statement explaining any factors the Respondent believes should mitigate or otherwise be considered in determining appropriate remedies and/or recommended discipline, if any, and/or request to meet with the relevant unit head or designee and Title IX Officer or designee to provide their statement verbally.

The parties' respective statements will not be shared with the other party.

B. Remedies

The Title IX Officer or designee and University Human Resources, as appropriate, in consultation with the relevant supervisor, unit head or designee, as appropriate, will identify reasonable short-term and/or long-term remedies to address the effects of the conduct on the Complainant and prevent its reoccurrence. Such remedies seek to restore to the Complainant, to the extent possible and within reason, the benefits and opportunities lost as a result of the Prohibited Conduct. The Title IX Officer or designee may also identify remedies, such as training for specific audiences, to address the effects of the conduct on the larger University community.

Remedies for student Complainants may include, but are not limited to:

- **Support measures** such as extended classwork deadline, or flexible deadlines, change of venue for taking an exam, change in exam date, and/or retaking of an exam.
- **Academic accommodations** such as retroactive drop from a particular class, retroactive withdrawal from a semester, policy exemption requests, and/or tuition reimbursement.

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Remedies for staff Complainants and Respondents may include, but are not limited to:

- Workplace modifications and other administrative changes, no contact orders, denial of access, schedule changes, counseling and/or referral to outside agencies.

C. Disciplinary Action

When there is a finding of responsibility, and all appeals under these Procedures, if any, have been exhausted, the respective unit head or designee will consult with the Title IX Officer or designee determining the appropriate disciplinary action, if any.

To determine what type of disciplinary action is most appropriate, the supervisor, unit head or designee in consultation with University Human Resources and other appropriate administrator(s) shall consider the following:

- The nature of the misconduct at issue;
- The impact of the misconduct on the Complainant;
- The impact or implications of the misconduct on the community or the University;
- Any prior sexual misconduct by the Respondent at the University or elsewhere that is known to the University;
- Respondent's prior disciplinary history at the University; and
- Any other mitigating, aggravating, or compelling circumstances.

Discipline shall be imposed in accordance with all procedural due process rights afforded staff based on their employment status in accordance with University policy and Maryland State law. All staff disciplinary action shall be approved by the Assistant Vice President of University Human Resources or designee.

1. Notice of Disciplinary Action

When disciplinary action is to be imposed, upon the approval by the Assistant Vice President of University Human Resources or designee, the appropriate unit head or designee will issue a *Notice of Disciplinary Action* to the Respondent.

Disciplinary action will depend on the specific circumstances in each case and may include discipline ranging from a written reprimand up to and including termination of employment. Other administrative and/or non-disciplinary remedies may also be imposed, including but not limited to, no contact directives, and/or a change in work duties, work locations, or work schedules.

Discipline shall be imposed in accordance with all procedural due process rights afforded staff based on their employment status in accordance with University policy and Maryland law.

VIII. GRIEVANCE RIGHTS

Staff may grieve disciplinary action in accordance with the rights afforded to them based on their specific employment status. An employee's grievance rights and associated time limits are separate and unrelated to the *Appeal* process and *Impact and Mitigation Statements* outlined in these Staff Procedures. During the grievance process, the *Notice of Investigation Finding* may also be reviewed, as it relates to the resulting disciplinary action.

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IX. FINAL OUTCOME

When all the procedures and/or grievance processes afforded to both parties under these Staff Procedures, and the rights afforded to them based on their specific employment status have been exhausted, the Assistant Vice President of University Human Resources or designee will promptly notify the Title IX Officer or designee of any modification of the final outcome. The Title IX Officer or designee will notify the parties of any modification to the final outcome, except as prohibited by Maryland and federal law.

X. RECORDS RETENTION

The OCRSM shall maintain investigation and outcome records in accordance with the University's record retention schedule.

University Human Resources and the department/unit head will maintain records of all disciplinary action, workplace modifications and other administrative changes and remedies related to a complaint and any Alternative Resolution agreements.

XI. POST-RESOLUTION FOLLOW-UP

After any disciplinary action, workplace modifications, administrative changes and/or other remedies are issued, if the Complainant agrees, the Title IX Officer or designee may periodically contact the Complainant to ensure the Prohibited Conduct has ended and to determine whether additional remedies are necessary. The Complainant may decline future contact at any time. The Title IX Officer or designee may periodically contact the Respondent to assure compliance with the intent and purpose of any disciplinary action, workplace modification, administrative changes and/or remedies that have been imposed. Any violation by a Respondent of the intent and purpose of any disciplinary action, workplace modification, administrative change and/or remedies imposed under the Policy, or a failure by a University employee to provide a specified disciplinary action, workplace modification, administrative change and/or remedy should be reported to the OCRSM.

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

APPENDIX B: STAFF SEXUAL MISCONDUCT COMPLAINT PROCEDURES

I. INTRODUCTION

These procedures accompany the University of Maryland (UMD) Sexual Misconduct Policy (“the Policy”) and are to be used when complaints of sexual misconduct are filed against UMD staff. These procedures replace all procedures previously in effect pertaining to the investigation and resolution of sexual misconduct complaints against staff at the University of Maryland. For purposes of the Policy and these Procedures, staff include University coaches and all University employees other than those with faculty rank as described in II-1.00(A) University of Maryland Policy on Appointment, Promotion, and Tenure of Faculty at <http://www.president.umd.edu/policies/2014-ii-100a.html>. Employees with faculty rank are governed by the Faculty Sexual Misconduct Complaint Procedures (*see Appendix C*).

Note: Reports by Responsible University Employees (RUEs) of sexual misconduct made to the Office of Civil Rights & Sexual Misconduct (OCRSM) DO NOT constitute a formal complaint. An individual must file a formal complaint in order for the complaint process to ensue. The University, through the OCRSM, retains the right to initiate the formal complaint process independent of any formal complaint filed by an individual.

II. FILING A COMPLAINT

Complaints of sexual misconduct should be made to the Office of Civil Rights & Sexual Misconduct (OCRSM). Upon filing a complaint, the Complainant will receive a *Notice of Rights & Responsibilities*.

A. Initial Assessment

Upon receipt of a complaint, OCRSM will conduct an Initial Assessment to determine whether the complaint may constitute a potential Policy violation, and whether any immediate action is warranted based on the reported conduct. The Initial Assessment will consider:

- The nature and circumstances of the allegation, including the severity and duration of the conduct;
- The safety of the Complainant and others in the campus community;
- Pattern evidence or other similar conduct by the Respondent; and
- The Complainant’s expressed preference regarding resolution.

Following the Initial Assessment, the Title IX Officer will determine whether to proceed with an investigation, take no action, or refer the report to other campus units, including but not limited to the Staff Ombudsperson, for appropriate action because the complaint does not rise to Prohibited Conduct under the Policy. The Title IX Officer will notify the Complainant of the results of the Initial Assessment.

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B. Interim Protective Measures

Based on the nature and circumstances of the complaint, the Title IX Officer may take immediate and appropriate steps to eliminate sexual misconduct in violation of the Policy, address its affects, and prevent its recurrence. As appropriate, and on a need-to-know basis only, Interim Protective Measures will be made in consultation with the appropriate supervisor or unit head/administrator(s) and/or Assistant Vice President of University Human Resources.

III. SEXUAL MISCONDUCT INVESTIGATION

Following the Initial Assessment, and in consultation with the Complainant, the OCRSM may initiate an investigation if the conduct constitutes a potential violation of the Policy. A Special Investigator will be assigned to conduct the investigation.

A. Notice of Investigation

In the event of an investigation, OCRSM will send a written *Notice of Investigation and Notice of Rights and Responsibilities* to both parties. The *Notice of Investigation* will contain a summary of the allegation(s) at issue. Once a Notice of Investigation has been delivered to the parties, OCRSM will begin its Investigation.

The Investigation is designed to provide an impartial, prompt and fair gathering of the facts. All individuals, including the Complainant, the Respondent, and any third party witnesses, will be treated with appropriate sensitivity and respect throughout the Investigation. At all times the OCRSM seeks to safeguard the privacy of the individuals involved in a manner consistent with federal and state law and University policy.

B. Investigation

During the Investigation, the Complainant and Respondent will each have an opportunity to be heard, submit information, and identify witnesses who may have relevant information. The Special Investigator will speak separately with the Complainant, the Respondent, and any other individuals who have information relevant to the investigation. The Special Investigator may gather or receive information that is relevant to the determination of an appropriate sanction or remedy, including information about the impact of the alleged incident on the parties. The Special Investigator will also gather any available physical or documentary evidence, including prior statements by the parties or witnesses, communications between the parties, email messages, social media materials, text messages, and other records as appropriate and available.

C. Notice of Opportunity to Review Investigation Report

At the conclusion of the Investigation, the Special Investigator will draft a written report that summarizes the information gathered, synthesizes the areas of agreement and disagreement between the parties and includes relevant written documentation gathered

APPENDIX B: STAFF SEXUAL MISCONDUCT COMPLAINT PROCEDURES

in the course of the investigation. The parties will be issued a written *Notice of Opportunity to Review the Investigation Report*. The Complainant and Respondent will each have an opportunity to review the draft Investigation Report and supporting evidence, and submit written comments on the accuracy of their statements, pose questions and submit additional information or evidence. Additional comments or information must be provided to the Special Investigator within five (5) business days of the date of the *Notice of Opportunity to Review the Investigation Report*. If further investigation is warranted based on information provided during the review period, the Special Investigator will continue the investigation until all relevant information and evidence is gathered.

D. Investigation Outcome – Finding

When the review period has ended, and the investigation is complete, the Special Investigator will finalize the Investigation Report, taking into account any additional information provided, and issue a Finding in consultation with the Title IX Officer. All information relied on by the Special Investigator shall be included in the final Investigation Report. The final Investigation Report will state whether the preponderance of the evidence supports a Policy violation, or not, and include a summary of the evidence relied on by the Special Investigator in reaching this determination. A preponderance of evidence means it is more likely than not a Policy violation occurred.

E. Notice of Finding of Policy Violation

Both parties will be informed, separately, in writing, as to whether or not the investigation resulted in a finding of a policy violation.

IV. DISCIPLINARY ACTION

Upon receipt of the final Investigation Report and Finding, the relevant Supervisor/Unit head, in consultation with the next level administrator(s), and/or Assistant Vice President, Human Resources or designee and the Title IX Officer, will determine appropriate disciplinary action, if any.

Notice of Disciplinary Action

In the event disciplinary action is to be imposed, the Supervisor/Unit head and/or Assistant Vice President, Human Resources or designee, as appropriate, will issue notice of the disciplinary action.

Disciplinary action will depend on the specific circumstances in each case and may include sanctions ranging from written reprimand up to and including termination of employment. Other administrative and/or non-disciplinary remedies may also be imposed, such as no contact directives, change in work duties, and change in work locations or work schedules.

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To determine what type of disciplinary action is most appropriate (administrative or other remedies) the relevant Supervisor/Unit head and/or Assistant Vice President, Human Resources or designee, as appropriate, in consultation with the Title IX Officer, shall consider the following:

- The nature of the misconduct at issue;
- The impact of the misconduct on the Complainant;
- The impact or implications of the misconduct on the community or the University;
- Any prior sexual misconduct by the Respondent at the University or elsewhere that is known to the University;
- Respondent's prior disciplinary history at the University; and
- Any other mitigating, aggravating, or compelling circumstances.

Discipline shall be imposed in accordance with all procedural due process rights afforded employees based on their status in accordance with University policy and Maryland State law.

V. GRIEVANCE RIGHTS

Employees may grieve disciplinary action in accordance with the rights afforded to them based on their specific employee status.

A. Exempt Employees

If warranted, regular exempt employees found to have violated the Policy may be terminated pursuant to VII-1.22 Policy on Separation for Regular Exempt Employees at <http://www.president.umd.edu/policies/2014-VII-122.html> either under *Section III Termination by Period of Notice* or under *Section IV Termination for Cause*. Regular exempt employees may grieve any disciplinary action pursuant to VII-8.00 USM Policy on Grievances for Exempt and Nonexempt Staff Employees at <http://www.usmh.usmd.edu/regents/bylaws/SectionVII/VII800.html> or VII-8.10 USM Policy on Special Action Appeals for Classified Employees at <http://www.usmh.usmd.edu/regents/bylaws/SectionVII/VII810.html>, as applicable.

B. Nonexempt Employees

If warranted, regular nonexempt employees found to have violated the Policy may be terminated in accordance with VII-8.10 Policy on Special Action Appeals for Classified Employees at <http://www.usmh.usmd.edu/regents/bylaws/SectionVII/VII810.html>. Regular nonexempt employees may grieve any disciplinary action pursuant to VII-8.00 USM Policy on Grievances for Exempt and Nonexempt Staff Employees at <http://www.usmh.usmd.edu/regents/bylaws/SectionVII/VII800.html> or VII-8.10 USM Policy on Special Action Appeals for Classified Employees at <http://www.usmh.usmd.edu/regents/bylaws/SectionVII/VII810.html>, as applicable.

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C. Contingent I and II Employees

Contingent employees found to have violated the Policy may be terminated in accordance with the terms of their contract. Contingent employees do not have formal grievance rights. However, any dispute regarding termination may be brought to the attention of the employee's supervisor or department head, or alternatively, may be brought to the attention of the University Human Resources-Office of Staff Relations.

D. Staff with Vested Status

Associate Staff, Classified-Exempt, and employees with a Librarian job title employed at the time of implementation of Phase II-USM Exempt Pay Program (January 2, 2000) shall have grievance rights according to Sections III and IV of VII-9.01 USM Policy on Implementation of Phase II-Exempt of the USM Pay Program at <http://www.usmh.usmd.edu/regents/bylaws/SectionVII/VII901.html>.

VI. FINAL OUTCOME

After the completion of all review and/or grievance processes initiated by either party, the Title IX Officer will promptly notify the Complainant of any modification of the final outcome, except as prohibited by State or Federal law.

Records Retention

The OCRSM shall maintain investigation and outcome records in accordance with the University's record retention schedule.

The Respondent's Human Resources department or Unit Head, the OCRSM, and University Human Resources shall maintain records of any discipline, administrative, and/or other remedies in accordance with the University's record retention schedule and standard University protocols regarding the retention of personnel records.



**University Senate
TRANSMITTAL FORM**

Senate Document #:	14-15-16
Title:	Review of the Interim Sexual Misconduct Student Procedures
Presenter:	Ed Kenny, Chair, Senate Student Conduct Committee (SCC)
Date of SEC Review:	April 19, 2016
Date of Senate Review:	April 28, 2016
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>In fall 2014, the Office of Civil Rights & Sexual Misconduct (OCRSM) and the University administration worked together to develop interim procedures for resolving complaints of sexual misconduct brought against students at the University. The procedures were approved on an interim basis in October 2014 and were subsequently sent to the Senate for review. On November 11, 2014, the Senate Executive Committee (SEC) charged the Student Conduct Committee (SCC) with review of the interim University of Maryland Student Sexual Misconduct Investigation & Adjudication Procedures, Appendix A of the of the University of Maryland Sexual Misconduct Policy. The SEC asked the SCC to make recommendations on whether the interim procedures were appropriate for the University.</p>
Relevant Policy # & URL:	<p>VI-1.60(A) University of Maryland Sexual Misconduct Policy & Procedures – Appendix A http://umd.edu/policies/docs/VI-160A.pdf</p>
Recommendation:	<p>The Student Conduct Committee recommends that the Student Sexual Misconduct Complaint Procedures (Appendix A of VI-1.60[A] University of Maryland Sexual Misconduct Policy & Procedures) be amended as indicated in the procedures document immediately following the committee’s report.</p>
Committee Work:	<p>The SCC began reviewing its charge during the fall 2014 semester. The SCC met with the Title IX Officer to discuss the interim Student Procedures. The SCC consulted extensively with the Director of Student Conduct, and reviewed guidance from the White House Task Force to Protect Students from Sexual Assault on what should be included in campus policies and procedures.</p>

	<p>The SCC also sought to remain apprised of concurring revisions to the Sexual Misconduct Procedures for faculty and staff through the parallel processes in the Senate Faculty Affairs and Staff Affairs Committees. Over the course of the 2014-2015 academic year, the SCC developed a number of potential revisions for the interim procedures. The SCC reviewed research from a sampling of peer universities. Because of the complexity of the issue and the detailed discussions needed for adequate review of the interim procedures, the SCC submitted a request for a deadline extension, which was approved by the SEC in March 2015.</p> <p>In fall 2015, the Senate Office received word that the OCRSM and the administration were developing revised versions of all three sets of the interim procedures. Revised procedures for students were approved by the President on an interim basis on October 1, 2015. The SCC reviewed the new interim student procedures, and focused on a number of areas of change in the procedures, which it discussed thoroughly.</p> <p>After final review, the SCC approved the revised Student Sexual Misconduct Complaint Procedures via an email vote ending November 16, 2015. The SCC sent its recommendations forward for review by the SEC. However, at the same time, the Office of the Attorney General (OAG) of the State of Maryland determined that it needed to conduct a holistic review of all policies and procedures related to sexual misconduct at all University System of Maryland (USM) institutions. As a result, the procedures developed by the SCC were not sent to the Senate for review. In March 2016, after extensive consultation between the OAG, the OGC, and the OCRSM, the Senate Office received revised interim procedures for review.</p> <p>The SCC reviewed the revised interim procedures during March 2016. The SCC discussed various areas of the procedures, including changes to the Appeals process. After consultation with the OGC and OCRSM, and after deliberation as a committee, the SCC voted to approve its proposed revisions to the new interim procedures via an email vote, concluding April 11, 2016.</p>
Alternatives:	The Senate could reject the recommendations. However, the Senate would lose an opportunity to revise the Student Sexual Misconduct Complaint Procedures.
Risks:	There are no associated risks.
Financial Implications:	There are no financial implications.
Further Approvals Required:	Senate approval, Presidential approval.

Senate Student Conduct Committee (SCC)

Report on Senate Document # 14-15-16

Review of the Interim Sexual Misconduct Student Procedures

April 2016

2015-2016 Student Conduct Committee Members

Ed Kenny, Chair

Andrea Goodwin, Ex-Officio, Director of Student Conduct (non-voting)

Katherine Izsak, Faculty

Gideon Mark, Faculty

Jason Speck, Faculty

Tess Wood, Faculty

Andrea Dragan, Exempt Staff

Francisco Cervantes Constantino, Graduate Student

Daniella Berger, Undergraduate Student

Rachel Patterson, Undergraduate Student

Christopher Rand, Undergraduate Student

BACKGROUND

In fall 2014, the Office of Civil Rights & Sexual Misconduct (OCRSM) and the University administration worked together to develop interim procedures for resolving complaints of sexual misconduct brought against students at the University. The procedures were approved on an interim basis in October 2014 and were subsequently sent to the Senate for review.

On November 11, 2014, in conjunction with the Senate's review of the interim University of Maryland Sexual Misconduct Policy (Senate Doc. 14-15-11), the Senate Executive Committee (SEC) charged the Student Conduct Committee (SCC) with review of the interim University of Maryland Student Sexual Misconduct Investigation & Adjudication Procedures, which appeared as Appendix A of the of the University of Maryland Sexual Misconduct Policy. The SEC asked the SCC to make recommendations on whether the interim procedures were appropriate for the University (Appendix 1).

COMMITTEE WORK

The SCC began reviewing this charge during the fall 2014 semester. The SCC initially met with the Title IX Officer of the OCRSM on February 13, 2015 to discuss the interim Student Sexual Misconduct Investigation & Adjudication Procedures. Throughout its review process, the SCC consulted extensively with the Director of Student Conduct, and reviewed guidance from the White House Task Force to Protect Students from Sexual Assault on what should be included in campus policies and procedures (Appendix 2). The committee also sought to remain apprised of concurring revisions to the Sexual Misconduct Procedures for faculty and staff through the parallel processes in the Senate Faculty Affairs and Staff Affairs Committees, which began in the spring 2015 semester.

The interim procedures were presented to the committee as a hybrid between an investigative model and an adjudication model that attempted to combine aspects of both models into a set of procedures that would emphasize the capacity and skills of the OCRSM, while promoting transparency and due process. The SCC noted that the interim procedures clarified roles of certain individuals and units on campus, in order to encourage checks and balances throughout the process. The interim procedures also introduced a Standing Review Committee (SRC), which is a specialized group of faculty, staff, and students on campus who have received specialized, on-going training on sexual misconduct and investigation processes. The interim procedures also emphasized that any Advisors in the process are not allowed to address the SRC or speak on behalf of the parties. The SCC carefully reviewed the interim procedures and the processes described within. The SCC also considered how complaints of sexual misconduct had previously be handled by the University under the *Code of Student Conduct*. In addition, the SCC reviewed all of the comments gathered by the Senate Equity, Diversity, & Inclusion (EDI) Committee from the two open Town Hall Forums that it hosted during its review of the Sexual Misconduct Policy.

Over the course of the 2014-2015 academic year, the SCC developed a number of potential revisions for the interim procedures. Many of the edits were technical in nature, but the committee also had lengthy discussions on certain aspects of the interim procedures, including the facets of the Voluntary Resolution stage, the 18-year-old age restriction on the Support Person for the parties, the training of the SRC members and the Special Investigator, the absence of cross-examination during the SRC Conference, the inability for the parties to receive copies of the draft Investigation Report, the removal of appellate responsibilities for these cases from the SCC, and the limited grounds for appeal as compared with the grounds for appeal available under the *Code of Student Conduct* via the University Student Judiciary (USJ) Honor Board process for other alleged acts of misconduct.

In spring 2015, the SCC reviewed research from a sampling of universities in the Big Ten Conference and other peer institutions, as gathered by the Senate Office. The SCC looked at information about similar

student procedures at Michigan State University, the University of Illinois at Urbana-Champaign, the University of North Carolina at Chapel Hill (UNC), the University of California, Los Angeles (UCLA), and the University of Wisconsin–Madison. The SCC focused on a number of areas, including:

1. How complaints of sexual misconduct are received (e.g., how the Respondent is informed; what is involved with the intake process; what interim protective measures are available),
2. How complaints of sexual misconduct are investigated (e.g., whether there are internal or external investigators, how many investigators are involved, whether students can read the investigative reports),
3. How complaints of sexual misconduct are reviewed (e.g., whether there is a review committee; how the committee is comprised; whether the parties are allowed to address the committee during the proceedings; whether cross-examination is allowed),
4. What the representation options are for the parties (e.g., whether students can have an attorney advisor present; whether attorneys can address the investigator or the review committee),
5. How appeals are handled (e.g., who can submit an appeal and when; on what grounds an appeal can be made; who hears the appeal),
6. How the sanctioning options and final resolution stage are structured (e.g., what is denoted on a student's transcript if they are found responsible for violating a sexual misconduct policy), and
7. What type of policy document describes the prohibition of sexual misconduct, and which office is in charge with adjudication responsibilities.

Because of the complexity of the issue and the detailed discussions needed for adequate review of the interim procedures, the SCC submitted a request for a deadline extension in March 2015 (Appendix 3). The SEC reviewed the extension request from the SCC at its meeting on March 24, 2015. The SEC voted in favor of granting the extension request. The new deadline was set for November 2015, which coincided with the deadlines of the Faculty Affairs and Student Staff Committees.

In fall 2015, the Senate Office received word that the OCRSM and the administration were developing revised versions of all three sets of interim procedures. During the spring and summer months, while using the interim procedures, the OCRSM found that there were ways in which the process could be improved, and determined that immediate changes were needed in order to streamline processes. Revised procedures for students were approved by the President on an interim basis on October 1, 2015 (Appendix 4). The new interim procedures were re-named as the Student Sexual Misconduct Complaint Procedures. The 2015-2016 SCC immediately began reviewing these new interim procedures by comparing them with the previous version, in order to examine how many of the committee's anticipated edits were incorporated and to see where any differences existed.

The SCC noted a number of differences in the new interim process, including a reorganization of the document, the removal of the Definitions section, more specificity on roles and responsibilities of various units and entities, as well as other edits for clarity of process. There were also substantive changes to the sanctioning process, the roles of the SRC and the SCC in particular, and the grounds for appeal. The SCC held an additional meeting with the Title IX Officer to discuss the new interim procedures and the substantive changes that had been made. As a result, the SCC developed new revisions and revisited some previous discussions to ensure that it conducted as thorough a review as possible.

After final discussion of the procedures as edited by the committee, the SCC approved the revised Student Sexual Misconduct Complaint Procedures via an email vote ending Monday, November 16, 2015. The SCC sent its recommendations forward for review by the SEC. However, at the same time, the Office of the Attorney General (OAG) of the State of Maryland determined that it needed to conduct a holistic review of all policies and procedures related to sexual misconduct at all University System of Maryland (USM) institutions. As a result, the procedures developed by the Faculty Affairs Committee were not sent to the Senate for review. In March 2016, after extensive consultation between the OAG, the Office of

General Counsel (OGC), and the OCRSM, the Senate Office received revised interim procedures for review (Appendix 5).

During spring 2016, the SCC met with representatives from the OGC and the OCRSM and learned that the revised procedures have been changed so that they are better organized and more clearly define the two phases of the University's Title IX response to a complaint of sexual misconduct: the Investigation Phase and the Adjudication Phase. The SCC also learned that the revised procedures more clearly define what happens when an investigation results in a recommendation of no policy violation, and what the Complainant's rights are in such a situation. The revised procedures had also been edited to clarify when a complaint is handled by disciplinary conference, and when a complaint goes to an SRC for review; it was explained that this provided a practical approach to how these cases are handled, and addresses procedural and practical challenges that the OCRSM had encountered under the current procedures. In addition, the SCC learned that the revised procedures clarify how Alternative Resolution works and when it is appropriate, and the procedures clarify in each phases, at each juncture, who is making decisions and when. Lastly, it was explained to the SCC that references to the President were removed from the process, so that the President is no longer involved in reviewing or signing off on expulsions, which is best practice amongst universities nationwide.

The committee considered all of the changes to the procedures, and compared the revised document to the version that the committee had sent forward in November 2015. The SCC identified a number of additional changes to the procedures, including modifications to the Adjudication and Appeal sections, as well as technical and minor changes throughout.

After consultation with the OGC and OCRSM, and after deliberation as a committee, the SCC voted to approve its proposed revisions to the new interim procedures via an email vote, concluding April 11, 2016.

RECOMMENDATIONS

The Student Conduct Committee recommends that the Student Sexual Misconduct Complaint Procedures (Appendix A of VI-1.60[A] University of Maryland Sexual Misconduct Policy & Procedures) be amended as indicated in the procedures document immediately following this report.

APPENDICES

Appendix 1 – Charge from the Senate Executive Committee on the Review of the Interim Sexual Misconduct Staff Procedures (dated November 11, 2014)

Appendix 2 – White House Task Force Checklist for Campus Sexual Misconduct Policies

Appendix 3 – Extension Request from the Student Conduct Committee (dated March 13, 2015)

Appendix 4 – Interim Student Sexual Misconduct Complaint Procedures (approved on interim basis on October 1, 2015)

Appendix 5 – Revised Student Sexual Misconduct Complaint Procedures (approved on an interim basis on March 21, 2016)

APPENDIX A: STUDENT SEXUAL MISCONDUCT COMPLAINT PROCEDURES

Recommended Changes to the Interim Student Sexual Misconduct Complaint Procedures
New Text in Blue/Bold (**example**), Removed Text in Red/Strikeout (~~example~~), Moved Text in Green (**example**)

I. Overview

II. Rights to Support Person and Advisor

- A. Support Person
- B. Advisor
- C. Party Obligations
- D. Non-Party Participant Requirements

III. Reporting

IV. Complaint Intake Process

- A. Notification to the Complainant
- B. Requests for Confidentiality
- C. Initial Assessment of Complaints
- D. Interim Protective Measures

V. Resolution Processes

- A. Timeframe for Resolution
- B. Alternative Resolution Process
- C. Investigation Process

VI. Adjudication

- A. Disciplinary Conference with Director of Student Conduct
- B. Standing Review Committee (SRC) Conference

VII. Remedies and Sanction

- A. Impact **Statement** and Mitigation Statements
- B. Remedies
- C. Sanction Considerations
- D. Sanctions
- E. Notice of Sanction

VIII. Appeals

- A. Grounds for Appeal
- B. Considerations
- C. **SCC** Appellate Body

IX. Final Outcome

X. Records Retention

XI. Academic Transcripts and Effect of Withdrawal

XII. Post-Resolution Follow-Up

APPENDIX A: STUDENT SEXUAL MISCONDUCT COMPLAINT PROCEDURES

I. OVERVIEW

These procedures (“**Student Procedures**”) set forth in Appendix A accompany the University of Maryland (UMD) Sexual Misconduct Policy (the “Policy”) and are the exclusive procedures that govern the handling of all reports or complaints of **Sexual Misconduct** against UMD students. Key terms used herein are defined in the Policy. For example, **Sexual Misconduct** is an umbrella term defined in the Policy that encompasses **Dating Violence**, **Domestic Violence**, **Sexual Violence**, **Sexual Harassment**, **Sexual Assault**, **Sexual Exploitation**, **Sexual Intimidation**, **Relationship Violence**, and **Stalking**.

Both the Complainant and Respondent may participate or decline to participate in the complaint process. As appropriate, the Title IX Officer and the Director of Student Conduct will determine whether the Investigation and University Resolution processes will proceed without the participation by one or both parties. A lack of participation by a party does not necessarily preclude a finding of a Policy violation or the imposition of appropriate disciplinary action.

Reference herein to the Title IX Officer includes the Director of the Office of Civil Rights and Sexual Misconduct (**OCRSM**) and designees. Reference herein to the Director of Student Conduct includes the Assistant Director of Resident Life for Student Conduct in the Office of Rights and Responsibilities (**R&R**) and designees.

II. RIGHTS TO SUPPORT PERSON AND ADVISOR

Throughout the process, any party may be accompanied to any meeting related to an investigation and resolution of a complaint by up to two (2) other people: (1) a Support Person, and/or (2) an Advisor. Meetings include, but are not limited to, the following meetings concerning a report: meetings with **the OCRSM**, meetings with **the Office of Student Conduct (OSC)**, investigative interviews, document reviews, Disciplinary Conferences with the Director of Student Conduct, Standing Review Committee (**SRC**) Conferences, **Alternative Resolutions**, and sanction meetings.

A. Support Person

A party may choose to be assisted by a Support Person of their choice, at their own initiation and expense. A Support Person is someone who can provide emotional, logistical, or other kinds of assistance. The Support Person cannot be a witness or provide evidence in the case. The Support Person is a non-participant who is present to assist a Complainant or Respondent by taking notes, providing emotional support and reassurance, organizing documentation, or consulting directly with the party in a way that does not disrupt or cause any delay. A Support Person shall not be an active participant and the parties must speak for themselves.

B. Advisor

A party may choose to be assisted by an Advisor of their choice, including an attorney, at their own initiation and expense. The Advisor is a non-participant who is present to provide advice and consultation to a party. An Advisor cannot be a witness or provide evidence in a case. If necessary, a party may request a recess in order to speak privately with an Advisor. An Advisor shall not be an active participant. The parties must speak for themselves. An Advisor may not delay, or otherwise interfere with, the University’s process.

C. Party Obligations

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Throughout the process, ~~University staff and participants~~ **the Title IX Officer or designee, Investigator(s), and other University representatives** will communicate and correspond directly with the parties, not through a Support Person or Advisor. Parties are responsible for ~~having~~ **ensuring that** Support Persons and Advisors follow the non-party participation requirements below. When a party wishes to have a Support Person or Advisor accompany them to a meeting, the ~~individual party~~ must notify **the OCRSM or the OSC** in advance. Parties are also responsible for making sure appropriate authorization exists (**e.g., authorization related to FERPA**) for the University to communicate ~~the~~ non-party participation requirements below to any Support Person or Advisor.

D. Non-Party Participant Requirements

All Support Persons and Advisors must review the materials about the scope of their respective roles, prior to accompanying a party to any meeting or other activity. These materials may be obtained from the OSC, or online at the OCRSM website, www.umd.edu/ocrsm/. This is to ensure the Support Persons and Advisors are informed about the process and their respective roles. All parties, Support Persons, and Advisors are expected to understand their roles and adhere to the University's expectations regarding decorum and privacy considerations.

III. REPORTING

Complaints and other reports of ~~sSexual m~~**Sexual Misconduct** against a student may be made to the following:

- The Office of Civil Rights & Sexual Misconduct (OCRSM),
- The Office of Student Conduct (OSC), or
- The Department of Resident Life, Office of Rights and Responsibilities (R&R).

Reports may also be made to any Responsible University Employee (RUE). An RUE, as defined by the Policy, includes all University administrators, supervisors in non-confidential roles, faculty members, campus police, coaches, athletic trainers, resident assistants, and non-confidential first responders. RUEs are required to share all reports of Sexual Misconduct they receive promptly with the Title IX Officer or designee.

Prompt reporting of Prohibited Conduct is encouraged so that the University can take immediate and corrective action to eliminate the misconduct, prevent its recurrence, and address its effects. The University will provide support and assistance to the Complainant and respond according to the steps outlined in these Student Procedures. Upon receipt of any report, the Title IX Officer will make an immediate assessment of the risk of harm to the parties or to the ~~campus~~ **University** community and will take steps necessary to address any risks. These steps may include working with ~~the~~ OSC and other campus offices to facilitate Interim Protective Measures that provide for the safety of the parties and the ~~campus~~ **University** community, when appropriate.

A Complainant may choose to make a report to the University to pursue resolution under these **Student Procedures**, and may also choose to make a report to law enforcement. A Complainant may pursue either of these options or both options at the same time. The criminal process and the University's internal process under these Student Procedures are separate and independent. A Complainant who wishes to pursue criminal action should contact campus police or external law enforcement directly. See Policy ~~S~~**Section VII** for more information on criminal reporting.

The University recognizes that deciding whether to report ~~sSexual m~~**Sexual Misconduct** and proceed with a formal complaint under these Student Procedures is a personal decision that may evolve over time. While

APPENDIX A: STUDENT SEXUAL MISCONDUCT COMPLAINT PROCEDURES

prompt reporting is strongly encouraged, there is no time limit for reporting ~~a complaint of s~~Sexual ~~m~~Misconduct. The OCRSM and the OSC will coordinate to provide support and assistance to each Complainant in making important decisions related to reports of sSexual ~~m~~Misconduct. Consistent with the goal of safety for all community members, the University will make every effort to respect a Complainant's autonomy in making their own personal decisions after reporting sSexual ~~m~~Misconduct. ~~However, w~~When appropriate, the University, through the OCRSM, retains the right to initiate a formal complaint on its own, independent of any individual's decision as to how they wish to proceed.

IV. COMPLAINT INTAKE PROCESS

A. Notification to the Complainant

Upon receipt of a complaint, the OCRSM will ensure that the Complainant is provided with a copy of the Policy and Student Procedures and informed of their rights and responsibilities. Either the OSC or the OCRSM will provide information to the Complainant about the University's internal, administrative complaint process and review with them their respective rights and responsibilities. The Complainant will be informed of available community and campus resources and services; their right to a Support Person and the Support Person's role; their right to an Advisor and the Advisor's role; their right to file a report with law enforcement, ~~or not~~; and the University's prohibition against retaliation. The Complainant will have an opportunity to ask questions and seek additional information.

B. Requests for Confidentiality

When ~~re~~ possible, the OCRSM will take action consistent with the Complainant's expressed wishes regarding confidentiality. The University's ability to fully investigate and respond to a complaint may be limited if the Complainant requests that their name not be disclosed to the Respondent or declines to participate in an Investigation. ~~When~~ **If** a Complainant requests their name or other identifiable information not be disclosed and/or that no further action be taken, the Title IX Officer will seek to honor such requests, balancing the Complainant's wishes for confidentiality with the University's obligation to provide a safe and non-discriminatory environment for all members of the University community. The University retains the right to proceed with a complaint as necessary to meet its obligations, ~~and~~, in some cases, would not be able to honor a request for confidentiality.

C. Initial Assessment of Complaint

When the University receives a complaint, the OCRSM will conduct an Initial Assessment. The Initial Assessment will determine whether the reported conduct constitutes a potential violation of the Policy, ~~and if~~ **whether** further action is warranted based on the reported conduct, **and whether the University has jurisdiction over the parties.**

The first step in the Initial Assessment is a preliminary meeting between the Complainant and the OCRSM and/or the OSC to gather information that will enable the OCRSM, in consultation with other offices, as appropriate, to:

- Assess the nature and circumstances reported in the complaint;
- Assess the safety of the Complainant and of the **campus University** community;
- Implement any appropriate **i**nterim **p**rotective **m**asures;
- Assess for pattern evidence or other similar conduct by the Respondent as relevant to the safety assessment;

APPENDIX A: STUDENT SEXUAL MISCONDUCT COMPLAINT PROCEDURES

- Assess the Complainant's expressed preference regarding resolution, including any request that no further action be taken;
- Assess any request by the Complainant for confidentiality or anonymity; and
- Assess the reported conduct for possible referral to the University of Maryland Police Department (UMPD) for a timely warning under the Clery Act.

At the conclusion of the Initial Assessment, the OCRSM will determine the appropriate next steps, including but not limited to: no further action, the imposition of Interim **Protective** Measures, Alternative Resolution, and/or proceeding with an investigation.

When the Initial Assessment determines the reported conduct does not constitute a potential violation under the **is** Policy, but may violate other University policy, the complaint may be referred to another appropriate University official for review and resolution.

When ~~re~~ the Initial Assessment **determines the alleged reported conduct does constitute a potential violation under the Policy, but** reveals that the University lacks jurisdiction over the Respondent, the University will take available and reasonable steps to address the Sexual Misconduct, prevent its recurrence, and address its effects at the University.

D. Interim Protective Measures

Based on the nature and circumstances of the complaint, the Director of Student Conduct, after consultation with the Title IX Officer, may authorize ~~i~~Interim ~~p~~Protective ~~m~~Measures to ensure the safety and well-being of the Complainant and others in the ~~campus~~ **University** community, as appropriate. The Director of Student Conduct will promptly inform the Respondent (if they are a member of the University community) of any ~~i~~Interim ~~p~~Protective ~~m~~Measures that will directly impact the Respondent and provide an opportunity for the Respondent to respond.

The Director of Student Conduct retains discretion to impose and/or modify any ~~i~~Interim ~~p~~Protective ~~m~~Measures based on all available information. Interim ~~p~~Protective ~~m~~Measures will remain in effect until the University's final resolution of the ~~s~~Sexual ~~m~~Misconduct complaint. **Interim Protective Measures may be made permanent, as needed, after adjudication.** A party may challenge the imposition of ~~i~~Interim ~~p~~Protective ~~m~~Measures, or a decision not to impose ~~i~~Interim ~~p~~Protective ~~m~~Measures, by contacting the Director of Student Conduct to address any concerns. Information about ~~i~~Interim ~~p~~Protective ~~m~~Measures can be found on pages ~~11~~-12 of the Policy.

V. RESOLUTION PROCESSES

A. Timeframe for Resolution

Consistent with the goal of maximizing educational opportunities, remedying the effects of Prohibited Conduct and promoting campus safety while minimizing the possible disruptive nature of the process, the OCRSM and **the** OSC will strive to resolve all complaints within sixty (60) business days of receipt. In general, the investigation phase may last approximately four to five weeks and the adjudication phase may last approximately another four to five weeks. Good faith efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with the importance of resolving complaints in a timely and expeditious manner. The Title IX Officer may extend the general time frames for the completion of required actions. If such an extension occurs, the parties will be notified in writing by the OCRSM or **the** OSC.

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B. Alternative Resolution Process

~~In some cases, the Complainant may seek Alternative Resolution in lieu of investigation and adjudication.~~ Alternative Resolution is a process whereby remedies and interventions may serve to address the alleged Prohibited Conduct without proceeding to an investigation **and adjudication**. Alternative Resolution is not appropriate for complaints involving ~~sSexual vViolence~~, including ~~sSexual aAssault~~. **Neither party is required to accept responsibility for the alleged Prohibited Conduct in order to proceed with Alternative Resolution.** ~~The parties~~ **Either party** may decide not to proceed with Alternative Resolution and may request an investigation and adjudication at any time.

The Title IX Officer has the discretion to determine whether a complaint is appropriate for Alternative Resolution and retains discretion to terminate an ongoing Alternative Resolution process at any time.

The purpose of Alternative Resolution is to take appropriate action by imposing individual and community interventions and remedies designed to maximize the Complainant's access to educational, extra-curricular, and/or employment activities at the University; **and/or to address the effects of the conduct on the larger University community**. Any combination of interventions and remedies may be utilized, including but not limited to:

- Increased monitoring, supervision, and/or security at locations or activities where the Prohibited Conduct occurred or is likely to reoccur;
- Targeted or broad-based educational programming or training for relevant individuals or groups;
- Academic and/or housing modifications for Student Complainants;
- Workplace modifications for Complainants;
- Completion of projects, programs, or requirements designed to help the **Respondent** manage behavior, refrain from engaging in Prohibited Conduct and understand why the Prohibited Conduct is prohibited;
- Compliance with orders of no contact that limit access to specific University **buildings or** areas or forms of contact with particular persons; and
- Completion of up to sixty (60) hours of community service over a period not to exceed twelve (12) weeks under guidelines established by **the** OCRSM in consultation with the OSC.

The imposition of remedies or interventions obtained through Alternative Resolution may be achieved by an agreement acceptable to the parties and University. **The OCRSM will work with the Director of Student Conduct to facilitate the development of this agreement.** In such cases **where an agreement is reached**, the terms of the agreement are implemented and the matter is resolved and closed. In cases where an agreement is not reached, and the Title IX Officer determines that further action is necessary, or if a Respondent fails to comply with the terms of the Alternative Resolution, the matter may be referred for ~~I~~investigation and ~~A~~adjudication under these **Student** Procedures.

Where the Complainant, ~~and~~ Respondent, and **the** University have reached an Alternative Resolution agreement, the parties will be provided **with** a written ~~notice of the outcome~~ **copy of the agreement**. **Entering into Alternative Resolution and signing an agreement does not mean that the Respondent admits responsibility; nor does it mean that there has been a finding of a Policy violation.** The Title IX Officer will maintain all records of matters referred for Alternative Resolution.

C. Investigation Process

When the Initial Assessment determines the University has jurisdiction over the Respondent and the alleged conduct, and where Alternative Resolution is not appropriate, an investigation will occur.

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1. Standard of Review

In making a determination about whether a Policy violation has occurred, the standard of review is preponderance of the evidence. A preponderance of the evidence means “it is more likely than not.” Thus, at the conclusion of the investigation phase, a recommended finding will be made ~~to as to whether,~~ based on the information gathered, **that** it is more likely than not that the reported conduct **occurred and that it** constituted Prohibited Conduct in violation of the Policy.

2. Preliminary Meeting

Prior to an investigation, the OCRSM and/or **the** OSC will notify both parties and require their attendance (separately) at a preliminary meeting with **the** OSC. The purpose of the meeting is to ensure students are provided adequate information about the investigation and adjudication process, and have an opportunity to ask and receive answers to any questions they may have. When a party does not attend the preliminary meeting with **the** OSC, the University shall proceed with an investigation, noting the party’s lack of attendance at the preliminary meeting.

a. Notice of Potential Policy Violation and Investigation

At the preliminary meeting, the Respondent will be informed verbally and in writing of: the circumstances of the alleged incident (which generally will include, to the extent known, the name of the Complainant and the date, time, and location), the Prohibited Conduct alleged as defined by the Policy, and the range of potential sanctions associated with the Prohibited Conduct. If a Respondent does not attend the preliminary meeting, the University will provide the Respondent with the information in writing. A copy of the Notice of Potential Policy Violation and Investigation will also be provided to the Complainant.

Both parties will also be informed during the preliminary meeting that they will have an opportunity to be heard regarding the complaint during the investigation process, including the opportunity to be heard during an interview with an **i**nvestigator regarding the alleged **s**exual **m**isconduct.

b. Notice of Rights and Responsibilities

Both parties will be provided with a copy of the Policy and Student Procedures and informed verbally (if present at the Preliminary Meeting) and in writing of their rights and responsibilities pursuant to the Policy. This includes but is not limited to: no contact directives (and provided a copy), prohibitions against retaliation and guidance about reporting any retaliatory conduct, and available community and campus resources and services.

3. Role of the Investigator

The Title IX Officer will designate an Investigator(s) from the OCRSM and/or an external **i**nvestigator to conduct a prompt, thorough, fair, and impartial investigation. All **i**nvestigators will receive annual training on issues related to sexual and gender-based harassment, **s**exual **a**ssault, **d**ating **v**iolence, **d**omestic **v**iolence, and **s**talking. **The training will also include and** how to conduct a fair and impartial investigation that provides parties with notice and a meaningful opportunity to be heard, **as well as how to and** protects the safety of **e**complainants and the University community while promoting accountability.

4. Overview of the Investigation

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The investigation is an impartial fact-gathering process. It is an important stage of the process in which both parties have an opportunity to be heard regarding the complaint. During the investigation the parties will each have an opportunity to meet and speak with the Investigator, provide any relevant information about the reported conduct, and identify persons they believe the Investigator should speak with because they have relevant information. The Investigator will speak separately with both parties and any other individuals who may have relevant information. The Investigator will also gather any available physical evidence or documents, including prior statements by the parties or witnesses, communications between the parties, email messages, **text messages**, social media materials, and other records, as appropriate and available.

a. Special Considerations

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

At the discretion of the OCRSM, multiple reports may be consolidated in one investigation if the information related to each incident is relevant in reaching a determination. Matters may be consolidated where they involve multiple Complainants, multiple Respondents, or related conduct involving the same parties, provided that it does not delay the prompt investigation and resolution of complaints.

b. Draft Report

At the conclusion of the investigation, the Investigator will draft a written investigation report that summarizes the information gathered (including, but not limited to, the names of witnesses and summaries of their statements), and synthesizes the areas of agreement and disagreement between the parties.

c. Notice of Opportunity to Review the Draft Investigation Report

Before the investigation report is finalized, the parties will be given an opportunity to review and respond to the draft report. Upon receipt of notice to review the draft report, the parties will each have five (5) business days to review the report and all underlying documents and submit comments, information, and/or **ask** questions **to the Investigator(s)**. If there is any new or additional information to be provided by either party, it must be presented to the Investigator at this time. If further investigation is warranted based on the comments, information, and/or questions provided during the review period, the Investigator will continue the investigation, as needed.

d. Final Investigation Report

Upon timely receipt of any additional information or comments from the parties or after the five (5) business day comment period has lapsed with no comments provided, and the investigation is complete, the Investigator will finalize the investigation report. The final investigation report will include **a summary of** all relevant information obtained in the course of the investigation, **an analysis and** proposed findings of material fact, and a recommendation by the Investigator as to whether the information gathered establishes, by a preponderance of the evidence, a potential Policy violation by the Respondent.

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Both parties will be contacted by the OSC, and directed to contact **the** OSC to schedule separate meetings with the Director of Student Conduct to discuss next steps.

VI. ADJUDICATION

A. Meeting with Director of Student Conduct

The Director of Student Conduct will meet separately with each party to explain next steps and provide each party with a confidential copy of the final investigation report, including all attachments.

- When an investigation concludes with a recommended finding of a ~~p~~**P**olicy violation, and **either** expulsion or suspension is a possible sanction, the matter will be referred automatically to the Standing Review Committee (SRC) for an administrative determination of the initial outcome.
- **When an investigation concludes with a recommended finding of a Policy violation, and neither expulsion nor suspension is a possible sanction, the OSC will resolve the Complaint by facilitating a Disciplinary Conference.**
- ~~For all other recommendations, including those of~~ **In all cases when an investigation concludes with a finding of no p**Policy violation, the OSC will resolve the Complaint by facilitating a Disciplinary Conference.
- ~~Determinations by the SRC or by OSC in a Disciplinary Conference shall be based on the preponderance of the evidence.~~

At the meeting, the Director of Student Conduct will explain the relevant process to each party, and inform each party of the date and time of the SRC Conference or Disciplinary Conference.

Each party will be allowed five (5) business days to submit a written response to the ~~F~~**final I**nvestigation ~~R~~**report**, which will be considered by the respective reviewer, i.e., the SRC or **the** Director of Student Conduct during the SRC or Disciplinary Conference process, as appropriate. All written responses will be shared with the other party prior to the SRC review or Disciplinary Conference.

In order to protect the privacy of all individuals involved, all materials shared with the parties are considered confidential and should not be publicly disclosed or released.

B. Disciplinary Conference

The Director of Student Conduct facilitates Disciplinary Conferences. Each party will be given an opportunity to speak separately to the Director of Student Conduct in person and respond to the information presented in the final investigation report. The Director of Student Conduct will consider any written response to the final investigation report submitted by the parties before issuing a decision.

The Disciplinary Conference decision shall be in writing~~s~~, and will include Policy violation findings and a rationale for the decision. The Disciplinary Conference Decision shall be issued to both the Complainant and Respondent.

Determinations by the Director of Student Conduct in a Disciplinary Conference shall be based on the preponderance of the evidence. In the event that the Director of Student Conduct finds that a Respondent is responsible for Prohibited Conduct, the Director of Student Conduct shall determine an appropriate sanction and/or remedy, as described in ~~S~~**section VII** below.

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Before a sanction and/or remedy are issued, the parties shall have the opportunity to submit impact and mitigation statements, as described in Section VII below. Sanctions and remedies imposed as a result of a finding of responsibility for Prohibited Conduct after a Disciplinary Conference will not include expulsion or suspension. If either party disagrees with the outcome of the Disciplinary Conference, they may appeal pursuant to Section VIII below.

C. Standing Review Committee (SRC) Conference

The role of the SRC is to review cases where a Policy violation could result in a sanction of suspension or expulsion. The SRC's role is to review all the available information, and determine, independent of the Investigator's recommendation, whether it is more likely than not that the reported Prohibited Conduct occurred, constituting a Policy violation.

The SRC is a five (5) member body composed of at least three (3) faculty or staff (at least one of whom is faculty) and at least one (1) student who receive on-going training to serve in this capacity, including a Chair who facilitates the conference. SRC members are obligated to disclose to the OSC any known conflicts prior to participating in any specific SRC Conference. Conflicts or familiarity with the individuals involved in the matter that are disclosed to the OSC will automatically disqualify an individual SRC member from participation in any particular review.

Both parties will be notified of the date, time, and location of the SRC Conference. If either or both parties are not in attendance, the SRC Conference may proceed. The parties are not required to participate and the SRC may not draw any adverse inference from a decision by either party not to participate. The Investigator is required to attend all SRC Conferences. The SRC and/or a party may request the attendance of witnesses who provided information to the Investigator.

The SRC Conference offers the parties an opportunity to address the SRC members, in person, about the allegations, and have their respective questions asked and answered. The parties may address any information in the final investigation report and supplemental responses. The parties may not directly question each other or any witness, but may submit written questions (to the SRC Chair) for the SRC to ask the Investigator, the other party, and/or any witnesses who are present. The SRC may exercise reasonable discretion to decline to ask questions submitted by the parties that are harassing, unnecessarily repetitive, or irrelevant.

1. SRC Conference Format

The SRC Conference generally begins with the SRC Chair introducing the purpose of the conference, identifying all persons present, and then inviting the Investigator to summarize the Investigation and explain the evidence relevant to the alleged Prohibited Conduct in violation of the Policy. The SRC may pose questions directly to the Investigator, the parties, and any other witnesses. When the SRC has concluded its questioning, the Chair will invite the parties to submit written questions to be asked by the SRC of any of the witnesses, parties, or the Investigator. When all questioning is concluded, the parties will be given an opportunity to make brief closing statements. The SRC will then adjourn and the parties are excused.

If and when appropriate, the SRC, in its discretion, may suspend its review and request further investigation. Once the Investigator has concluded any further investigation, and if the recommendation by the Investigator is that there is sufficient evidence to support a finding of Prohibited Conduct in violation of the Policy (using a preponderance of the evidence standard), another SRC Conference will be scheduled. The OSC will use best efforts to complete this process as promptly as possible, and will notify the parties of the status, as appropriate.

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2. SRC Decision

The SRC will issue a written decision based on its review. The decision is determined by majority vote. The SRC decision will include findings of relevant fact and a finding as to whether the Respondent engaged in the Prohibited Conduct in violation of the Policy, or not (based on a preponderance of evidence standard).

If the SRC finds the Respondent responsible for a Policy violation by a preponderance of the evidence, the matter will proceed through the impact/mitigation statement phase, as well as the sanctioning phase below.

If the SRC does not find the Respondent responsible for a Policy violation based on a preponderance of the evidence, the Complainant may appeal the SRC Decision pursuant to section VIII below. If there is no appeal, the case is resolved, and notice of the final outcome will be issued.

VII. REMEDIES AND SANCTIONS

Any Disciplinary Conference or SRC decision will be sent by the OSC to the parties. Where there is a finding of responsibility, both parties have the opportunity, within three (3) business days from the date of receipt of the decision, to submit statements for consideration by the Director of Student Conduct in determining an appropriate sanction.

A. Impact Statement and Mitigation Statements

The Complainant may submit a written **Impact Statement to the Director of Student Conduct** describing the impact of the Prohibited Conduct on the Complainant, ~~and/or request to meet with the Director of Student Conduct to provide their statement verbally.~~

The Respondent may submit a written **Mitigation Statement to the Director of Student Conduct** explaining any factors the Respondent believes should mitigate or otherwise be considered in determining the sanction(s), ~~and/or request to meet with the Director of Student Conduct to provide their statement verbally.~~

The Director of Student Conduct will consider any impact and mitigation statements in determining the remedies and sanctions to be imposed. The parties' respective statements will not be shared with the other party.

B. Remedies

The Title IX Officer, in consultation with the OSC, will identify reasonable short-term and/or long-term remedies to address the effects of the conduct on the Complainant, prevent its reoccurrence, restore the Complainant's safety and well-being, and maximize the Complainant's educational ~~and employment~~ opportunities. Such remedies seek to restore to the Complainant, to the extent possible and within reason, the benefits and opportunities lost as a result of the Prohibited Conduct.

The Title IX Officer may also identify remedies, such as training for specific audiences, to address the effects of the conduct on the larger University community.

Remedies include, but are not limited to:

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- **Supportive measures**, such as: extended classwork deadline, or flexible deadlines, change of venue for taking an exam, change in exam date, and/or retaking of an exam.
- **Academic accommodations** such as: retroactive drop from a particular class, retroactive withdrawal from a semester, policy exemption requests, and/or tuition reimbursement.
- **Additional remedies** such as: no contact orders, denial of access, housing accommodations, schedule changes, counseling and/or referral to outside agencies.

C. Sanction Considerations

The imposition of disciplinary sanctions is designed to eliminate Prohibited Conduct under the Policy, prevent its recurrence, and remedy its effects, while supporting the University's educational mission and federal obligations. Disciplinary sanctions may include educational, restorative, and rehabilitative components, such as completion of an educational project, removal from University housing, removal from specific courses or activities, and disciplinary probation. Some behavior, however, is so egregious in nature, harmful to the individuals involved, or so deleterious to the educational process that it requires more severe sanctions, including suspension or expulsion from the University.

The Director of Student Conduct will determine the appropriate disciplinary sanction in every **sSexual mMisconduct** case. In reaching this determination, the following factors will be considered:

- The nature and degree of violence of the conduct at issue;
- The impact of the conduct on the Complainant;
- The impact or implications of the conduct on the community and/or the University;
- Prior relevant misconduct by the Respondent, including the Respondent's relevant prior discipline history;
- Respondent's acceptance of responsibility for the conduct;
- Maintenance of a safe and respectful environment conducive to learning;
- Protection of the **campus University** community and the University; and
- Any other mitigating, aggravating, or compelling circumstances to reach a just and appropriate resolution in each case.

D. Sanctions

When the Director of Student Conduct concludes that a sanction of expulsion or suspension is appropriate, and the Respondent has not already been suspended on an interim basis, there will be an immediate assessment by the Director of Student Conduct to determine whether the Respondent poses a serious disruption to the learning environment or a continuing danger to other members of the University community or University property. Interim suspension may be imposed at this point pending conclusion of the Appeal, where appropriate. Interim **pProtective mMeasures** already in effect will continue pending Appeal. Disciplinary sanctions for Policy violations may include, but are not limited to:

- **Educational Requirements.** Completion of projects, programs, or requirements designed to help the student manage behavior and understand why certain behavior is inappropriate.
- **“No Contact” Orders or Denial of Access.** Compliance with orders of no contact that limit access to specific University areas or forms of contact with particular persons.
- **Housing Restrictions.** Exclusion from University housing or change in housing arrangements.
- **Community Service.** The OSC will monitor completion of up to sixty (60) hours of community service over a period not to exceed twelve (12) weeks under guidelines established by **the** OCRSM in consultation with the OSC.

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- **Disciplinary Reprimand.** The student is warned that further misconduct may result in more severe disciplinary action.
- **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.
- **Suspension.** The student is separated from the University for a specified period of time. A permanent notation will appear on the student's transcript. The student shall not participate in any University-sponsored activity and may be barred from University premises. Suspended time will not count against any time limits of the Graduate School for completion of a degree.
- **Expulsion.** The student is permanently separated from the University. A permanent notation will appear on the student's transcript. The student will also be barred from the University premises.

E. Notice of Sanction

Once a sanction is determined, the OSC will issue written notification of the sanction to both parties, as allowed by law, and provide the parties with information about their rights to appeal, per [Section VIII](#) below. This constitutes the conclusion of the initial outcome phase.

VIII. APPEALS

The Complainant and Respondent may appeal the outcome of a Disciplinary or SRC Conference, including the sanction issued under either process. The scope of the appeal is limited to the grounds set forth below. Mere dissatisfaction with the decision and sanction is not a valid basis for appeal. An appeal must be submitted in writing within five (5) business days of the date of receipt of the notice of sanction. If an appeal is received by the OSC, the other party will be notified and given five (5) business days from the date of receipt of the notice to respond. Responses shall be submitted directly to the OSC. Appeals filed by each party will be considered together in one appeal review process. All appeal documents will be shared with the other party. **Appeals will be decided by an SCC Appellate Body (as defined in section VIII. C below).**

If neither party submits an appeal, the decision and sanction are final after five (5) business days **from the date of receipt of the notice to respond**. Appeals submitted after five (5) business days shall be denied.

A. Grounds for Appeal

Grounds for appeal shall be limited to:

1. Substantial Procedural Error

Specified procedural errors or errors in interpretation of University policy **that** were so substantial as to effectively deny a Complainant or a Respondent notice or a fair opportunity to be heard. Mere deviations from procedures that were not so substantial as to deny a Complainant or Respondent notice or a fair opportunity to be heard will not be a basis for sustaining an appeal.

2. New Evidence

New and significant relevant information has become available which a reasonably diligent person could not have discovered during the Investigation phase and/or prior to the issuance of the Disciplinary Conference or SRC Decision, as applicable.

3. Sanction

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Sanction is substantially disproportionate to the offense. The sanction is substantially disproportionate to the facts of the particular Policy violation. This basis for appeal is limited to cases involving sanctions of expulsion or suspension.

B. Considerations

Appeals are not intended to allow for a second review of the facts of the case and determination of whether there was a Policy violation. A review of the matter will be prompt and narrowly tailored to the stated grounds for appeal. In most cases, appeals are confined to a review of the written record and the pertinent documentation regarding the grounds for appeal.

When the basis of the Appeal is new evidence, the ~~Director of Student Conduct, in consultation with the Title IX Officer,~~ **SCC Appellate Body** will determine whether the information is new and was unavailable at the time of the investigation. If the **SCC Appellate Body determines that the** information is ~~determined~~ **not to be new and was available at the time**, the Appeal will be denied. If the information is determined to be new and unavailable at the time of the investigation, ~~it will be provided to~~ the **SCC Appellate Body for review and will make a** determination whether the new information could change the outcome of the SRC **or Disciplinary Conference** decision. If it is determined that the outcome could be impacted by the new evidence, the case will be sent back to the SRC **or to the Director of Student Conduct for further review**.

C. SCC Appellate Body

The University Senate Student Conduct Committee (SCC) is the designated ~~A~~**appellate B**body for all ~~cases involving sexual misconduct~~ **appeals under these Student Procedures**. The SCC Appellate Body is composed of three (3) members from the SCC (**including at least one (1) student**) who have had no previous involvement with the case, and have been trained to review such cases. Deference shall be given to the determinations of the SRC **or Disciplinary Conference as applicable**. The SCC Appellate Body considers any written appeal submission and, based on its review, may:

- Affirm the ~~SRC~~ Decision and the sanction imposed;
- Affirm the ~~SRC~~ Decision and reduce, but not eliminate, the sanction; **or**
- Remand the case to the SRC **or Disciplinary Conference**, in accordance with ~~S~~**section VI**, above.

The SCC Appellate Body Chair will render a written decision on the appeal to the OSC within ten (10) business days from the date of the submission of all appeal documents. Appeal decisions by the SCC Appellate Body are final with the exception of cases involving expulsion or suspension that require approval by the Vice President for Student Affairs.

IX. FINAL OUTCOME

After all review processes are concluded (or when the time for an appeal has passed with no appeal submitted, whichever is later), the OSC will promptly notify the Complainant and Respondent, in writing, of the final outcome of the ~~s~~**S**exual ~~m~~**M**isconduct complaint.

X. RECORDS RETENTION

~~OSC and the Title IX Officer~~ **The OCRSM** will maintain records of all complaints, **Initial Assessments**, investigations, adjudications, appeals, and ~~a~~**A**lternative ~~r~~**R**esolutions arising under ~~this~~ **the** Policy in

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accordance with the University's Records Retention and Disposal Schedule.

The OSC will maintain ~~D~~disciplinary records **for all cases that result in a finding of a Policy violation in accordance with the University's Records Retention and Disposal Schedule. Disciplinary records** may be retained for longer periods of time or permanently, if so specified in the sanction.

XI. ACADEMIC TRANSCRIPTS AND EFFECT OF WITHDRAWAL

Disciplinary sanctions of expulsion and suspension are permanently noted on a Respondent's academic transcript. When a Respondent requests their transcript, the existence of a pending Investigation is also noted. In the event a Respondent chooses to withdraw from the University prior to the resolution of disciplinary charges under the Policy, or where the Respondent declines to participate in the University proceedings under the Policy, the University will continue to process the disciplinary action in the student's absence. When a Respondent withdraws before resolution of pending disciplinary charges, the Respondent is ineligible to return to the University until the disciplinary proceedings have been resolved. In the event the student graduates while an Investigation and Resolution is pending, issuance of the student's diploma will be withheld until the case is concluded. Academic transcripts will be withheld until the matter is resolved or marked "Disciplinary Action Pending."

XII. POST-RESOLUTION FOLLOW UP

After a sanction or remedy is issued, if the Complainant agrees, the Title IX Officer or the OSC may periodically contact the Complainant to ensure the Prohibited Conduct has ended and to determine whether additional remedies are necessary. The Complainant may decline future contact at any time. The Title IX Officer or the OSC may periodically contact the Respondent to assure compliance with any sanctions that have been imposed. Any violation by a Respondent of a sanction and/or protective measure imposed under the Policy should be reported to the Director of Student Conduct, and a failure by **a the** University ~~employee~~ to provide a specified **disciplinary action and/or** remedy should be reported to the ~~Title IX Officer~~ **OCRSM**.

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

END OF DOCUMENT

Appendix 1 - Charge from the SEC



University Senate CHARGE

Date:	November 11, 2014
To:	Kasey Moyes Chair, Student Conduct Committee
From:	Donald Webster Chair, University Senate 
Subject:	Review of the Interim Sexual Misconduct Student Procedures
Senate Document #:	14-15-16
Deadline:	March 27, 2015

The Senate Executive Committee (SEC) requests that the Student Conduct Committee review the attached interim Student Sexual Misconduct Investigation & Adjudication Procedures and make recommendations on whether they are appropriate.

The U.S. Department of Education's Office for Civil Rights (OCR) provided guidance regarding the Violence Against Women Act (VAWA), which was reauthorized in 2013. This guidance required higher education institutions to develop specific sexual misconduct policies and procedures. As a result, the University System of Maryland (USM) revised its Policy on Sexual Misconduct (V-1.60) and asked all USM institutions to align their policies accordingly. In addition, the University was charged with developing procedures for each of its major constituencies. The attached student procedures were developed as an element of the University of Maryland Sexual Misconduct Policy & Procedures (VI-1.60[A]), which has been approved on an interim basis pending University Senate review. Complaints against students based on a violation of the policy will be reviewed in accordance with these procedures.

Specifically, we ask that you:

1. Review the interim University of Maryland Student Sexual Misconduct Investigation & Adjudication Procedures (Appendix A of the University of Maryland Sexual Misconduct Policy & Procedures (VI-1.60[A])).
2. Consult with the University's Title IX Coordinator and the Director of Student Conduct regarding the development of the interim student procedures.
3. Review similar student procedures for complaints of sexual misconduct at our peer institutions and other Big 10 institutions.

4. Review the University's past process for handling student sexual misconduct cases.
5. Review the interim University of Maryland Sexual Misconduct Policy & Procedures ([VI-1.60\[A\]](#)) and consider whether the proposed student procedures align with the University's interim policy, USM policy, and VAWA guidelines.
6. Consult with the University's Office of Legal Affairs on any recommended revisions.
7. If appropriate, recommend whether the interim student procedures should be revised.

We ask that you submit your report and recommendations to the Senate Office no later than March 27, 2015. If you have questions or need assistance, please contact Reka Montfort in the Senate Office, extension 5-5804.

Attachment

DW/rm

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APPENDIX A

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I. OVERVIEW

These procedures accompany the University of Maryland Sexual Misconduct Policy and are to be used when responding to, investigating and adjudicating complaints of sexual misconduct against UMD Students. Sexual misconduct is an umbrella term that encompasses dating violence, domestic violence, sexual harassment, sexual assault, sexual violence, sexual exploitation, sexual intimidation, relationship violence and stalking.

Definitions

Administrative Review refers to the Director of Student Conduct making an independent determination about whether there are grounds to challenge the Finding from the final Investigative Report.

Deputy Title IX Coordinator is generally someone who has received significant training on sexual misconduct investigation and adjudication, is an administrator at the University, and provides managerial assistance and support to the Office of Sexual Misconduct and Relationship Violence (OSM).

Notice of Investigation refers to formal notification to each party that the University is conducting an investigation into the complaint of sexual misconduct.

Notice of Opportunity to Review Draft Investigative Report refers to the formal notification informing the parties of their opportunity to review and take notes on the draft investigative report.

Investigation Outcome Notice refers to formal notification to each party of the outcome of the investigation, the formal charges and a request to contact the Director of Student Conduct or designee for an outcome conference meeting.

Standing Review Committee (SRC) is the formal body composed of a combination of five students, faculty and staff who are specifically trained to hold conferences with all the parties and any witnesses in order to review the information presented by the Special Investigator (and others as the SRC deems appropriate) to make a determination as to whether a Policy violation has occurred and impose sanctions as applicable.

SRC Roster refers to the current list of persons on campus who have been adequately trained and are qualified to act as members of the SRC.

SRC Coordinator refers to an administrative staff person who is responsible for a range of administrative duties related to the logistics of scheduling SRC members for adjudication conferences and appellate review.

SRC Appellate Body refers to three members of the SRC who have been adequately trained and are qualified to review Appeals.

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SRC Conference Notice is the formal notification each party receives that a SRC Conference will be held, including the date and time.

SRC Conference Outcome Notice is the formal notification to each party of the SRC's final decision. It also includes information about appeals.

Voluntary Resolution is an informal resolution process that does not involve any disciplinary action.

Time Frame for Resolution

Consistent with the goal to maximize educational opportunities and minimize the disruptive nature of the investigation, adjudication and resolution, the Office of Sexual Misconduct & Relationship Violence (OSM) seeks to resolve all reports within sixty (60) days, depending on when the report is received. In general, an Investigation may last up to thirty-five (35) business days, from the date the complainant informs the OSM of their intent to proceed with an Investigation and sufficient information for the OSM to determine that the report falls under Section II (Applicability) and raises a potential violation under Section IV (Prohibited Conduct) of the Policy.

Adjudication will generally take up to twenty-one (21) business days from the date of the Investigative Finding. Business days do not include weekends or holidays. The Title IX Officer may set reasonable time frames for required actions under the Policy. Those time frames may be extended for good cause as necessary to ensure the integrity and completeness of the Investigation, comply with a request by external law enforcement, accommodate the availability of witnesses, accommodate delays by the parties, account for University breaks or vacations, or address other legitimate reasons, including the complexity of the Investigation (including the number of witnesses and volume of information provided by the parties) and the severity and extent of the alleged conduct. Any extension of the timeframes, and the reason for the extension, will be shared with the parties in writing. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

Filing A Complaint

A complaint of sexual misconduct should be made directly to:

- The Office of Sexual Misconduct & Relationship Violence, (OSM) or
- The Office of Student Conduct (OSC), or
- The Department of Resident Life, Office of Rights and Responsibilities (R&R).

The University encourages all individuals to promptly report Prohibited Conduct so that immediate and corrective action can be taken to eliminate the conduct, prevent its recurrence, and address its effects. The University will provide support and assistance and will respond consistent with the procedural options available at the time of the report. Upon receipt of a

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report, the Title IX Officer or designee within the OSM will make an immediate assessment of the risk of harm to the parties or to the broader campus community and will take steps necessary to address any risks. These steps will include contacting the OSC to facilitate Protective Interim Measures that provide for the safety of the parties and the campus community when appropriate.

The University recognizes that deciding whether to make a report and choosing how to proceed are personal decisions that may evolve over time. At the time a report is made, a complainant does not have to decide whether to request any particular course of action. Through coordinated efforts the OSM, OSC, and R&R will provide support to assist each individual in making these important decisions; and consistent with the goal of safety for all community members, these staff will make every effort to respect an individual's autonomy in making the determination as to how to proceed. Any individual can also make a report to external law enforcement agencies.

Notification to Complainant

Upon receipt of a complaint, the Title IX Officer or designee such as a Deputy Title IX Coordinator within either the OSC, or R&R, will ensure that the complainant is provided with a copy of the Sexual Misconduct Policy and *Student Sexual Misconduct Investigation & Adjudication Procedures*. Additionally the complainant will be informed of the following:

- The option to: (1) notify law enforcement for possible criminal investigation and the filing of criminal charges; (2) file a complaint with the university for investigation and adjudication under University administrative processes; (3) proceed with both criminal and University complaints; or (4) pursue neither option;
- How to file a complaint under the University's administrative process and how the internal University investigative and adjudicative processes work;
- The right to seek medical assistance, as necessary;
- Guidance regarding the preservation of evidence;
- Available community and campus resources and services;
- The right to an advisor and the advisor's role;
- The right to a support person and the support person's role;
- The University's prohibition against retaliation;
- The University's potential obligation to proceed with an investigation and possible adjudication to ensure the safety and well-being of the complainant and/or others in the campus community in the absence of a formal complaint and/or desire of the complainant to remain anonymous.

Initial Assessment of Complaint

When a report is made, the Title IX Officer or designee will conduct an Initial Assessment. The assessment will determine whether the alleged conduct would present a potential violation of the Policy and whether further action is warranted based on the alleged conduct.

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The first step of the Initial Assessment will usually be a preliminary meeting between the Complainant and the Special Investigator from the OSM to gather facts that will enable the OSM, in consultation with other offices as appropriate, to:

- Assess the nature and circumstances of the allegation, including the severity of the conduct;
- Assess for pattern evidence or other similar conduct by the respondent;
- Assess the safety of the individual complainant and of the campus community;
- Assess the complainant's expressed preference regarding resolution, including any request that no further action be taken;
- Assess any request from the complainant for confidentiality or anonymity;
- Assess the reported conduct for possible referral to UMPD for a timely warning under the Clery Act.

Where possible, the OSM will seek action consistent with the complainant's expressed wishes. The University's ability to fully investigate and respond to a report may be limited if the complainant requests that her/his name not be disclosed to the respondent or declines to participate in an Investigation. When a complainant requests her/his name or other identifiable information not be disclosed and/or that no further action be taken, the Title IX Officer will balance this request with its obligation to provide a safe and non-discriminatory environment for all community members.

At the conclusion of the Initial Assessment, the OSM will determine the appropriate resolution route. Resolution may include:

- No further action,
- Voluntary Resolution, or
- The initiation of an Investigation and Adjudication that may lead to disciplinary action.

Regardless of the manner of resolution, a respondent may choose to accept responsibility at any stage in the process.

Protective Interim Measures

Based on the nature and circumstances of the report, the Director of the OSC or designee may authorize interim protective measures to ensure the safety and well being of the complainant and others in the campus community, as appropriate. Either party may request Protective Interim Measures regardless of whether any particular course of action is sought. Information about interim protective measures can be found on *page 12* of the Sexual Misconduct Policy.

Role of the Support Person, Attorney, and Non-Attorney Advisor

Throughout the process, any participant may have a Support Person present at any meeting related to resolution of a report under the Policy. The Support Person may be anyone over the

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age of eighteen (18), of the individual's choosing, who is not a party or witness involved in the Investigation. In addition, the parties may have a second person present: an additional Support Person, a Non-Attorney Advisor, or, at the party's own initiative and expense, an Attorney.

Notice and Meeting with the OSM

The parties must provide five (5) business days *advance* notice to the OSM of the name(s) and relationship of any individual(s) who will accompany them to any investigation or adjudication proceedings, and what their respective roles are (i.e. Support Person, Non-Attorney Advisor, Attorney). Once chosen by a student to serve as a Support Person, Non-Attorney Advisor or Attorney, each designated individual must meet with a representative from the OSM before they are allowed participation. This is to ensure participants understand the expectations of their respective roles, privacy considerations, and appropriate decorum. A party's inclusion of a Support Person, Attorney, or Non-Attorney Advocate is at the sole expense of the party.

Support Person: A complainant and respondent may choose to be assisted by a Support Person of their choice. A Support Person is someone who can provide emotional, logistical, or other kinds of assistance. The Support Person cannot be a fact witness or provide statements in the proceedings. The Support Person is a non-participant who is present to assist a complainant or respondent by taking notes, providing emotional support and reassurance, organizing documentation, or consulting directly with the party in a way that does not disrupt or delay the proceeding. The Support Person may accompany the party to any investigative, administrative, or adjudicative proceeding under the Policy.

It is each party's decision whether and how they choose to engage a Support Person throughout the Investigation and Adjudication processes. Therefore if a party requests or submits any type of form authorizing the Support Person to receive information or documents regarding the party, such a request will be denied. The Office of Sexual Misconduct and Office of Student Conduct, will at all times communicate and correspond directly with the party.

Attorney or Non-Attorney Advisor: An Attorney or Non-Attorney Advisor may assist a complainant or respondent at their own initiative and expense. The role of the Attorney or Non-Attorney Advisor is limited to providing advice and consultation directly to the party they are accompanying. It is not to provide representation of behalf of the party, as an attorney would do in a formal legal proceeding. In this way the Attorney or Non-Attorney Advisor is a participant who is present solely to advise and consult with the party throughout any proceeding. An Attorney or Non-Attorney Advisor may accompany the party to any investigative, administrative, or adjudicative meeting or proceeding under the Policy. A party's Attorney or Non-Attorney Advisor may not delay, or otherwise interfere with the investigative and adjudication processes.

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If a party has an Attorney or Non-Attorney Advisor, it is each party's responsibility to communicate and share information with their Attorney or Non-Attorney Advisor. If a party submits any type of form authorizing the Attorney or Non-Attorney Advisor to receive information or documents regarding the party, such a request will be denied. The Office of Sexual Misconduct and the Office of Student Conduct, will at all times communicate and correspond directly with the party.

When scheduling a SRC conference in which a party has notified the SRC Coordinator that an Attorney or Non-Attorney Advisor and Support Person plan to participate, the SRC Coordinator will make reasonable efforts to accommodate the Attorney or Non-Attorney Advisor's and Support Person's schedule, while balancing the University's commitment to a prompt and equitable process. The University will prioritize the availability of the parties, witnesses, and SRC members assigned to the matter when determining the date and time for the proceeding.

Voluntary Resolution

Voluntary Resolution does not involve an Investigation or disciplinary action against a respondent, and is not appropriate for all forms of conduct under the Policy. Voluntary Resolution, when selected by the complainant and deemed appropriate by the Title IX Officer, is a path designed to eliminate the conduct at issue, prevent its recurrence, and remedy its effects in a manner that meets the expressed preference of the complainant and the safety and welfare of the campus community. In cases in which Voluntary Resolution involves either the notification to or participation by the respondent, it is the respondent's decision whether to accept and/or participate in Voluntary Resolution.

As the title implies, participation in Voluntary Resolution is a choice, and either party can request to end this manner of resolution and pursue an Investigation and Adjudication at any time, including if Voluntary Resolution is unsuccessful at resolving the report. Similarly, a complainant can request to end an Investigation and pursue Voluntary Resolution at any time.

Voluntary Resolution may include: establishing Protective Interim Measures; conducting targeted or broad-based educational programming or training for relevant individuals or groups; providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; facilitating a meeting with the respondent with the complainant present (in cases that do not involve Sexual Assault); and any other remedy that can be tailored to the involved individuals to achieve the goals of the Policy. In some forms of Voluntary Resolution, the remedies imposed will focus on supporting the complainant with no participation or involvement by the respondent. In other forms of Voluntary Resolution, the respondent may agree to participate. Depending on the type of remedy used, it may be possible for a complainant to maintain anonymity.

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The OSM retains the discretion to determine, when selected by the complainant, which cases are appropriate for Voluntary Resolution. If a complainant requests Voluntary Resolution, and the Title IX Officer concludes that Voluntary Resolution is appropriate based on the factors outlined in the Initial Assessment, the Director of OSC or designee will take appropriate action by imposing individual and community remedies designed to maximize the complainant's access to all employment, educational, and extracurricular opportunities and benefits at the University and to eliminate a potential hostile environment. A complainant may request and decide to pursue Voluntary Resolution at any time.

Notification to the Respondent

In facilitating any form of Voluntary Resolution that involves the respondent, (and if an investigation is to occur) the Special Investigator will meet with the respondent and provide her/him with a copy of the Sexual Misconduct Policy and *Student Sexual Misconduct Investigative and Adjudicative Procedures*. At that meeting, the respondent will be informed of the following:

- The nature of the complaint;
- The issuance of a no contact order (and provided a copy of the order if issued by OSC);
- Available community and campus resources and services;
- The right to a support person and the support person's role;
- The right to an advisor and the advisor's role;
- The University's prohibition against retaliation; and
- How the voluntary resolution and investigative and adjudicative processes work.

Voluntary Resolution may also include restorative principles that are designed to allow a respondent to accept responsibility for misconduct and acknowledge harm to the complainant or to the University community. Restorative models will be used only with the consent of both parties, under the supervision of the Director of OSC or designee (i.e. University-sanctioned trained professionals) and following a determination by the OSM that the matter is appropriate for a restorative approach.

The complainant will not be compelled to engage in mediation, to confront directly the respondent or to participate in any particular form of informal resolution. Mediation, even if voluntary, shall not be used in cases involving Sexual Assault.

To assess pattern or systemic behavior fairly, the OSM will maintain records of all reports and conduct referred for Voluntary Resolution. Information disclosed during the Voluntary Resolution process may be considered during a subsequent Investigation or Adjudication of a similar nature involving either or both parties, as may be relevant. The time frame for completion of Voluntary Resolution may vary, but the OSM and OSC will seek to complete the process

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within thirty (30) business days of the complainant's request.

II. SEXUAL MISCONDUCT INVESTIGATION

Following the Initial Assessment, and in consultation with the complainant, the OSM will initiate a prompt, thorough, and impartial Investigation of conduct that is a potential violation of the Policy and is not being addressed through Voluntary Resolution. The OSM will designate a Special Investigator who has training and experience investigating allegations of Prohibited Conduct. The Special Investigator will coordinate the gathering of information to make an investigative finding regarding whether the alleged conduct constitutes a violation of the Policy by a preponderance of the evidence. A preponderance of the evidence means that it is more likely than not that the conduct occurred.

Information gathered during the Investigation will be used to evaluate the appropriate course of action, provide for individual and campus safety, and identify the need for Interim Protective Measures and other remedies as necessary to eliminate the alleged conduct and to address its affects.

Notice of Investigation

The Director of OSC or designee will send the complainant and the respondent a written Notice of Investigation. This Notice will generally be issued within five (5) business days of receipt of notice from the complainant of the intent to proceed with Investigation and sufficient information for the OSM. The Notice of Investigation will contain a summary of the conduct at issue, the range of potential violations under the Policy, and the range of potential sanctions. Where appropriate, the Notice of Investigation will also contain notification that expulsion is a potential sanction and that expulsion precludes re-enrollment or re-admission to UMD. Upon receipt of the Notice of Investigation, or at any stage in the process, the respondent may choose to accept responsibility for the Policy violation. Once the Notice of Investigation has been delivered to the parties, the Investigation phase begins.

The OSM will oversee the Investigation. The Investigation is designed to provide a fair and reliable gathering of the facts. All individuals, including the complainant, the respondent, and any third party witnesses, will be treated with appropriate sensitivity and respect throughout the Investigation. The Special Investigator will safeguard the privacy of the individuals involved in a manner consistent with federal law and University policy.

During the Investigation, the complainant and respondent will have an equal opportunity to be heard, to submit information, and to identify witnesses who may have relevant information. The Special Investigator will speak separately with the complainant, the respondent, and any other individuals who are willing to participate and have information relevant to the investigation. The

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Special Investigator may gather or receive information that is relevant to the determination of an appropriate sanction or remedy, including information about the impact of the alleged incident on both parties. The Special Investigator will also gather any available physical or documentary evidence, including prior statements by the parties or witnesses, any communications between the parties, email messages, social media materials, text messages, and other records as appropriate and available.

Investigation Timeline

The University will seek to conclude the Investigation within thirty (30) business days from the issuance of the Notice of Investigation. The time frame for completion of the Investigation, or any designated time frames of steps in the Investigation, may be extended for good cause as necessary to ensure the integrity and completeness of the Investigation, to comply with a request by external law enforcement, to accommodate the availability of witnesses, to account for University breaks or vacations, to account for complexities of a case (including the number of witnesses and volume of information provided by the parties), or to address other legitimate reasons. Any extension of the timeframes, and the reason for the extension, will be shared with the parties in writing. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

Where the OSM is made aware that there is a concurrent criminal investigation, the Special Investigator will coordinate with law enforcement so that any University processes do not interfere with the integrity or the timing of the law enforcement investigation. At the request of law enforcement, the Title IX Officer may agree to defer the fact-finding portion of its Investigation until after the initial stages of a criminal investigation. The Title IX Officer or designee will nevertheless communicate with the parties regarding resources and accommodations, procedural options, anticipated timing, and the implementation of any necessary Interim Protective Measures for the safety and well-being of all affected individuals.

The Special Investigator will promptly resume fact gathering as soon as law enforcement has released the case for review following the initial criminal investigation. All community members, including students, faculty and other University employees, are expected to cooperate with the OSM, and the Special Investigator in the Investigation, as well as the Adjudication, of any report to assure fairness and procedural due process. The Title IX Officer or designee may request the appearance of persons from the University community who can provide substantial, relevant evidence. Both a complainant and a respondent may decline to participate in proceedings under the Policy. The Title IX Officer will determine whether the Investigation and Standing Review Committee Conference will proceed without the complainant or the respondent.

Special Considerations

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The Special Investigator has discretion to determine whether any witness or other evidence is relevant to the finding of a policy violation. The Special Investigator may exclude information that is irrelevant, immaterial, or more prejudicial than informative from the Final Investigative Report. The Special Investigator may also exclude statements of personal opinion by witnesses and statements as to general reputation for any character trait, including honesty. Any information the Special Investigator does not include as relevant in the Final Investigative Report will be attached as appendices. The Special Investigator will not exclude direct observations or reasonable inferences drawn from the facts. Other information will be considered as outlined below:

Character: Any documents submitted that speak to the character, or lack thereof, of either party will not be included in the investigative report.

Pattern Evidence: The Special Investigator may consider information (when known) about prior allegations of sexual misconduct by either party if the prior or pending incident(s) are substantially similar to the present incident and/or is indicative of a pattern of behavior.

Prior Sexual History between the Parties: Where there was a prior or ongoing relationship between the complainant and the respondent, and the respondent asserts that Consent was sought and given, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. As noted in other sections of the Policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute Consent.

Prior Sexual History with Other Parties: A party's sexual history with an individual other than the complainant or respondent may be relevant under very limited circumstances to prove intent, motive, absence of mistake, or to explain an injury or physical finding.

Consolidation of Reports: At the discretion of the OSM, multiple reports may be consolidated in one Investigation or one Standing Review Committee Conference if the information related to each incident would be relevant and probative in reaching a determination on the other incident(s). This includes matters where the determination has been made that there is relevant Pattern Evidence or where the evidence of the other conduct is inextricably intertwined with Prohibited Conduct under the Policy. Matters may be consolidated where they involve multiple complainant, multiple respondents or related conduct involving the same parties that would otherwise have been heard under the Code of Student Conduct (provided that it does not delay the prompt resolution of conduct under the Policy).

Impact Statement: The complainant and respondent will be provided the opportunity to submit a written Impact Statement. These written Impact Statements will not be considered in the determination of responsibility, but will be provided to the Special Investigator, and at the appropriate stage of the process, to the SRC members for consideration in the determination of the sanction and remedy. The Impact Statement may be submitted at any

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time in the process, provided that it is received no later than five (5) days after the parties have completed their review of the Investigative Findings. The parties may submit a supplemental Impact Statement to the SRC if there is a change in circumstances warranting an updated Impact Statement. The Impact Statements will be shared with the parties, and may be redacted at the discretion of the OSC, R&R, and Title IX Officer, or in accordance with FERPA.

Review of Draft Investigation Report

At the conclusion of the Investigation, the Special Investigator will prepare a written report that summarizes the information gathered, synthesizes the areas of agreement and disagreement between the parties with any supporting information or accounts, and includes an Investigative Finding as to whether a Policy violation has likely occurred. However, before the report is finalized, the complainant and respondent will be given the opportunity to review a draft Investigation Report, which will not include the Investigative Finding, and may be presented in redacted format. The parties will not receive an electronic or written copy, nor may they photograph or copy the draft Investigation Report, but they will be permitted to take notes on the content.

A complainant and respondent may submit any additional comment or information to the Special Investigator within five (5) business days of the date of the notice of the opportunity to review of the draft Investigation Report. This is the final opportunity for the parties to identify any additional information or witnesses. In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the Special Investigator at this juncture will not be considered by the Special Investigator or SRC.

Investigative Finding and Notification

Upon receipt of any additional information from the complainant or respondent or after the five (5) business day comment period has lapsed without comment, the Special Investigator will make an Investigative Finding. The finding is based on the Special Investigator's current assessment of the outcome of the investigation, and whether it is more likely than not, that a violation of the Policy has occurred. In reaching this determination, the Special Investigator will consult with the Title IX Officer. The Special Investigator may also seek information regarding prior disciplinary history and UMPD regarding prior criminal history. Once the report is finalized it will be sent to the Director of Student Conduct.

Outcome Conference

Upon issuance of the Investigative Finding, and where appropriate, the Director of Student Conduct will recommend sanctions and issue formal charges. Both the complainant and respondent will be notified of the Investigative Finding and the proposed sanction(s) and/or remedy (ies) in writing at the same time. The OSC will issue an Investigation Outcome Notice

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to each party, and invite them to schedule an outcome conference with the Director to discuss the outcome. Each party will have the opportunity to meet, separately, with the Director of Student Conduct or Assistant Director of Rights & Responsibilities depending on where the complaint originated. The Director/Assistant Director will share the Investigative Finding and, as applicable, the recommended sanction with the complainant and the respondent, and the remedy with the complainant. During the Outcome Conference, the parties will each have an opportunity to review the full Investigation Report. The parties will not, however, receive an electronic or written copy, nor may they photograph or copy the Investigation Report. The parties will be permitted to take notes on the content.

Where there has been an *Investigative Finding that a Policy violation has likely occurred*, the parties may:

- Accept both the Investigative Finding and proposed sanction;
- Accept the Investigative Finding, but request a SRC Conference on the recommended sanction; or,
- Reject the Investigative Finding and sanction recommendation and request a SRC Conference on both; or,
- Reject the Investigative Finding and request a SRC Conference, on the Investigative Finding to determine whether a Policy violation was committed and/or to determine an appropriate sanction.

Where there has been an *Investigative Finding that no Policy violation has likely occurred*, the complainant may:

- Accept the Investigative Finding (on one or all of the alleged violations); or
- Reject the Investigative Finding (on one or all of the alleged violations) and request Administrative Review.

The complainant and respondent must communicate their chosen course of action to the Director of Student Conduct, or designee in writing (e.g., email, fax, letter) within five (5) business days of notification of the Investigative Finding.

III. IMPOSITION OF SANCTIONS

The Policy prohibits a broad range of behaviors, which are serious in nature. In keeping with the University's commitment to a learning and working environment free from sexual misconduct, the Policy provides the Director of Student Conduct and the SRC with wide latitude in the imposition of sanctions tailored to the facts and circumstances of each report, the impact of the misconduct on the complainant and surrounding community, and accountability for the respondent. The imposition of sanctions is designed to eliminate prohibited conduct under the Policy, prevent its recurrence, and remedy its effects, while supporting the University's

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educational mission and federal obligations. Sanctions may include educational, restorative, rehabilitative, and punitive components such as removal from University housing, removal from specific courses or activities, and disciplinary probation. Some behavior, however, is so egregious in nature, harmful to the individuals involved, or so deleterious to the educational process that it requires severe sanctions, including suspension or expulsion from the University.

In cases that are resolved at the Outcome Conference after the Investigation, the Director of Student Conduct is responsible for determining the appropriate sanction. In cases that are resolved through a Conference with the SRC, the SRC is responsible for determining the appropriate sanction. In reaching this determination, the SRC may solicit information from the complainant, the respondent and any other individual who can provide information relevant to a determination regarding potential sanctions. The SRC may also review any written Impact Statements submitted by the complainant and the respondent when determining sanctions.

In determining the appropriate sanction, the Director of Student Conduct and the SRC shall consider the following factors:

- The nature and violence of the conduct at issue;
- The impact of the conduct on the complainant;
- The impact or implications of the conduct on the community or the University;
- Prior misconduct by the respondent, including the respondent's relevant prior discipline history, both at the University or elsewhere, including criminal convictions;
- Whether the respondent \ has accepted responsibility for the conduct;
- Maintenance of a safe and respectful environment conducive to learning;
- Protection of the University community; and,
- Any other mitigating, aggravating, or compelling circumstances to reach a just and appropriate resolution in each case.

The Director of OSC and the SRC may also consider restorative outcomes that, taking into account the safety of the community as a whole, allow a respondent to develop insight about his or her responsibility for the behavior, learn about the impact of the behavior on the complainant and the community, and identify how to prevent or change the behavior.

Where the Director of Student Conduct or SRC concludes that a sanction of suspension or expulsion is appropriate, and the respondent has not already been suspended on an interim basis, there will be an immediate assessment by the Director of Student Conduct or designee to determine whether the respondent poses a serious threat of disruption of the academic process or a continuing danger to other members of the University community or University property. The Director of Student Conduct or designee may impose interim suspension pending the conclusion of any appeal. Where the sanction is other than suspension or expulsion, the imposition of sanction will be deferred pending the conclusion of any appeal. Protective Interim Measures in

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effect for the respondent will continue pending the conclusion of any appeal.

Sanctions that Impact a Student's Status

Sanctions may be imposed individually or in combination. Sanctions that affect a student's status with the University include the following:

Expulsion, which must be approved by the Vice President of Student Affairs, and the President of the University, means that a student is removed from the University permanently and may not re-enroll or be re-admitted to UMD.

Suspension for a Definite or Indefinite Period, which must be approved by the Vice President of Student Affairs, means that the student is removed from good standing and must leave the University for a definite or indefinite period. This form of suspension anticipates that the student may eventually return if applicable conditions are satisfied.

Disciplinary Probation for a Definite or Indefinite Period, including probation with associated conditions or requirements as set by the Director of Student Conduct or designee, or the SRC, means that a student may remain at the University but may be required to satisfy specified conditions or requirements, report regularly to a designated administrator, and be barred from holding any office or participating in any activity in which the student represents the University, including athletics or other competitive teams, or from participating in any University-recognized student organizations either within or outside the University community. The sanction of probation prohibits graduation until the period of probation has ended and the student has complied with all requirements.

Expulsion, suspension for a definite or indefinite period, and disciplinary probation will be noted on a student's transcript.

Sanctions that Do Not Impact a Student's Status

Sanctions that do not affect a student's good standing status with the University include, but are not limited to:

Educational Requirements. Completion of projects, programs, or requirements designed to help the student manage behavior and understand why it was inappropriate.

"No Contact" Orders. Compliance with orders of no contact that limit access to specific University areas or forms of contact with particular persons.

Housing Restrictions. Exclusion from University housing or change in housing arrangements.

Community Service. The OSC will monitor completion of up to sixty (60) hours of community service over a period not to exceed twelve (12) weeks under guidelines established by the Office of Sexual Misconduct in consultation with the Office of Student Conduct and/or Rights & Responsibilities.

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Disciplinary Reprimand. Written warning in the form of an official reprimand that is formally communicated by a letter giving the student notice that any subsequent Policy violation will carry more serious sanctions.

Failure to comply with any of the sanctions listed above may result in further disciplinary action that could impact a student's status.

Records of Student Discipline and Effect of Withdrawal

The existence of a pending Investigation or Adjudication under the Policy will be noted as part of a student's transcript. In addition, currently active sanctions of probation, suspension, or expulsion will be noted as part of a student's transcript. In the event that a respondent chooses to withdraw from the University prior to the resolution of disciplinary charges under the Policy, the matter will be resolved without the student. In some cases, the transcripts may be withheld until the matter is resolved, or marked with, "Disciplinary Action Pending." In the event of a withdrawal, or where the respondent declines to participate in proceedings under the Policy, the SRC Conference Meeting may proceed without the respondent. After withdrawing, the respondent will not be eligible to return to the University until the proceedings under the Policy have been finally concluded.

IV. REMEDIES

The Title IX Officer or designee in consultation with the OSC and the R&R, as appropriate, 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. Such remedies should seek to restore to the complainant, to the extent possible and within reason, all benefits and opportunities lost as a result of the Prohibited Conduct. The Title IX Officer will also identify remedies to address the effects of the conduct on the University community.

The Director of Student Conduct and Title IX Officer will consider the appropriateness of remedies, including Protective Measures, on an ongoing basis to assure the safety and well-being of the parties throughout the process. Long-term remedies may include extending or making permanent any Interim Protective Measures or implementing additional measures tailored to achieve the goals of the Policy. Many of the remedies and supports that a Reporting Party might need after a finding of responsibility will have already been provided as Interim Protective Measures, including but not limited to academic accommodations, short term counseling, and housing arrangements. The Title IX Officer or designee will in all cases, consider whether there is a need for additional remedies. Additional remedies or supports may be included in the proposed sanctions, such as reassignment or removal of the respondent from a class or a dormitory.

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V. ADJUDICATION OPTIONS

At the conclusion of the Outcome Conference, one of the following will occur:

Imposition of Final Finding, Sanction, and Remedy

Where both the complainant and the respondent agree to the Investigative Finding and recommended sanction(s), or where neither party rejects the Investigative Findings and sanction recommendations, the Director of Student Conduct may adopt the Findings as final and impose the sanction(s). The finality of the outcome, which is not subject to further appeal or review, will be communicated to the parties, in writing at the same time.

If the proposed sanction involves dismissal from the University (suspension or expulsion), the Director of Student Conduct will delay imposition of the final findings and sanction based on acceptance, in order for the party accepting responsibility to consult with either the Attorney, Non-Attorney Advisor, Parent or Legal Guardian, before the acceptance and imposition is considered final.

Administrative Review by Director of Student Conduct: Investigative Finding of No Policy Violation

Where the complainant requests Administrative Review of the Investigative Finding that no Policy violation occurred, both the respondent and the complainant will have the opportunity to meet with the Director of Student Conduct or submit additional information in writing. The Director may agree with the Investigative Finding, reverse the finding, or request additional investigative follow-up. The Director of Student Conduct will render a decision in writing to both parties at the same time within ten (10) business days of receipt of the request for Administrative Review. This timeframe may be extended for good cause provided that both the delay and the reason for the delay are communicated to the parties in writing.

Where the Director of Student Conduct agrees with the Investigative Finding, this determination is final and is not subject to further appeal or review. Where the Director reverses the Investigative Finding that there is no Policy violation, the matter will be immediately forwarded for Adjudication by the SRC. Where the Director of Student Conduct requests additional Investigation, the matter will be returned to the Special Investigator for further review.

Adjudication by Standing Review Committee: Review of an Investigative Finding that a Policy Violation Occurred

If the respondent challenges the Investigative Finding that a Policy violation has likely occurred, the OSC or designee will issue a Standing Review Committee Conference Notice to the complainant and the respondent and forward the Investigative Final Report to the SRC for adjudication. The SRC's role is twofold: determination that a Policy violation occurred by a

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preponderance of the evidence and, if warranted, imposition of sanctions.

Adjudication by Standing Review Committee: Review of Recommended Sanction Only

Where either the complainant or the respondent requests a SRC Conference only on the recommended sanction, a SRC Conference will be convened for the sole purpose of determining the appropriate sanction.

Standing Review Committee Conference

The SRC Conference's adjudication process will generally be completed within twenty-five (25) business days from the date of the SRC Conference Notice. As with all time frames in the Policy, this time frame may be extended for good cause with notice to the parties in writing.

Upon receipt of a SRC Conference Notice, a SRC will be designated to review all relevant information gathered in the Investigation. The SRC is a body composed of a combination of five (5) staff, faculty and students. Any individual designated by the University to serve on the SRC must have sufficient training or experience to serve in this capacity. A SRC member may decline to participate on the basis of an actual conflict of interest, bias, or lack of impartiality. A SRC Chair will conduct and preside over the Conference with all the parties, and each party and potential witnesses separately. The SRC Chair will be specifically trained on the additional requirements of acting as Chair of the SRC Conference.

SRC Conference Procedures

At the SRC Conference the Special Investigator is responsible for presenting sufficient information and evidence to support the finding of a Policy violation.

When the Special Investigator presents the Investigative Finding to the SRC, it is not a closed session. Both parties, including their respective Support Persons and Attorneys or Non-Attorney Advisors may be present. The Special Investigator will present the Investigative Finding to the SRC, and the SRC members will pose questions to the Special Investigator based on the presentation. When the SRC has concluded questioning the Special Investigator, the Chair will invite the parties to submit to the Chair questions they wish the Committee to ask the Special Investigator. The Chair will recess and synthesize the questions to maintain an orderly inquiry, and minimize repetition. The Chair will pose the questions to the Special Investigator, retaining discretion regarding relevancy.

The SRC may then meet separately with each party in a session which will be closed to the other party and to the Special Investigator. Likewise, the SRC will meet with available witnesses in sessions, which will be closed to the parties and the Special Investigator. The SRC Chair and members will question each party and witness attending a session.

After a consideration of all relevant information, the SRC will make its own determination by a

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preponderance of the evidence whether a Policy violation has occurred. Preponderance of the evidence means that it is more likely than not that the conduct occurred. The SRC's determination must be reached by a majority vote.

If the SRC finds that a violation has occurred, it will determine and impose the sanction. Prior to doing so, it will offer to listen to and/or review a written Impact Statement. It will meet separately with a party wishing to make an Impact Statement in a session closed to the other party and the Special Investigator.

The public, except for the immediate members of the parties' families, may not attend the SRC Conference.

Notice of SRC Conference Outcome

Within five (5) business days of the conclusion of the SRC closed session conferences the Office of Student Conduct will provide a written Notice of Outcome from the SRC to the complainant and the respondent at the same time. The OSC will also provide written notice, at the same time to both parties, of any change in the Outcome that occurs before the Outcome becomes final.

The SRC Notice of Outcome will include the finding by the SRC as to whether there is a Policy violation, the rationale for the result, and a brief summary of the evidence on which the decision is based, as appropriate. Where there is a finding of a Policy violation, the respondent will be informed of any sanctions, the date by which the requirements must be satisfied (if applicable), and the consequences of failure to satisfy the requirements. The complainant will be informed of any sanctions and remedies that directly relate to the complainant, including information about the respondent's presence on campus (or in a shared class or residence hall), that may help a complainant make informed decisions or work with the University to eliminate Prohibited Conduct and prevent its recurrence.

The SRC Notice of Outcome will also include information about the appeal process, including the available grounds for an appeal, and the time frame for submitting an appeal. If neither party seeks an appeal within five (5) business days of the SRC Notice of Outcome, any sanction imposed by the SRC will take effect immediately.

VI. APPEAL

The parties may appeal the portions of the SRC Outcome that directly relate to that party. This means that the complainant and the respondent may only appeal the portions of the SRC Outcome articulated in the SRC Notice of Outcome as described above. Mere dissatisfaction with the Outcome is not a valid basis for appeal. The appeal must be submitted in writing using

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the *Notice of Appeal* form¹, to the SRC Coordinator within five (5) business days of receipt of the SRC Notice of Outcome. The scope of the appeal is limited only to the three permissible grounds that have been accepted for review (listed below). If the appeal request moves forward, the other party will be notified and given five (5) business days to respond. Responses shall be submitted directly to the SRC Coordinator or designee. Appeals filed by each party will be considered together in one appeal review process. Receipt of the written appeal will be acknowledged in writing. The parties may have their Attorney or Non-Attorney Advisor submit written responses on their behalf.

Grounds for Appeal

Grounds for appeal shall be limited to:

- Procedural Error: A violation of procedural due process means that the decision was negatively influenced by a failure of the SRC to take a procedural step or fulfill a procedural requirement established by this policy.
- New Evidence: New evidence is significant evidence that could not have been previously discovered and presented by the appellant through reasonable diligence.
- Substantive Due Process: A violation of substantive due process means that the SRC decision was based upon an illegal or constitutionally impermissible consideration (e.g. party's gender, race, age, national origin, sexual orientation or a party's exercise of first amendment freedoms)

If neither party submits an appeal, the SRC Outcome becomes final after five (5) business days. Appeals submitted after five (5) business days will be denied.

Considerations

In any request for an appeal, the burden of proof lies with the party requesting the appeal because the SRC Outcome is presumed to be a reasonable and just determination. Appeals are not intended to allow for a rehearing of the complaint. A review of the matter will be prompt and narrowly tailored to the stated appeal grounds. In most cases, appeals are confined to a review of the written record and the pertinent documentation regarding the grounds for appeal (i.e. the Final Investigative Report, SRC Outcome, and the written record as contained in the Notice of Appeal submitted by the appellant. However, depending on the nature of the appeal, the SRC Appellate Body may speak to the Special Investigator, the SRC Conference Chair, or the parties, as appropriate.

SRC Appellate Body

The SRC Appellate Body is composed of three (3) members from the Standing Review

¹ *Notice of Appeal – Sexual Misconduct Adjudication Process form*, is included here as Appendix A-1, and may be found on the Student Conduct website: <http://osc.umd.edu/OSC/Default.aspx>

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Committee who did not participate previously in adjudicating the case. Depending on the basis of the requested appeal, the SRC Appellate Body may:

- Affirm the Outcome;
- Alter the Outcome;
- Return the matter to the SRC with instructions to reconvene to cure a procedural or substantive error or to assess the weight and impact of newly discovered information.

An Appellate conference will be convened before a newly constituted SRC Appellate Body where the procedural or substantive error cannot be cured by returning the matter to the original SRC. The SRC Appellate Body Chair will render a written decision on the appeal to both parties within fifteen (15) business days from the date of the submission of all appeal documents. Appeal decisions by the SRC Appellate Body are final with the exception of cases involving suspension or expulsion that allow for further review.

VII. FINAL OUTCOME

The President of the University must review and approve any sanction of expulsion, if this sanction is so recommended by the Vice President of Student Affairs. The Vice President of Student Affairs must also approve any sanction of suspension.

After all review processes are concluded, the Title IX Officer or designee will promptly notify the complainant and respondent, in writing, and in person when possible, of the final outcome of the sexual misconduct complaint.

Post-Resolution Follow Up

After a sanction or remedy is issued, the OSM may periodically contact the complainant to ensure the Prohibited Conduct has ended and to determine if additional remedies are necessary and will contact the respondent to assure compliance with any sanctions that have been imposed. The complainant may decline future contact. Any violation by a respondent of a sanction or protective measure imposed under the Policy or a failure by a University employee to provide a specified remedy should be reported to the Title IX Officer. The complainant and respondent are encouraged to provide the OSM with feedback about their experience with the process and recommendations regarding ways to improve the effectiveness of the campus' implementation of the Policy.

END OF DOCUMENT

UNIVERSITY OF MARYLAND
STUDENT SEXUAL MISCONDUCT INVESTIGATION & ADJUDICATION PROCEDURES

NOTICE OF APPEAL FORM

In the matter of: _____.

Under the *Student Sexual Misconduct Investigation & Adjudication Procedures*, either party has a right to appeal. An appeal must be submitted within five (5) business days of receipt of the SRC's Notice of Adjudication Outcome.

Appeals submitted after the five (5) business day period, will not be considered. The other party(s) will be notified if an appeal is submitted and will be provided five (5) business days to submit a response.

Appeals are not intended to allow for a rehearing of the complaint. A decision to grant an appeal is made only where there is clear error.

Appellate procedures can be found in the *Student Sexual Misconduct Investigation & Adjudication Procedures*, Appendix A, on pages 19-20.

Appellant (Submitted By): _____.

You must check the basis for your appeal:

Procedural Error: A violation of procedural due process means that the decision was negatively influenced by a failure of the SRC to take a procedural step or fulfill a procedural requirement established by this policy.

New Evidence: New evidence is significant evidence that could not have been previously discovered and presented by the appellant through reasonable diligence.

Substantive Due Process: A violation of substantive due process means that the SRC decision was based upon an illegal or constitutionally impermissible consideration (e.g. party's gender, race, age, national origin, sexual orientation or a party's exercise of first amendment freedoms)

Please state all the information that should be considered by the SRC Appellate Body in support of your appeal (under one of the grounds noted above.) Please do not restate any information already contained in the Investigative and/or SRC Adjudication Outcome Report. Those documents will be provided to the appellate body.

Checklist for Campus Sexual Misconduct Policies

The Task Force to Protect Students from Sexual Assault is committed to supporting institutions of higher education in preventing sexual misconduct, encouraging reports of such misconduct, improving responses to reports of such misconduct, and complying with applicable federal laws.

The following checklist for sexual misconduct policies (checklist) highlights elements that are particularly important for institutions to consider when drafting sexual misconduct policies as part of their overall response to sexual misconduct. The Task Force recommends using this document as a guided checklist for developing effective sexual misconduct policies. However, the Task Force cautions institutions not to adopt the checklist, in part or in whole, without first engaging in a comprehensive drafting process that considers the unique aspects of the institution and its student body. The items listed in the checklist are intended to be guidelines, neither exhaustive nor exclusive, to help a school cover the important bases.

The policy of each institution will vary in detail, specificity, and components, reflecting differences in state or local legal requirements and each school's students, size, administrative structure, and what it has learned from past experiences. Additionally, the checklist does not constitute legal advice or create additional legal obligations, and institutions that address these elements in their sexual misconduct policy, in part or in whole, may still be found to be in violation of federal law(s) (e.g., if the institution fails to effectively address a hostile education environment created by sexual misconduct).

Why Should a Campus Have a Separate Sexual Misconduct Policy?

The purpose of creating a sexual misconduct policy (policy) is to provide a single, easily accessible and user-friendly document for students, employees, and others affected by sexual misconduct to find information regarding an institution's rules and procedures, including the rights of students and the obligations of the institution and its employees. The policy should cover every department or school within the institution.

How Should a Campus Develop a Sexual Misconduct Policy?

The Task Force encourages each institution to engage in a comprehensive policy drafting process. The policy development process should be driven by campus leadership at the highest level so that the importance of this policy is clear to students, faculty, employees, and the committee drafting the policy.

Who should participate?

To improve the quality, effectiveness, and perceived legitimacy of the policy, the Task Force encourages institutions to:

- Identify key stakeholders – particularly students, concerned student groups, including LGBTQ student groups, campus security, local law enforcement, resident assistants,

survivors of sexual assault, and providers of victim support services, including local rape crisis centers – whose expertise and input should be incorporated into the drafting process.

- Identify the office or personnel responsible for drafting the policy, but also engage a range of administrators to ensure the policy has broad institutional support.
- Consider retaining an independent sexual assault policy expert to assist in reviewing and revising existing policies or drafting new ones.
- Engage in a vetting period where key stakeholders have multiple opportunities to provide feedback on the proposed policy to assess its clarity, quality, and effectiveness.

Who are the target audiences for the policy?

- Review the policy to ensure that it is set out in clear, logical sections that students can follow and understand. In determining whether the policy and its publication formats are user-friendly and appropriate in tone, policy drafters should review the material from the perspective of a student who has been affected by sexual misconduct.
- Ensure that the policy is published in a format or formats that make it readily available everywhere, including to students with disabilities and English language learners.

What other documents should be considered during development of the policy?

- Review all applicable federal laws, including Title IX of the Education Amendments of 1972, Title IV of the Civil Rights Act of 1964, the Family Educational Rights and Privacy Act of 1974, and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act and their implementing regulations and related guidance; any applicable state and local laws; and consult with legal counsel to ensure that the policy complies with all applicable federal, state, and local laws.
- Coordinate the policy with other institution policies and procedures, including student codes of conduct and other nondiscrimination policies affecting students and employees.

What should happen when the policy is complete?

- Develop a plan for implementing and widely publicizing the policy to the entire campus community and provide mandatory training on the new policy.
- Establish procedures for regularly reviewing, evaluating, and updating the policy.
- Create user-friendly materials to explain the policy and how victims can get help, and provide these materials online and through other strategies appropriate for the campus.

What Should a Campus Consider Including in Its Sexual Misconduct Policy?

The following checklist highlights elements that are particularly important for institutions to consider when drafting sexual misconduct policies:

1. Introduction
 - a. Clear statement of school's prohibition against sex discrimination, which includes sexual misconduct.
 - b. Statement of the school's commitment to address sexual misconduct.
2. Scope of the Policy
 - a. Identify the persons, conduct, locations (including off campus), programs, activities, and relationships covered by the school's sexual misconduct policy.
 - b. Clearly state the policy applies to all students and employees, regardless of sexual orientation or gender identity, and explain that the policy applies to third parties.
 - c. Briefly explain the school's confidentiality policy, including reference to the more detailed confidentiality provisions in the policy. For a sample confidentiality policy go here: <http://notalone.gov/assets/reporting-confidentiality-policy.pdf>
3. Options for Assistance Following an Incident of Sexual Misconduct
 - a. Immediate Assistance
 - i. Identify and provide contact information for the trained on- and off-campus advocates and counselors who can provide an immediate confidential response in a crisis situation (e.g., obtain needed resources, explain reporting options, and help navigate the reporting process);
 - ii. Provide emergency numbers for on- and off- campus safety, law enforcement, and other first responders (e.g., the Title IX coordinator);
 - iii. Describe the sexual assault response team (SART) process and resources SART members can offer;
 - iv. Identify health care options, both on- and off- campus:
 1. Ensure the victim is aware of the options to seek treatment for injuries, preventative treatment for sexually transmitted diseases, and other health services.
 2. Discuss the option of seeking medical treatment in order to preserve evidence.
 3. Identify where/how to get a rape kit or find a Sexual Assault Nurse Examiner (SANE).
 4. List locations, including contact information, for an advocate (e.g., a local rape crisis center, on-campus advocacy program) who can accompany a victim to the hospital or health provider.
 - b. Ongoing Assistance

1. Identify counseling and support for victims of sexual misconduct, whether or not a victim chooses to make an official report or participate in the institutional disciplinary or criminal process.
 2. Identify options for disclosing confidentially with counseling, advocacy, health, mental health, or sexual-misconduct-related sources, both on and off campus.
 3. Identify those who can provide ongoing support during the institutional disciplinary or criminal process.
 - ii. Academic Accommodations and Interim Measures
 1. Describe the immediate steps and interim measures that the school can provide to ensure the safety and well-being of the victim, such as the ability to move dorms, change work schedules, alter academic schedules, withdraw from/retake a class without penalty, and access academic support (e.g., tutoring).
 2. Describe additional interim measures that the school may be able to provide for complainants while an investigation is pending such as no contact orders and changing the alleged perpetrator's living arrangements or course schedule. See Section 7.g about interim measures.
4. Title IX Coordinator: Identify the school's Title IX coordinator and briefly explain the Title IX coordinator's role in the school's overall response to sexual misconduct; provide references to sections of the policy that provide greater details regarding the Title IX coordinator's duties.
5. Definitions
- a. Clearly define all conduct prohibited by the policy, including:
 - i. Sexual harassment
 - ii. Hostile environment caused by sexual harassment
 - iii. Sexual assault
 1. Non-consensual sexual contact, and
 2. Non-consensual sexual intercourse
 - iv. Domestic violence
 - v. Dating violence
 - vi. Sexual exploitation
 - vii. Stalking
 - viii. Retaliation
 - ix. Intimidation
 - b. Additional terms that should be defined include:
 - i. Consent

The input of students and sexual assault experts can be helpful in developing a definition of consent. At minimum, the definition should recognize that:

 - consent is a voluntary agreement to engage in sexual activity;
 - someone who is incapacitated cannot consent;
 - past consent does not imply future consent;

- silence or an absence of resistance does not imply consent;
 - consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another;
 - consent can be withdrawn at any time; and
 - coercion, force, or threat of either invalidates consent.
- ii. Incapacitation (such as due to the use of drugs or alcohol, when a person is asleep or unconscious, or because of an intellectual or other disability that prevents the student from having the capacity to give consent)

6. Reporting Policies and Protocols

- a. Identify formal reporting options – e.g., criminal complaint, institutional complaint, report to “responsible employee,” including the Title IX coordinator. Explain how each option works and include contact information for the people to whom one can make a report.
- b. Identify alternatives to reporting – e.g., privileged or confidential disclosures
- c. Describe policies governing confidentiality
 - i. Specify those employees to whom a student can disclose in confidence and those “responsible employees” who must report incidents (including personally identifying details) to the Title IX Coordinator. Consider particularly how a school will ensure that a student understands an employee’s reporting obligation before he or she reveals any information to that employee.
 - ii. Describe what information will be kept confidential and what information may be disclosed, to whom it will be disclosed, and why.
 - iii. Explain when the school may not be able to honor a student’s request that his or her name not be disclosed to the alleged perpetrator or that no investigatory or disciplinary action be taken. Identify the employee responsible for evaluating such requests for confidentiality or no action.
- d. Explain the school’s reporting obligations under the Clery Act, including the annual reporting responsibilities of Campus Security Authorities and the school’s obligation to issue timely warnings.
- e. Explain the process for third-party and anonymous reporting.
- f. Ensure the policy prohibits retaliation against those who file a complaint or third-party report, or otherwise participate in the investigative and/or disciplinary process (e.g., as a witness), and explain that the school will take strong responsive action if retaliation occurs.
- g. Describe when the school will grant amnesty from drug, alcohol, and other student conduct policies.

7. Investigation Procedures and Protocols

- a. Identify the Title IX Coordinator(s) and explain roles and responsibilities.
- b. Identify who conducts the investigation and what an investigation might entail.
- c. Specify a reasonably prompt time frame for conducting the investigation and resolving the complaint, as well as the process for extending the timeframe.
- d. Explain the processes for preserving evidence.

- e. Provide the respondent and complainant equitable rights during the investigative process.
- f. Set forth parameters and clarify what information may and may not be shared during a parallel investigation with law enforcement (e.g., via a Memorandum of Understanding with local law enforcement).
- g. Explain that where necessary, the school will take immediate steps to protect complainants pending the final outcome of an investigation, including academic accommodations and other interim measures. These steps may include the ability to change housing or dining facilities; change work schedules; alter academic schedules; withdraw from/retake a class without penalty; access academic support such as tutoring; issue no contact orders; and change the alleged perpetrator's living arrangements or course schedule.
- h. Explain the school's response if a victim's request for confidentiality limits the school's ability to investigate a particular matter. A school may take steps to limit the effects of the alleged sexual misconduct and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the student complainant. Examples include: providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; providing training and education materials for students and employees; revising and publicizing the school's policies on sexual misconduct; and conducting climate surveys regarding sexual misconduct.

8. Grievance/Adjudication Procedures

- a. Explain the grievance/adjudication process, including:
 - i. that mediation is never appropriate in sexual misconduct cases;
 - ii. that the preponderance-of-the-evidence (i.e., more likely than not) standard will be used in any Title IX fact-finding and related proceedings, including any hearings;
 - iii. identify the adjudicators, including:
 - 1. the trained individuals who determine whether the alleged sexual misconduct occurred
 - 2. the individuals who determine the sanction
 - 3. a process by which either party may raise issues related to potential conflicts of interest of such individuals
 - iv. the persons who may attend and/or participate in the adjudication process and the extent of that participation.
- b. Outline the rights and roles of both parties in the adjudication process, including:
 - i. notice of hearing(s) to both parties;
 - ii. an opportunity for both parties to present witnesses and other evidence, including:
 - 1. a description of the types of evidence that may or may not be presented, including but not limited to:
 - a. prohibiting questioning or evidence about the complainant's prior sexual conduct with anyone other than the alleged perpetrator

- b. clarifying that evidence of a prior consensual dating or sexual relationship between the parties by itself does not imply consent or preclude a finding of sexual misconduct
 - 2. if the school conducts a hearing, and generally allows for cross-examination, a description of alternative methods that preclude the respondent from personally cross-examining the complainant
 - iii. extension of any other rights given to the alleged perpetrator to the complainant.
- c. Explain the possible results of the adjudication process, including:
 - i. sanctions;
 - ii. remedies/accommodations for the victim;
 - iii. additional remedies for the school community.
- d. Outline how the parties will be informed of the results of the adjudication, including:
 - i. simultaneous written notice to both parties of the outcome of the complaint and the option to appeal, if applicable;
 - ii. a statement that the school will not require a party to abide by a nondisclosure agreement, in writing or otherwise, that would prevent the redisclosure of information related to the outcome of the proceeding.
- e. Describe the appellate procedures (if appeals are permitted), including grounds for appeal, standards of review, the person/entity that will decide appeals, and the applicable reasonably prompt time frames.

9. Prevention and Education

Outline the school’s approach to prevention, including type and frequency of prevention programming and educational/outreach activities. Include bystander intervention and programs to educate students about the school’s sexual misconduct policies.

10. Training

- a. Outline how faculty and staff are trained and on what issues.
- b. At a minimum, the Title IX coordinator, law enforcement, “responsible employees,” victim advocates, and anyone else who is involved in responding to, investigating, or adjudicating sexual misconduct must receive adequate training.

Appendix 3 - Extension Request



UNIVERSITY OF
MARYLAND
UNIVERSITY SENATE

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

March 13, 2015

Donald W. Webster
Chair, University Senate
Wye Research & Education Center
124 Wye Narrows Drive, POB 169
Queenstown, MD 21658

Dear Senate Chair Webster:

I am writing on behalf of the Senate Student Conduct Committee (SCC) in regard to our charge for the "Review of the Interim Sexual Misconduct Student Procedures" (Senate Doc. 14-15-16). The SCC was charged by the Senate Executive Committee (SEC) with this review on November 11, 2014. The deadline for our charge is March 27, 2015. I am writing to respectfully request an extension for the committee's review of these complex procedures.

Because of other pressing charges during this academic year, including the "Hazing Policy Revision" and the "*Code of Academic Integrity Changes*," the committee has not had ample time to thoroughly consider the interim Student Sexual Misconduct Investigation & Adjudication Procedures. The committee is actively evaluating the interim procedures, and we believe that the extended time will allow the committee to better consider as well as thoroughly evaluate how the interim procedures are currently working for the University.

We respectfully request an extension until November 6, 2015. We have selected this date in order to align the new deadline with the current reviews of the interim Sexual Misconduct Faculty Procedures and interim Sexual Misconduct Staff Procedures, which are being reviewed by the Senate Faculty Affairs Committee and Staff Affairs Committees, respectively. Thank you for your consideration of this request.

Sincerely,


Kasey Moyes
Chair, University Senate Student Conduct Committee

Enclosure(s): Charge from SEC, dated November 11, 2014

Cc: Reka Montfort, Director, University Senate
Andrea Goodwin, Director, Office of Student Conduct



University Senate CHARGE

Date:	November 11, 2014
To:	Kasey Moyes Chair, Student Conduct Committee
From:	Donald Webster Chair, University Senate 
Subject:	Review of the Interim Sexual Misconduct Student Procedures
Senate Document #:	14-15-16
Deadline:	March 27, 2015

The Senate Executive Committee (SEC) requests that the Student Conduct Committee review the attached interim Student Sexual Misconduct Investigation & Adjudication Procedures and make recommendations on whether they are appropriate.

The U.S. Department of Education's Office for Civil Rights (OCR) provided guidance regarding the Violence Against Women Act (VAWA), which was reauthorized in 2013. This guidance required higher education institutions to develop specific sexual misconduct policies and procedures. As a result, the University System of Maryland (USM) revised its Policy on Sexual Misconduct (V-1.60) and asked all USM institutions to align their policies accordingly. In addition, the University was charged with developing procedures for each of its major constituencies. The attached student procedures were developed as an element of the University of Maryland Sexual Misconduct Policy & Procedures (VI-1.60[A]), which has been approved on an interim basis pending University Senate review. Complaints against students based on a violation of the policy will be reviewed in accordance with these procedures.

Specifically, we ask that you:

1. Review the interim University of Maryland Student Sexual Misconduct Investigation & Adjudication Procedures (Appendix A of the University of Maryland Sexual Misconduct Policy & Procedures (VI-1.60[A])).
2. Consult with the University's Title IX Coordinator and the Director of Student Conduct regarding the development of the interim student procedures.
3. Review similar student procedures for complaints of sexual misconduct at our peer institutions and other Big 10 institutions.

4. Review the University's past process for handling student sexual misconduct cases.
5. Review the interim University of Maryland Sexual Misconduct Policy & Procedures ([VI-1.60\[A\]](#)) and consider whether the proposed student procedures align with the University's interim policy, USM policy, and VAWA guidelines.
6. Consult with the University's Office of Legal Affairs on any recommended revisions.
7. If appropriate, recommend whether the interim student procedures should be revised.

We ask that you submit your report and recommendations to the Senate Office no later than March 27, 2015. If you have questions or need assistance, please contact Reka Montfort in the Senate Office, extension 5-5804.

Attachment

DW/rm

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APPENDIX A

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- Time Frame for Resolution
- Filing A Complaint
- Notification to Complainant
- Initial Assessment of Complaint
- Protective Interim Measures
- Role of Support Person, Attorney and Non-Attorney Advocate
- Notification to the Respondent
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- Considerations

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I. OVERVIEW

These procedures accompany the University of Maryland Sexual Misconduct Policy and are to be used when responding to, investigating and adjudicating complaints of sexual misconduct against UMD Students. Sexual misconduct is an umbrella term that encompasses dating violence, domestic violence, sexual harassment, sexual assault, sexual violence, sexual exploitation, sexual intimidation, relationship violence and stalking.

Definitions

Administrative Review refers to the Director of Student Conduct making an independent determination about whether there are grounds to challenge the Finding from the final Investigative Report.

Deputy Title IX Coordinator is generally someone who has received significant training on sexual misconduct investigation and adjudication, is an administrator at the University, and provides managerial assistance and support to the Office of Sexual Misconduct and Relationship Violence (OSM).

Notice of Investigation refers to formal notification to each party that the University is conducting an investigation into the complaint of sexual misconduct.

Notice of Opportunity to Review Draft Investigative Report refers to the formal notification informing the parties of their opportunity to review and take notes on the draft investigative report.

Investigation Outcome Notice refers to formal notification to each party of the outcome of the investigation, the formal charges and a request to contact the Director of Student Conduct or designee for an outcome conference meeting.

Standing Review Committee (SRC) is the formal body composed of a combination of five students, faculty and staff who are specifically trained to hold conferences with all the parties and any witnesses in order to review the information presented by the Special Investigator (and others as the SRC deems appropriate) to make a determination as to whether a Policy violation has occurred and impose sanctions as applicable.

SRC Roster refers to the current list of persons on campus who have been adequately trained and are qualified to act as members of the SRC.

SRC Coordinator refers to an administrative staff person who is responsible for a range of administrative duties related to the logistics of scheduling SRC members for adjudication conferences and appellate review.

SRC Appellate Body refers to three members of the SRC who have been adequately trained and are qualified to review Appeals.

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SRC Conference Notice is the formal notification each party receives that a SRC Conference will be held, including the date and time.

SRC Conference Outcome Notice is the formal notification to each party of the SRC's final decision. It also includes information about appeals.

Voluntary Resolution is an informal resolution process that does not involve any disciplinary action.

Time Frame for Resolution

Consistent with the goal to maximize educational opportunities and minimize the disruptive nature of the investigation, adjudication and resolution, the Office of Sexual Misconduct & Relationship Violence (OSM) seeks to resolve all reports within sixty (60) days, depending on when the report is received. In general, an Investigation may last up to thirty-five (35) business days, from the date the complainant informs the OSM of their intent to proceed with an Investigation and sufficient information for the OSM to determine that the report falls under Section II (Applicability) and raises a potential violation under Section IV (Prohibited Conduct) of the Policy.

Adjudication will generally take up to twenty-one (21) business days from the date of the Investigative Finding. Business days do not include weekends or holidays. The Title IX Officer may set reasonable time frames for required actions under the Policy. Those time frames may be extended for good cause as necessary to ensure the integrity and completeness of the Investigation, comply with a request by external law enforcement, accommodate the availability of witnesses, accommodate delays by the parties, account for University breaks or vacations, or address other legitimate reasons, including the complexity of the Investigation (including the number of witnesses and volume of information provided by the parties) and the severity and extent of the alleged conduct. Any extension of the timeframes, and the reason for the extension, will be shared with the parties in writing. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

Filing A Complaint

A complaint of sexual misconduct should be made directly to:

- The Office of Sexual Misconduct & Relationship Violence, (OSM) or
- The Office of Student Conduct (OSC), or
- The Department of Resident Life, Office of Rights and Responsibilities (R&R).

The University encourages all individuals to promptly report Prohibited Conduct so that immediate and corrective action can be taken to eliminate the conduct, prevent its recurrence, and address its effects. The University will provide support and assistance and will respond consistent with the procedural options available at the time of the report. Upon receipt of a

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report, the Title IX Officer or designee within the OSM will make an immediate assessment of the risk of harm to the parties or to the broader campus community and will take steps necessary to address any risks. These steps will include contacting the OSC to facilitate Protective Interim Measures that provide for the safety of the parties and the campus community when appropriate.

The University recognizes that deciding whether to make a report and choosing how to proceed are personal decisions that may evolve over time. At the time a report is made, a complainant does not have to decide whether to request any particular course of action. Through coordinated efforts the OSM, OSC, and R&R will provide support to assist each individual in making these important decisions; and consistent with the goal of safety for all community members, these staff will make every effort to respect an individual's autonomy in making the determination as to how to proceed. Any individual can also make a report to external law enforcement agencies.

Notification to Complainant

Upon receipt of a complaint, the Title IX Officer or designee such as a Deputy Title IX Coordinator within either the OSC, or R&R, will ensure that the complainant is provided with a copy of the Sexual Misconduct Policy and *Student Sexual Misconduct Investigation & Adjudication Procedures*. Additionally the complainant will be informed of the following:

- The option to: (1) notify law enforcement for possible criminal investigation and the filing of criminal charges; (2) file a complaint with the university for investigation and adjudication under University administrative processes; (3) proceed with both criminal and University complaints; or (4) pursue neither option;
- How to file a complaint under the University's administrative process and how the internal University investigative and adjudicative processes work;
- The right to seek medical assistance, as necessary;
- Guidance regarding the preservation of evidence;
- Available community and campus resources and services;
- The right to an advisor and the advisor's role;
- The right to a support person and the support person's role;
- The University's prohibition against retaliation;
- The University's potential obligation to proceed with an investigation and possible adjudication to ensure the safety and well-being of the complainant and/or others in the campus community in the absence of a formal complaint and/or desire of the complainant to remain anonymous.

Initial Assessment of Complaint

When a report is made, the Title IX Officer or designee will conduct an Initial Assessment. The assessment will determine whether the alleged conduct would present a potential violation of the Policy and whether further action is warranted based on the alleged conduct.

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The first step of the Initial Assessment will usually be a preliminary meeting between the Complainant and the Special Investigator from the OSM to gather facts that will enable the OSM, in consultation with other offices as appropriate, to:

- Assess the nature and circumstances of the allegation, including the severity of the conduct;
- Assess for pattern evidence or other similar conduct by the respondent;
- Assess the safety of the individual complainant and of the campus community;
- Assess the complainant's expressed preference regarding resolution, including any request that no further action be taken;
- Assess any request from the complainant for confidentiality or anonymity;
- Assess the reported conduct for possible referral to UMPD for a timely warning under the Clery Act.

Where possible, the OSM will seek action consistent with the complainant's expressed wishes. The University's ability to fully investigate and respond to a report may be limited if the complainant requests that her/his name not be disclosed to the respondent or declines to participate in an Investigation. When a complainant requests her/his name or other identifiable information not be disclosed and/or that no further action be taken, the Title IX Officer will balance this request with its obligation to provide a safe and non-discriminatory environment for all community members.

At the conclusion of the Initial Assessment, the OSM will determine the appropriate resolution route. Resolution may include:

- No further action,
- Voluntary Resolution, or
- The initiation of an Investigation and Adjudication that may lead to disciplinary action.

Regardless of the manner of resolution, a respondent may choose to accept responsibility at any stage in the process.

Protective Interim Measures

Based on the nature and circumstances of the report, the Director of the OSC or designee may authorize interim protective measures to ensure the safety and well being of the complainant and others in the campus community, as appropriate. Either party may request Protective Interim Measures regardless of whether any particular course of action is sought. Information about interim protective measures can be found on *page 12* of the Sexual Misconduct Policy.

Role of the Support Person, Attorney, and Non-Attorney Advisor

Throughout the process, any participant may have a Support Person present at any meeting related to resolution of a report under the Policy. The Support Person may be anyone over the

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age of eighteen (18), of the individual's choosing, who is not a party or witness involved in the Investigation. In addition, the parties may have a second person present: an additional Support Person, a Non-Attorney Advisor, or, at the party's own initiative and expense, an Attorney.

Notice and Meeting with the OSM

The parties must provide five (5) business days *advance* notice to the OSM of the name(s) and relationship of any individual(s) who will accompany them to any investigation or adjudication proceedings, and what their respective roles are (i.e. Support Person, Non-Attorney Advisor, Attorney). Once chosen by a student to serve as a Support Person, Non-Attorney Advisor or Attorney, each designated individual must meet with a representative from the OSM before they are allowed participation. This is to ensure participants understand the expectations of their respective roles, privacy considerations, and appropriate decorum. A party's inclusion of a Support Person, Attorney, or Non-Attorney Advocate is at the sole expense of the party.

Support Person: A complainant and respondent may choose to be assisted by a Support Person of their choice. A Support Person is someone who can provide emotional, logistical, or other kinds of assistance. The Support Person cannot be a fact witness or provide statements in the proceedings. The Support Person is a non-participant who is present to assist a complainant or respondent by taking notes, providing emotional support and reassurance, organizing documentation, or consulting directly with the party in a way that does not disrupt or delay the proceeding. The Support Person may accompany the party to any investigative, administrative, or adjudicative proceeding under the Policy.

It is each party's decision whether and how they choose to engage a Support Person throughout the Investigation and Adjudication processes. Therefore if a party requests or submits any type of form authorizing the Support Person to receive information or documents regarding the party, such a request will be denied. The Office of Sexual Misconduct and Office of Student Conduct, will at all times communicate and correspond directly with the party.

Attorney or Non-Attorney Advisor: An Attorney or Non-Attorney Advisor may assist a complainant or respondent at their own initiative and expense. The role of the Attorney or Non-Attorney Advisor is limited to providing advice and consultation directly to the party they are accompanying. It is not to provide representation of behalf of the party, as an attorney would do in a formal legal proceeding. In this way the Attorney or Non-Attorney Advisor is a participant who is present solely to advise and consult with the party throughout any proceeding. An Attorney or Non-Attorney Advisor may accompany the party to any investigative, administrative, or adjudicative meeting or proceeding under the Policy. A party's Attorney or Non-Attorney Advisor may not delay, or otherwise interfere with the investigative and adjudication processes.

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If a party has an Attorney or Non-Attorney Advisor, it is each party's responsibility to communicate and share information with their Attorney or Non-Attorney Advisor. If a party submits any type of form authorizing the Attorney or Non-Attorney Advisor to receive information or documents regarding the party, such a request will be denied. The Office of Sexual Misconduct and the Office of Student Conduct, will at all times communicate and correspond directly with the party.

When scheduling a SRC conference in which a party has notified the SRC Coordinator that an Attorney or Non-Attorney Advisor and Support Person plan to participate, the SRC Coordinator will make reasonable efforts to accommodate the Attorney or Non-Attorney Advisor's and Support Person's schedule, while balancing the University's commitment to a prompt and equitable process. The University will prioritize the availability of the parties, witnesses, and SRC members assigned to the matter when determining the date and time for the proceeding.

Voluntary Resolution

Voluntary Resolution does not involve an Investigation or disciplinary action against a respondent, and is not appropriate for all forms of conduct under the Policy. Voluntary Resolution, when selected by the complainant and deemed appropriate by the Title IX Officer, is a path designed to eliminate the conduct at issue, prevent its recurrence, and remedy its effects in a manner that meets the expressed preference of the complainant and the safety and welfare of the campus community. In cases in which Voluntary Resolution involves either the notification to or participation by the respondent, it is the respondent's decision whether to accept and/or participate in Voluntary Resolution.

As the title implies, participation in Voluntary Resolution is a choice, and either party can request to end this manner of resolution and pursue an Investigation and Adjudication at any time, including if Voluntary Resolution is unsuccessful at resolving the report. Similarly, a complainant can request to end an Investigation and pursue Voluntary Resolution at any time.

Voluntary Resolution may include: establishing Protective Interim Measures; conducting targeted or broad-based educational programming or training for relevant individuals or groups; providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; facilitating a meeting with the respondent with the complainant present (in cases that do not involve Sexual Assault); and any other remedy that can be tailored to the involved individuals to achieve the goals of the Policy. In some forms of Voluntary Resolution, the remedies imposed will focus on supporting the complainant with no participation or involvement by the respondent. In other forms of Voluntary Resolution, the respondent may agree to participate. Depending on the type of remedy used, it may be possible for a complainant to maintain anonymity.

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The OSM retains the discretion to determine, when selected by the complainant, which cases are appropriate for Voluntary Resolution. If a complainant requests Voluntary Resolution, and the Title IX Officer concludes that Voluntary Resolution is appropriate based on the factors outlined in the Initial Assessment, the Director of OSC or designee will take appropriate action by imposing individual and community remedies designed to maximize the complainant's access to all employment, educational, and extracurricular opportunities and benefits at the University and to eliminate a potential hostile environment. A complainant may request and decide to pursue Voluntary Resolution at any time.

Notification to the Respondent

In facilitating any form of Voluntary Resolution that involves the respondent, (and if an investigation is to occur) the Special Investigator will meet with the respondent and provide her/him with a copy of the Sexual Misconduct Policy and *Student Sexual Misconduct Investigative and Adjudicative Procedures*. At that meeting, the respondent will be informed of the following:

- The nature of the complaint;
- The issuance of a no contact order (and provided a copy of the order if issued by OSC);
- Available community and campus resources and services;
- The right to a support person and the support person's role;
- The right to an advisor and the advisor's role;
- The University's prohibition against retaliation; and
- How the voluntary resolution and investigative and adjudicative processes work.

Voluntary Resolution may also include restorative principles that are designed to allow a respondent to accept responsibility for misconduct and acknowledge harm to the complainant or to the University community. Restorative models will be used only with the consent of both parties, under the supervision of the Director of OSC or designee (i.e. University-sanctioned trained professionals) and following a determination by the OSM that the matter is appropriate for a restorative approach.

The complainant will not be compelled to engage in mediation, to confront directly the respondent or to participate in any particular form of informal resolution. Mediation, even if voluntary, shall not be used in cases involving Sexual Assault.

To assess pattern or systemic behavior fairly, the OSM will maintain records of all reports and conduct referred for Voluntary Resolution. Information disclosed during the Voluntary Resolution process may be considered during a subsequent Investigation or Adjudication of a similar nature involving either or both parties, as may be relevant. The time frame for completion of Voluntary Resolution may vary, but the OSM and OSC will seek to complete the process

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within thirty (30) business days of the complainant's request.

II. SEXUAL MISCONDUCT INVESTIGATION

Following the Initial Assessment, and in consultation with the complainant, the OSM will initiate a prompt, thorough, and impartial Investigation of conduct that is a potential violation of the Policy and is not being addressed through Voluntary Resolution. The OSM will designate a Special Investigator who has training and experience investigating allegations of Prohibited Conduct. The Special Investigator will coordinate the gathering of information to make an investigative finding regarding whether the alleged conduct constitutes a violation of the Policy by a preponderance of the evidence. A preponderance of the evidence means that it is more likely than not that the conduct occurred.

Information gathered during the Investigation will be used to evaluate the appropriate course of action, provide for individual and campus safety, and identify the need for Interim Protective Measures and other remedies as necessary to eliminate the alleged conduct and to address its affects.

Notice of Investigation

The Director of OSC or designee will send the complainant and the respondent a written Notice of Investigation. This Notice will generally be issued within five (5) business days of receipt of notice from the complainant of the intent to proceed with Investigation and sufficient information for the OSM. The Notice of Investigation will contain a summary of the conduct at issue, the range of potential violations under the Policy, and the range of potential sanctions. Where appropriate, the Notice of Investigation will also contain notification that expulsion is a potential sanction and that expulsion precludes re-enrollment or re-admission to UMD. Upon receipt of the Notice of Investigation, or at any stage in the process, the respondent may choose to accept responsibility for the Policy violation. Once the Notice of Investigation has been delivered to the parties, the Investigation phase begins.

The OSM will oversee the Investigation. The Investigation is designed to provide a fair and reliable gathering of the facts. All individuals, including the complainant, the respondent, and any third party witnesses, will be treated with appropriate sensitivity and respect throughout the Investigation. The Special Investigator will safeguard the privacy of the individuals involved in a manner consistent with federal law and University policy.

During the Investigation, the complainant and respondent will have an equal opportunity to be heard, to submit information, and to identify witnesses who may have relevant information. The Special Investigator will speak separately with the complainant, the respondent, and any other individuals who are willing to participate and have information relevant to the investigation. The

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Special Investigator may gather or receive information that is relevant to the determination of an appropriate sanction or remedy, including information about the impact of the alleged incident on both parties. The Special Investigator will also gather any available physical or documentary evidence, including prior statements by the parties or witnesses, any communications between the parties, email messages, social media materials, text messages, and other records as appropriate and available.

Investigation Timeline

The University will seek to conclude the Investigation within thirty (30) business days from the issuance of the Notice of Investigation. The time frame for completion of the Investigation, or any designated time frames of steps in the Investigation, may be extended for good cause as necessary to ensure the integrity and completeness of the Investigation, to comply with a request by external law enforcement, to accommodate the availability of witnesses, to account for University breaks or vacations, to account for complexities of a case (including the number of witnesses and volume of information provided by the parties), or to address other legitimate reasons. Any extension of the timeframes, and the reason for the extension, will be shared with the parties in writing. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

Where the OSM is made aware that there is a concurrent criminal investigation, the Special Investigator will coordinate with law enforcement so that any University processes do not interfere with the integrity or the timing of the law enforcement investigation. At the request of law enforcement, the Title IX Officer may agree to defer the fact-finding portion of its Investigation until after the initial stages of a criminal investigation. The Title IX Officer or designee will nevertheless communicate with the parties regarding resources and accommodations, procedural options, anticipated timing, and the implementation of any necessary Interim Protective Measures for the safety and well-being of all affected individuals.

The Special Investigator will promptly resume fact gathering as soon as law enforcement has released the case for review following the initial criminal investigation. All community members, including students, faculty and other University employees, are expected to cooperate with the OSM, and the Special Investigator in the Investigation, as well as the Adjudication, of any report to assure fairness and procedural due process. The Title IX Officer or designee may request the appearance of persons from the University community who can provide substantial, relevant evidence. Both a complainant and a respondent may decline to participate in proceedings under the Policy. The Title IX Officer will determine whether the Investigation and Standing Review Committee Conference will proceed without the complainant or the respondent.

Special Considerations

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The Special Investigator has discretion to determine whether any witness or other evidence is relevant to the finding of a policy violation. The Special Investigator may exclude information that is irrelevant, immaterial, or more prejudicial than informative from the Final Investigative Report. The Special Investigator may also exclude statements of personal opinion by witnesses and statements as to general reputation for any character trait, including honesty. Any information the Special Investigator does not include as relevant in the Final Investigative Report will be attached as appendices. The Special Investigator will not exclude direct observations or reasonable inferences drawn from the facts. Other information will be considered as outlined below:

Character: Any documents submitted that speak to the character, or lack thereof, of either party will not be included in the investigative report.

Pattern Evidence: The Special Investigator may consider information (when known) about prior allegations of sexual misconduct by either party if the prior or pending incident(s) are substantially similar to the present incident and/or is indicative of a pattern of behavior.

Prior Sexual History between the Parties: Where there was a prior or ongoing relationship between the complainant and the respondent, and the respondent asserts that Consent was sought and given, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. As noted in other sections of the Policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute Consent.

Prior Sexual History with Other Parties: A party's sexual history with an individual other than the complainant or respondent may be relevant under very limited circumstances to prove intent, motive, absence of mistake, or to explain an injury or physical finding.

Consolidation of Reports: At the discretion of the OSM, multiple reports may be consolidated in one Investigation or one Standing Review Committee Conference if the information related to each incident would be relevant and probative in reaching a determination on the other incident(s). This includes matters where the determination has been made that there is relevant Pattern Evidence or where the evidence of the other conduct is inextricably intertwined with Prohibited Conduct under the Policy. Matters may be consolidated where they involve multiple complainant, multiple respondents or related conduct involving the same parties that would otherwise have been heard under the Code of Student Conduct (provided that it does not delay the prompt resolution of conduct under the Policy).

Impact Statement: The complainant and respondent will be provided the opportunity to submit a written Impact Statement. These written Impact Statements will not be considered in the determination of responsibility, but will be provided to the Special Investigator, and at the appropriate stage of the process, to the SRC members for consideration in the determination of the sanction and remedy. The Impact Statement may be submitted at any

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time in the process, provided that it is received no later than five (5) days after the parties have completed their review of the Investigative Findings. The parties may submit a supplemental Impact Statement to the SRC if there is a change in circumstances warranting an updated Impact Statement. The Impact Statements will be shared with the parties, and may be redacted at the discretion of the OSC, R&R, and Title IX Officer, or in accordance with FERPA.

Review of Draft Investigation Report

At the conclusion of the Investigation, the Special Investigator will prepare a written report that summarizes the information gathered, synthesizes the areas of agreement and disagreement between the parties with any supporting information or accounts, and includes an Investigative Finding as to whether a Policy violation has likely occurred. However, before the report is finalized, the complainant and respondent will be given the opportunity to review a draft Investigation Report, which will not include the Investigative Finding, and may be presented in redacted format. The parties will not receive an electronic or written copy, nor may they photograph or copy the draft Investigation Report, but they will be permitted to take notes on the content.

A complainant and respondent may submit any additional comment or information to the Special Investigator within five (5) business days of the date of the notice of the opportunity to review of the draft Investigation Report. This is the final opportunity for the parties to identify any additional information or witnesses. In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the Special Investigator at this juncture will not be considered by the Special Investigator or SRC.

Investigative Finding and Notification

Upon receipt of any additional information from the complainant or respondent or after the five (5) business day comment period has lapsed without comment, the Special Investigator will make an Investigative Finding. The finding is based on the Special Investigator's current assessment of the outcome of the investigation, and whether it is more likely than not, that a violation of the Policy has occurred. In reaching this determination, the Special Investigator will consult with the Title IX Officer. The Special Investigator may also seek information regarding prior disciplinary history and UMPD regarding prior criminal history. Once the report is finalized it will be sent to the Director of Student Conduct.

Outcome Conference

Upon issuance of the Investigative Finding, and where appropriate, the Director of Student Conduct will recommend sanctions and issue formal charges. Both the complainant and respondent will be notified of the Investigative Finding and the proposed sanction(s) and/or remedy (ies) in writing at the same time. The OSC will issue an Investigation Outcome Notice

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to each party, and invite them to schedule an outcome conference with the Director to discuss the outcome. Each party will have the opportunity to meet, separately, with the Director of Student Conduct or Assistant Director of Rights & Responsibilities depending on where the complaint originated. The Director/Assistant Director will share the Investigative Finding and, as applicable, the recommended sanction with the complainant and the respondent, and the remedy with the complainant. During the Outcome Conference, the parties will each have an opportunity to review the full Investigation Report. The parties will not, however, receive an electronic or written copy, nor may they photograph or copy the Investigation Report. The parties will be permitted to take notes on the content.

Where there has been an *Investigative Finding that a Policy violation has likely occurred*, the parties may:

- Accept both the Investigative Finding and proposed sanction;
- Accept the Investigative Finding, but request a SRC Conference on the recommended sanction; or,
- Reject the Investigative Finding and sanction recommendation and request a SRC Conference on both; or,
- Reject the Investigative Finding and request a SRC Conference, on the Investigative Finding to determine whether a Policy violation was committed and/or to determine an appropriate sanction.

Where there has been an *Investigative Finding that no Policy violation has likely occurred*, the complainant may:

- Accept the Investigative Finding (on one or all of the alleged violations); or
- Reject the Investigative Finding (on one or all of the alleged violations) and request Administrative Review.

The complainant and respondent must communicate their chosen course of action to the Director of Student Conduct, or designee in writing (e.g., email, fax, letter) within five (5) business days of notification of the Investigative Finding.

III. IMPOSITION OF SANCTIONS

The Policy prohibits a broad range of behaviors, which are serious in nature. In keeping with the University's commitment to a learning and working environment free from sexual misconduct, the Policy provides the Director of Student Conduct and the SRC with wide latitude in the imposition of sanctions tailored to the facts and circumstances of each report, the impact of the misconduct on the complainant and surrounding community, and accountability for the respondent. The imposition of sanctions is designed to eliminate prohibited conduct under the Policy, prevent its recurrence, and remedy its effects, while supporting the University's

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educational mission and federal obligations. Sanctions may include educational, restorative, rehabilitative, and punitive components such as removal from University housing, removal from specific courses or activities, and disciplinary probation. Some behavior, however, is so egregious in nature, harmful to the individuals involved, or so deleterious to the educational process that it requires severe sanctions, including suspension or expulsion from the University.

In cases that are resolved at the Outcome Conference after the Investigation, the Director of Student Conduct is responsible for determining the appropriate sanction. In cases that are resolved through a Conference with the SRC, the SRC is responsible for determining the appropriate sanction. In reaching this determination, the SRC may solicit information from the complainant, the respondent and any other individual who can provide information relevant to a determination regarding potential sanctions. The SRC may also review any written Impact Statements submitted by the complainant and the respondent when determining sanctions.

In determining the appropriate sanction, the Director of Student Conduct and the SRC shall consider the following factors:

- The nature and violence of the conduct at issue;
- The impact of the conduct on the complainant;
- The impact or implications of the conduct on the community or the University;
- Prior misconduct by the respondent, including the respondent's relevant prior discipline history, both at the University or elsewhere, including criminal convictions;
- Whether the respondent has accepted responsibility for the conduct;
- Maintenance of a safe and respectful environment conducive to learning;
- Protection of the University community; and,
- Any other mitigating, aggravating, or compelling circumstances to reach a just and appropriate resolution in each case.

The Director of OSC and the SRC may also consider restorative outcomes that, taking into account the safety of the community as a whole, allow a respondent to develop insight about his or her responsibility for the behavior, learn about the impact of the behavior on the complainant and the community, and identify how to prevent or change the behavior.

Where the Director of Student Conduct or SRC concludes that a sanction of suspension or expulsion is appropriate, and the respondent has not already been suspended on an interim basis, there will be an immediate assessment by the Director of Student Conduct or designee to determine whether the respondent poses a serious threat of disruption of the academic process or a continuing danger to other members of the University community or University property. The Director of Student Conduct or designee may impose interim suspension pending the conclusion of any appeal. Where the sanction is other than suspension or expulsion, the imposition of sanction will be deferred pending the conclusion of any appeal. Protective Interim Measures in

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effect for the respondent will continue pending the conclusion of any appeal.

Sanctions that Impact a Student's Status

Sanctions may be imposed individually or in combination. Sanctions that affect a student's status with the University include the following:

Expulsion, which must be approved by the Vice President of Student Affairs, and the President of the University, means that a student is removed from the University permanently and may not re-enroll or be re-admitted to UMD.

Suspension for a Definite or Indefinite Period, which must be approved by the Vice President of Student Affairs, means that the student is removed from good standing and must leave the University for a definite or indefinite period. This form of suspension anticipates that the student may eventually return if applicable conditions are satisfied.

Disciplinary Probation for a Definite or Indefinite Period, including probation with associated conditions or requirements as set by the Director of Student Conduct or designee, or the SRC, means that a student may remain at the University but may be required to satisfy specified conditions or requirements, report regularly to a designated administrator, and be barred from holding any office or participating in any activity in which the student represents the University, including athletics or other competitive teams, or from participating in any University-recognized student organizations either within or outside the University community. The sanction of probation prohibits graduation until the period of probation has ended and the student has complied with all requirements.

Expulsion, suspension for a definite or indefinite period, and disciplinary probation will be noted on a student's transcript.

Sanctions that Do Not Impact a Student's Status

Sanctions that do not affect a student's good standing status with the University include, but are not limited to:

Educational Requirements. Completion of projects, programs, or requirements designed to help the student manage behavior and understand why it was inappropriate.

"No Contact" Orders. Compliance with orders of no contact that limit access to specific University areas or forms of contact with particular persons.

Housing Restrictions. Exclusion from University housing or change in housing arrangements.

Community Service. The OSC will monitor completion of up to sixty (60) hours of community service over a period not to exceed twelve (12) weeks under guidelines established by the Office of Sexual Misconduct in consultation with the Office of Student Conduct and/or Rights & Responsibilities.

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Disciplinary Reprimand. Written warning in the form of an official reprimand that is formally communicated by a letter giving the student notice that any subsequent Policy violation will carry more serious sanctions.

Failure to comply with any of the sanctions listed above may result in further disciplinary action that could impact a student's status.

Records of Student Discipline and Effect of Withdrawal

The existence of a pending Investigation or Adjudication under the Policy will be noted as part of a student's transcript. In addition, currently active sanctions of probation, suspension, or expulsion will be noted as part of a student's transcript. In the event that a respondent chooses to withdraw from the University prior to the resolution of disciplinary charges under the Policy, the matter will be resolved without the student. In some cases, the transcripts may be withheld until the matter is resolved, or marked with, "Disciplinary Action Pending." In the event of a withdrawal, or where the respondent declines to participate in proceedings under the Policy, the SRC Conference Meeting may proceed without the respondent. After withdrawing, the respondent will not be eligible to return to the University until the proceedings under the Policy have been finally concluded.

IV. REMEDIES

The Title IX Officer or designee in consultation with the OSC and the R&R, as appropriate, 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. Such remedies should seek to restore to the complainant, to the extent possible and within reason, all benefits and opportunities lost as a result of the Prohibited Conduct. The Title IX Officer will also identify remedies to address the effects of the conduct on the University community.

The Director of Student Conduct and Title IX Officer will consider the appropriateness of remedies, including Protective Measures, on an ongoing basis to assure the safety and well-being of the parties throughout the process. Long-term remedies may include extending or making permanent any Interim Protective Measures or implementing additional measures tailored to achieve the goals of the Policy. Many of the remedies and supports that a Reporting Party might need after a finding of responsibility will have already been provided as Interim Protective Measures, including but not limited to academic accommodations, short term counseling, and housing arrangements. The Title IX Officer or designee will in all cases, consider whether there is a need for additional remedies. Additional remedies or supports may be included in the proposed sanctions, such as reassignment or removal of the respondent from a class or a dormitory.

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V. ADJUDICATION OPTIONS

At the conclusion of the Outcome Conference, one of the following will occur:

Imposition of Final Finding, Sanction, and Remedy

Where both the complainant and the respondent agree to the Investigative Finding and recommended sanction(s), or where neither party rejects the Investigative Findings and sanction recommendations, the Director of Student Conduct may adopt the Findings as final and impose the sanction(s). The finality of the outcome, which is not subject to further appeal or review, will be communicated to the parties, in writing at the same time.

If the proposed sanction involves dismissal from the University (suspension or expulsion), the Director of Student Conduct will delay imposition of the final findings and sanction based on acceptance, in order for the party accepting responsibility to consult with either the Attorney, Non-Attorney Advisor, Parent or Legal Guardian, before the acceptance and imposition is considered final.

Administrative Review by Director of Student Conduct: Investigative Finding of No Policy Violation

Where the complainant requests Administrative Review of the Investigative Finding that no Policy violation occurred, both the respondent and the complainant will have the opportunity to meet with the Director of Student Conduct or submit additional information in writing. The Director may agree with the Investigative Finding, reverse the finding, or request additional investigative follow-up. The Director of Student Conduct will render a decision in writing to both parties at the same time within ten (10) business days of receipt of the request for Administrative Review. This timeframe may be extended for good cause provided that both the delay and the reason for the delay are communicated to the parties in writing.

Where the Director of Student Conduct agrees with the Investigative Finding, this determination is final and is not subject to further appeal or review. Where the Director reverses the Investigative Finding that there is no Policy violation, the matter will be immediately forwarded for Adjudication by the SRC. Where the Director of Student Conduct requests additional Investigation, the matter will be returned to the Special Investigator for further review.

Adjudication by Standing Review Committee: Review of an Investigative Finding that a Policy Violation Occurred

If the respondent challenges the Investigative Finding that a Policy violation has likely occurred, the OSC or designee will issue a Standing Review Committee Conference Notice to the complainant and the respondent and forward the Investigative Final Report to the SRC for adjudication. The SRC's role is twofold: determination that a Policy violation occurred by a

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preponderance of the evidence and, if warranted, imposition of sanctions.

Adjudication by Standing Review Committee: Review of Recommended Sanction Only

Where either the complainant or the respondent requests a SRC Conference only on the recommended sanction, a SRC Conference will be convened for the sole purpose of determining the appropriate sanction.

Standing Review Committee Conference

The SRC Conference's adjudication process will generally be completed within twenty-five (25) business days from the date of the SRC Conference Notice. As with all time frames in the Policy, this time frame may be extended for good cause with notice to the parties in writing.

Upon receipt of a SRC Conference Notice, a SRC will be designated to review all relevant information gathered in the Investigation. The SRC is a body composed of a combination of five (5) staff, faculty and students. Any individual designated by the University to serve on the SRC must have sufficient training or experience to serve in this capacity. A SRC member may decline to participate on the basis of an actual conflict of interest, bias, or lack of impartiality. A SRC Chair will conduct and preside over the Conference with all the parties, and each party and potential witnesses separately. The SRC Chair will be specifically trained on the additional requirements of acting as Chair of the SRC Conference.

SRC Conference Procedures

At the SRC Conference the Special Investigator is responsible for presenting sufficient information and evidence to support the finding of a Policy violation.

When the Special Investigator presents the Investigative Finding to the SRC, it is not a closed session. Both parties, including their respective Support Persons and Attorneys or Non-Attorney Advisors may be present. The Special Investigator will present the Investigative Finding to the SRC, and the SRC members will pose questions to the Special Investigator based on the presentation. When the SRC has concluded questioning the Special Investigator, the Chair will invite the parties to submit to the Chair questions they wish the Committee to ask the Special Investigator. The Chair will recess and synthesize the questions to maintain an orderly inquiry, and minimize repetition. The Chair will pose the questions to the Special Investigator, retaining discretion regarding relevancy.

The SRC may then meet separately with each party in a session which will be closed to the other party and to the Special Investigator. Likewise, the SRC will meet with available witnesses in sessions, which will be closed to the parties and the Special Investigator. The SRC Chair and members will question each party and witness attending a session.

After a consideration of all relevant information, the SRC will make its own determination by a

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preponderance of the evidence whether a Policy violation has occurred. Preponderance of the evidence means that it is more likely than not that the conduct occurred. The SRC's determination must be reached by a majority vote.

If the SRC finds that a violation has occurred, it will determine and impose the sanction. Prior to doing so, it will offer to listen to and/or review a written Impact Statement. It will meet separately with a party wishing to make an Impact Statement in a session closed to the other party and the Special Investigator.

The public, except for the immediate members of the parties' families, may not attend the SRC Conference.

Notice of SRC Conference Outcome

Within five (5) business days of the conclusion of the SRC closed session conferences the Office of Student Conduct will provide a written Notice of Outcome from the SRC to the complainant and the respondent at the same time. The OSC will also provide written notice, at the same time to both parties, of any change in the Outcome that occurs before the Outcome becomes final.

The SRC Notice of Outcome will include the finding by the SRC as to whether there is a Policy violation, the rationale for the result, and a brief summary of the evidence on which the decision is based, as appropriate. Where there is a finding of a Policy violation, the respondent will be informed of any sanctions, the date by which the requirements must be satisfied (if applicable), and the consequences of failure to satisfy the requirements. The complainant will be informed of any sanctions and remedies that directly relate to the complainant, including information about the respondent's presence on campus (or in a shared class or residence hall), that may help a complainant make informed decisions or work with the University to eliminate Prohibited Conduct and prevent its recurrence.

The SRC Notice of Outcome will also include information about the appeal process, including the available grounds for an appeal, and the time frame for submitting an appeal. If neither party seeks an appeal within five (5) business days of the SRC Notice of Outcome, any sanction imposed by the SRC will take effect immediately.

VI. APPEAL

The parties may appeal the portions of the SRC Outcome that directly relate to that party. This means that the complainant and the respondent may only appeal the portions of the SRC Outcome articulated in the SRC Notice of Outcome as described above. Mere dissatisfaction with the Outcome is not a valid basis for appeal. The appeal must be submitted in writing using

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the *Notice of Appeal* form¹, to the SRC Coordinator within five (5) business days of receipt of the SRC Notice of Outcome. The scope of the appeal is limited only to the three permissible grounds that have been accepted for review (listed below). If the appeal request moves forward, the other party will be notified and given five (5) business days to respond. Responses shall be submitted directly to the SRC Coordinator or designee. Appeals filed by each party will be considered together in one appeal review process. Receipt of the written appeal will be acknowledged in writing. The parties may have their Attorney or Non-Attorney Advisor submit written responses on their behalf.

Grounds for Appeal

Grounds for appeal shall be limited to:

- Procedural Error: A violation of procedural due process means that the decision was negatively influenced by a failure of the SRC to take a procedural step or fulfill a procedural requirement established by this policy.
- New Evidence: New evidence is significant evidence that could not have been previously discovered and presented by the appellant through reasonable diligence.
- Substantive Due Process: A violation of substantive due process means that the SRC decision was based upon an illegal or constitutionally impermissible consideration (e.g. party's gender, race, age, national origin, sexual orientation or a party's exercise of first amendment freedoms)

If neither party submits an appeal, the SRC Outcome becomes final after five (5) business days. Appeals submitted after five (5) business days will be denied.

Considerations

In any request for an appeal, the burden of proof lies with the party requesting the appeal because the SRC Outcome is presumed to be a reasonable and just determination. Appeals are not intended to allow for a rehearing of the complaint. A review of the matter will be prompt and narrowly tailored to the stated appeal grounds. In most cases, appeals are confined to a review of the written record and the pertinent documentation regarding the grounds for appeal (i.e. the Final Investigative Report, SRC Outcome, and the written record as contained in the Notice of Appeal submitted by the appellant. However, depending on the nature of the appeal, the SRC Appellate Body may speak to the Special Investigator, the SRC Conference Chair, or the parties, as appropriate.

SRC Appellate Body

The SRC Appellate Body is composed of three (3) members from the Standing Review

¹ *Notice of Appeal – Sexual Misconduct Adjudication Process form*, is included here as Appendix A-1, and may be found on the Student Conduct website: <http://osc.umd.edu/OSC/Default.aspx>

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Committee who did not participate previously in adjudicating the case. Depending on the basis of the requested appeal, the SRC Appellate Body may:

- Affirm the Outcome;
- Alter the Outcome;
- Return the matter to the SRC with instructions to reconvene to cure a procedural or substantive error or to assess the weight and impact of newly discovered information.

An Appellate conference will be convened before a newly constituted SRC Appellate Body where the procedural or substantive error cannot be cured by returning the matter to the original SRC. The SRC Appellate Body Chair will render a written decision on the appeal to both parties within fifteen (15) business days from the date of the submission of all appeal documents. Appeal decisions by the SRC Appellate Body are final with the exception of cases involving suspension or expulsion that allow for further review.

VII. FINAL OUTCOME

The President of the University must review and approve any sanction of expulsion, if this sanction is so recommended by the Vice President of Student Affairs. The Vice President of Student Affairs must also approve any sanction of suspension.

After all review processes are concluded, the Title IX Officer or designee will promptly notify the complainant and respondent, in writing, and in person when possible, of the final outcome of the sexual misconduct complaint.

Post-Resolution Follow Up

After a sanction or remedy is issued, the OSM may periodically contact the complainant to ensure the Prohibited Conduct has ended and to determine if additional remedies are necessary and will contact the respondent to assure compliance with any sanctions that have been imposed. The complainant may decline future contact. Any violation by a respondent of a sanction or protective measure imposed under the Policy or a failure by a University employee to provide a specified remedy should be reported to the Title IX Officer. The complainant and respondent are encouraged to provide the OSM with feedback about their experience with the process and recommendations regarding ways to improve the effectiveness of the campus' implementation of the Policy.

END OF DOCUMENT

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NOTICE OF APPEAL FORM

In the matter of: _____.

Under the *Student Sexual Misconduct Investigation & Adjudication Procedures*, either party has a right to appeal. An appeal must be submitted within five (5) business days of receipt of the SRC's Notice of Adjudication Outcome.

Appeals submitted after the five (5) business day period, will not be considered. The other party(s) will be notified if an appeal is submitted and will be provided five (5) business days to submit a response.

Appeals are not intended to allow for a rehearing of the complaint. A decision to grant an appeal is made only where there is clear error.

Appellate procedures can be found in the *Student Sexual Misconduct Investigation & Adjudication Procedures*, Appendix A, on pages 19-20.

Appellant (Submitted By): _____.

You must check the basis for your appeal:

- Procedural Error:** A violation of procedural due process means that the decision was negatively influenced by a failure of the SRC to take a procedural step or fulfill a procedural requirement established by this policy.
- New Evidence:** New evidence is significant evidence that could not have been previously discovered and presented by the appellant through reasonable diligence.
- Substantive Due Process:** A violation of substantive due process means that the SRC decision was based upon an illegal or constitutionally impermissible consideration (e.g. party's gender, race, age, national origin, sexual orientation or a party's exercise of first amendment freedoms)

Please state all the information that should be considered by the SRC Appellate Body in support of your appeal (under one of the grounds noted above.) Please do not restate any information already contained in the Investigative and/or SRC Adjudication Outcome Report. Those documents will be provided to the appellate body.

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Please use additional paper if necessary.

VERIFICATION

I _____ acknowledge and agree that this statement is
(appellant/your name)
truthful and complete to the best of my knowledge.

Acknowledged and Agreed.

By: _____
Appellant Signature

Date: _____

APPENDIX A: STUDENT SEXUAL MISCONDUCT COMPLAINT PROCEDURES

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VIII. FINAL OUTCOME

A. Post Resolution Follow-Up

I. OVERVIEW

These procedures accompany the University of Maryland (UMD) Sexual Misconduct Policy (the Policy) and are to be used when the University receives complaints of sexual misconduct involving UMD students. As defined in the Policy, sexual misconduct is an umbrella term that encompasses dating violence, domestic violence, sexual violence, sexual harassment, sexual assault, sexual exploitation, sexual intimidation, relationship violence, and stalking.

Both the Complainant and Respondent may decline to participate in the complaint process. The Title IX Officer and Director of Student Conduct, as appropriate, will determine whether the Investigation and Resolution Phase will proceed without the parties' participation. A lack of participation by a party does not necessarily preclude a finding of a Policy violation or the imposition of appropriate disciplinary action.

A. Role of the Support Person and Advisor

Throughout the process, any party may be accompanied to any meeting related to investigation and resolution of a complaint by no more than two (2) other people. Meetings include but are not limited to the following: investigative interviews, document review, meetings with the Office of Student Conduct (OSC), and the Standing Review Committee (SRC) Conference. Persons may serve in the role of Support Person or Attorney or Non-Attorney Advisor (Advisor) subject to the following limitations:

Support Person: A Complainant or Respondent may choose to be assisted by a Support Person of their choice, at their own initiation and expense. A Support Person is someone who can provide emotional, logistical, or other kinds of assistance. The Support Person cannot be a witness or provide statements in the case. The Support Person is a non-participant who is present to assist a Complainant or Respondent by taking notes, providing emotional support and reassurance, organizing documentation, or consulting directly with the party in a way that does not disrupt or cause any delay. All Support Persons must follow the non-party participation requirements outlined below.

Advisor: A Complainant or Respondent may choose to be assisted by an Advisor of their choice, at their own initiation and expense. The Advisor is a non-participant who is present to provide advice and consultation to the Complainant or Respondent in private. An Advisor cannot be a witness or provide statements in the case. If necessary, a party may request a recess in order to speak privately with an Advisor. An Advisor shall not be an active participant. The Complainant or Respondent must speak for him or herself. A Complainant or Respondent's Advisor may not delay, or otherwise interfere with the University's administrative process for student

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complaints. Advisors must follow the non-party participation requirements outlined below.

It is each party's decision whether and how they choose to engage a Support Person or Advisor. Throughout the process, University staff and participants, including but not limited to the Office of Civil Rights and Sexual Misconduct (OCRSM) and the OSC, will communicate and correspond directly with each party, and not through a Support Person or Advisor.

Party(s) Obligations: When the Complainant and/or Respondent wishes to have a Support Person and/or Advisor accompany them to a meeting, the individual parties (students) must notify the OSC or the OCRSM *at least 2 business days in advance* of their participation.

Non-Party Participation Requirements: All Support Persons and/or Advisors must contact the OSC or the OCRSM prior to participation in any meeting or other activity associated with these procedures. This is to ensure the non-party participants are informed about the process and their respective role(s). All participants must understand the expectations of their roles, privacy considerations, and the expected and appropriate decorum. The advance notice to the OSC or the OCRSM of the individual(s) who will accompany the Complainant and Respondent is designed to ensure that the University has sufficient time to make adequate arrangements, when necessary.

B. Time Frame for Resolution

Consistent with the goal of maximizing educational opportunities and campus safety while minimizing the possible disruptive nature of the investigation and resolution of the complaint, the OCRSM and the OSC seek to resolve all complaints within sixty (60) business days of the commencement of an investigation. In general, the investigation phase may last up to a month (4 -5 weeks) and the resolution phase will take approximately another month (or approximately 4 – 5 weeks). Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with the importance of resolving complaints in a timely and expeditious manner.

The Title IX Officer may extend the general time frames for the completion of required actions. If such an extension occurs, the Parties will be notified in writing by OCRSM or OSC. For example, time frames may be extended as necessary by the Title IX Officer to ensure the integrity and completeness of the Investigation, comply with a request by external law enforcement, accommodate the availability of witnesses, accommodate reasonable requests for delay by the parties, account for University breaks or vacations, to account for complexities in the case (including a large number of witnesses, events or quantity of information) or for other legitimate reasons.

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C. References

Reference herein to the Office of Student Conduct (OSC) includes the Office of Rights & Responsibilities, Resident Life, the Director of Student Conduct, and the Assistant Director of Resident Life, Office of Rights and Responsibilities, and their designees.

Reference herein to the OCRSM or the Title IX Officer includes the Director of the OCRSM and designees.

II. FILING A COMPLAINT

A complaint of sexual misconduct against a student may be filed with:

- The Office of Civil Rights & Sexual Misconduct (OCRSM)
- The Office of Student Conduct (OSC) or
- The Department of Resident Life, Office of Rights and Responsibilities (R&R).

Prompt reporting of Prohibited Conduct is encouraged so that the University can take immediate and corrective action to eliminate the misconduct, prevent its recurrence, and address its effects. The University will provide support and assistance to the Complainant and respond according to the steps outlined in these procedures. Upon receipt of any report the Title IX Officer will make an immediate assessment of the risk of harm to the parties or to the campus community and will take steps necessary to address any risks. These steps may include contacting the OSC to facilitate Interim Protective Measures that provide for the safety of the parties and the campus community when appropriate.

The University recognizes that deciding whether to file a complaint with the OCRSM and choosing how to proceed are personal decisions and that those decisions may evolve over time. A Complainant may file a report of sexual misconduct without triggering the complaint process; a Complainant does not have to decide how to proceed immediately. The OCRSM and the OSC will coordinate to provide support and assistance to each Complainant in making these important decisions. Consistent with the goal of safety for all community members, the University will make every effort to respect a Complainant's autonomy in making his/her own personal determination. In addition to, or independent of, filing a complaint with OCRSM, OSC or R&R, a Complainant has the right to file a report of sexual misconduct with campus police or external law enforcement at any time.

A. Notification to Complainant

Upon receipt of a complaint, the OCRSM will ensure that the Complainant is provided with a copy of the Sexual Misconduct Policy and procedures, and a *Notice of Rights & Responsibilities*.

Notice of Rights & Responsibilities

Either OSC or OCRSM will provide information to the Complainant about the University's internal, administrative complaint process and review with them their

APPENDIX A: STUDENT SEXUAL MISCONDUCT COMPLAINT PROCEDURES

respective rights and responsibilities. The Complainant will be informed of available community and campus resources and services; his/her right to a Support Person and the Support Person's role; his/her right to an Advisor and the Advisor's role; his/her right to file a police report, or not; and the University's prohibition against retaliation. The Complainant will have an opportunity to ask questions and seek additional information.

B. Initial Assessment of Complaint

When the Complainant makes a formal complaint, the OCRSM will conduct an Initial Assessment. The Initial Assessment will determine whether the reported conduct constitutes a potential violation of the Policy, and if further action is warranted based on the reported conduct. The first step in the Initial Assessment is a preliminary meeting between the Complainant and the OCRSM and/or OSC to gather facts that will enable the OCRSM, in consultation with other offices, as appropriate, to:

- Assess the nature and circumstances reported in the complaint, including the severity of the conduct;
- Assess the safety of the Complainant and of the campus community;
- Assess for pattern evidence or other similar conduct by the Respondent;
- Assess the Complainant's expressed preference regarding resolution, including any request that no further action be taken;
- Assess any request by the Complainant for confidentiality or anonymity;
- Assess the reported conduct for possible referral to UMPD for a timely warning under the Clery Act.

C. Requests for Confidentiality

Where possible, the OCRSM will seek action consistent with the Complainant's expressed wishes. The University's ability to fully investigate and respond to a complaint may be limited if the Complainant requests that his/her name not be disclosed to the Respondent or declines to participate in an Investigation. When a Complainant requests his/her name or other identifiable information not be disclosed and/or that no further action be taken, the Title IX Officer will seek to honor such requests, balancing the Complainant's wishes for confidentiality with the University's obligation to provide a safe and non-discriminatory environment for all members of the University community.

At the conclusion of the Initial Assessment, the OCRSM will determine the appropriate next step:

- Take no further action,
- Proceed with Administrative Resolution, or
- Initiate an Investigation.

D. Interim Protective Measures

Based on the nature and circumstances of the complaint, the Director of Student Conduct

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or the Title IX Officer, may authorize Interim Protective Measures to ensure the safety and well-being of the Complainant and others in the campus community, as appropriate. Information about Interim Protective Measures can be found on *page 11* of the Policy.

E. Notification to Respondent

When the Initial Assessment determines the University has no jurisdiction over the Respondent (i.e., he/she is not a member of the UMD community) and a remedy can be provided to help mitigate the effects of the sex discrimination, the OSC or the OCRSM will facilitate that remedy, as appropriate. When the Initial Assessment determines the University has jurisdiction over the Respondent, and an investigation is warranted, the OSC or the OCRSM will notify the Respondent and provide him/her with a *Notice of Rights and Responsibilities*.

Notice of Rights and Responsibilities

The OSC or the OCRSM will meet with the Respondent and provide him/her with a copy of the policy and procedures. At that meeting, the Respondent will be informed verbally and in writing of the following:

- The nature of the complaint;
- The issuance of a no contact order (and provided a copy, if applicable);
- Available community and campus resources and services;
- The right to a Support Person and his/her role;
- The right to an Advisor and his/her role;
- The University's prohibition against retaliation; and
- Information about the investigation and resolution phases of the complaint process.

III. ADMINISTRATIVE RESOLUTION

A. Eligibility

Administrative Resolution is not appropriate for complaints involving sexual violence, including sexual assault. When requested by the Complainant, the OCRSM will determine if a complaint is appropriate for Administrative Resolution. Administrative Resolution allows for the provision of remedies that focus on supporting the Complainant. Depending on the type of remedy sought, the use of Administrative Resolution may allow the Complainant to maintain anonymity. A Complainant or Respondent may opt out of Administrative Resolution at any time. In that event, the case would be assessed for further investigation and/or possible referral for an SRC Conference.

In cases where Administrative Resolution is requested, and OCRSM and OSC conclude it is an appropriate response, (based on the factors outlined in the Initial Assessment) and is mutually agreed to by the Parties, the OSC Director or designee will take appropriate action by imposing individual and community remedies designed to maximize the

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Complainant's access to employment, educational, and extracurricular opportunities and benefits at the University, and to address the affects of the discriminatory conduct and prevent its re-occurrence through a range of potential disciplinary actions.

B. Disciplinary Action

These actions are limited to those that do not impact the student's status and include, but are not limited to:

Educational Requirements. Completion of projects, programs, or requirements designed to help the student manage behavior and understand why it is inappropriate.

"No Contact" Orders. Compliance with orders of no contact that limit access to specific University areas or forms of contact with particular persons.

Housing Restrictions. Exclusion from University housing or change in housing arrangements.

Community Service. The OSC will monitor completion of up to sixty (60) hours of community service over a period not to exceed twelve (12) weeks under guidelines established by OCRSM in consultation with the OSC.

Disciplinary Reprimand. The student is warned that further misconduct may result in more severe disciplinary action.

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.

Failure to comply with any of the disciplinary action listed above may result in further sanctions that could impact a student's status with the University.

C. Records

To assess pattern or systemic behavior fairly, the OCRSM will maintain records of all complaints and conduct referred for Administrative Resolution. Information disclosed during the Administrative Resolution process may be considered during a subsequent Investigation or conduct of a similar nature involving either or both parties, as may be relevant and determined by the Title IX Officer of Director of Student Conduct. The time frame for completion of Administrative Resolution may vary, but the OCRSM and OSC will seek to complete the process within a month (or approximately 30 business days) from the date of the Complainant's request.

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III. SEXUAL MISCONDUCT INVESTIGATION

Following the Initial Assessment, and in consultation with the Complainant, if Administrative Resolution is not an option, the OCRSM will initiate a prompt, thorough, and impartial Investigation of the complaint. The OCRSM will designate a Special Investigator, specifically trained in performing sexual misconduct investigations. The Special Investigator is responsible for coordinating the gathering of information about what occurred and making an investigative finding as to whether the conduct constitutes a violation of the Policy. The finding by the Special Investigator shall be based on a preponderance of the evidence. A preponderance of the evidence means that it is more likely than not that the Prohibited Conduct in violation of the Policy occurred.

Information gathered during the Investigation will be used to evaluate the appropriate course of action, provide for individual and campus safety, and identify the need for Protective Measures and other remedies as necessary to eliminate the alleged conduct and to address its affects.

A. Notice of Investigation

When an investigation is initiated, the OSC or OCRSM will send the Complainant and the Respondent a written *Notice of Investigation*. The *Notice of Investigation* will contain a summary of the alleged misconduct, and the range of potential sanctions. Where appropriate, the *Notice of Investigation* will also contain notification that expulsion and/or suspension are potential sanctions. Upon receipt of the *Notice of Investigation*, or at any other stage in the process, the Respondent may choose to accept responsibility for the Policy violation. Once the *Notice of Investigation* has been delivered to the parties, the Investigation phase begins.

B. Meeting with Office of Student Conduct

Upon receipt of the *Notice of Investigation*, the Respondent and Complainant are required separately to meet in person with the OSC. The OSC will review the rights and responsibilities of each party under the procedures and answer any questions the parties may have about the process.

C. Investigation Overview

The OCRSM will oversee the Investigation. The Investigation is designed to provide a fair and reliable gathering of the facts. All individuals, including the Complainant, the Respondent, and any third-party witnesses, will be treated with appropriate sensitivity and respect throughout the Investigation. The Special Investigator will safeguard the privacy of the individuals involved in a manner consistent with federal and state law and University policy.

During the Investigation, the Complainant and Respondent will have an equal opportunity to be heard, to submit information, and to identify witnesses who may have relevant information. The Special Investigator will speak separately with the

APPENDIX A: STUDENT SEXUAL MISCONDUCT COMPLAINT PROCEDURES

Complainant, the Respondent, and any other individuals who are willing to participate and have information relevant to the investigation. The Special Investigator may gather or receive information that is relevant to the complaint, including physical or documentary evidence, such as prior statements, written communications between the parties, email messages, social media materials, text messages, and other available records.

D. Investigation Phase Timeframe

The OCRSM seeks to conclude the Investigation within thirty (30) business days from the issuance of the *Notice of Investigation*. Any extension of the timeframes, and the reason for the extension, will be shared with the parties in writing. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with the importance of resolving complaints in a timely and expeditious manner.

E. Intersection with Criminal Case

Where the OCRSM is made aware that there is a concurrent criminal investigation, the Special Investigator will coordinate with outside and campus law enforcement so that any University processes do not interfere with the integrity or the timing of a law enforcement investigation. At the request of law enforcement, the Title IX Officer may agree to defer the fact-finding portion of its Investigation until after the initial stages of a criminal investigation. The Title IX Officer will communicate with the parties regarding resources and accommodations, procedural options, anticipated timing, and the implementation of any necessary Interim Protective Measures for the safety and well-being of all affected individuals.

The Special Investigator will promptly resume fact gathering as soon as law enforcement has released the case for University review following the initial criminal investigation. All community members, including students, faculty and other University employees, are expected to cooperate with the OCRSM Special Investigator in the Investigation, to assure fairness and procedural due process. The Title IX Officer may request the appearance of persons from the University community who can provide substantial, relevant evidence.

F. Special Considerations

The Special Investigator has discretion to determine whether any witness or other evidence is relevant to the finding of a Policy violation. The Special Investigator may exclude information that is irrelevant, immaterial, or more prejudicial than probative from the final Investigative Report. The Special Investigator may also exclude statements of personal opinion by witnesses and statements as to general reputation for any character trait, including honesty.

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The Special Investigator will not exclude direct observations or reasonable inferences drawn from the facts. Other information will be considered as outlined below:

Pattern Evidence. The Special Investigator may consider information (when known) about prior allegations of sexual misconduct by either party if the prior or pending incident(s) are substantially similar to the present incident and/or is indicative of a pattern of behavior.

Prior Sexual History between the Parties. Where there was a prior or ongoing relationship between the Complainant and the Respondent, and the Respondent asserts that Consent was sought and given, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. As noted in other sections of the Policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute Consent.

Consolidation of Reports. At the discretion of the OCRSM, multiple reports may be consolidated in one Investigation if the information related to each incident would be relevant and probative in reaching a determination on the other incident(s). This includes matters where the determination has been made that there is relevant Pattern Evidence or where the evidence of the other conduct is inextricably intertwined with Prohibited Conduct under the Policy. Matters may be consolidated where they involve multiple Complainants, multiple Respondents, or related conduct involving the same parties (provided that it does not delay the prompt resolution of conduct under the Policy).

G. Opportunity to Review and Comment on Draft Investigation Report

At the conclusion of the investigation phase, the Special Investigator will prepare a written draft Investigation Report that summarizes the information gathered, synthesizes the areas of agreement and disagreement between the parties and attaches all supporting information, evidence and witness statements relied upon in the investigation. Before the Investigation Report is finalized, the Complainant and Respondent will be given the opportunity to review a draft of the Investigation Report.

The Complainant and Respondent will receive a *Notice of Opportunity to Review Draft Investigation Report*. Within five (5) business days of the date of the *Notice of the Opportunity to Review Draft Investigation Report*, the parties may submit additional comments; ask questions, or present clarifying or new information to the Special Investigator.

If one of the parties cannot be physically present to review and comment on the draft report, the OCRSM will work with the student to identify a mutually agreed upon third person who can read the report over the phone or by Skype to the party. Draft Investigation reports shall not be shared electronically.

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H. OCRSM Investigative Finding

Upon timely receipt of any additional information from the Complainant and Respondent or after the five (5) business day comment period has lapsed without comment, the Special Investigator will finalize the Investigation Report. The final Investigation Report will state whether the preponderance of the evidence supports a Policy violation and include a summary of the evidence relied upon by the Special Investigator in reaching this determination. In reaching this determination, the Special Investigator will consult with the Title IX Officer. The Special Investigator may also seek information regarding the parties' prior disciplinary history and prior criminal history.

IV. CHARGING

A. Review by the Office of Student Conduct

The OSC will review the Investigation Report, attachments and any responses to the Investigation Report submitted by the Parties and make an independent determination as to whether the preponderance of the evidence supports a finding of a Policy violation or not. In the event OSC deems it necessary, OSC may request further investigation by the Special Investigator.

B. Notice of Policy Violation and Formal Charges

If OSC determines that a preponderance of the evidence supports the finding of a Policy violation, OSC will issue a *Notice of Policy Violation and Formal Charges (Charging Notice)* document to the Respondent and Complainant. The *Charging Notice* will describe the specific sexual misconduct in violation of the Policy, and OSC's determination based on the Investigation Report. If OSC determines that the preponderance of evidence does not support the finding of a Policy violation, OSC will issue a *Notice of No Policy Violation (Outcome Notice)*. The *Outcome Notice* will describe how the finding is not supported by the preponderance of the evidence relative to the specific type of sexual misconduct in the complainant.

In either case, upon receipt of either a *Charging Notice* or *Outcome Notice*, both parties will be contacted and directed to meet separately with the Director of OSC at a formal *Outcome Conference* to discuss next steps in the process.

C. Outcome Conference

At the *Outcome Conference*, the Parties may either accept or reject the finding. Both Parties meet separately with the Director of Student Conduct or designee. When either Party does not agree with the finding issued by the OCRSM and the OSC, they may request additional review by the Senate Committee on Student Conduct (SCC), excluding cases with a possible sanction of expulsion or suspension. The SCC review and outcome is the final outcome. Where there has been a finding of a Policy violation, and the possible sanction is expulsion or suspension, the case will be automatically referred to the

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Standing Review Committee (SRC).

At the end of the meeting, the Director of Student Conduct or designee will communicate the next steps in the process depending on the Parties' respective options. If the case is going to an SRC Conference, both parties will be informed by the OSC, of the date and time of the SRC conference.

D. Opportunity for Parties to Submit Response to Final Investigation Report

At the conclusion of the *Outcome Conference*, both Parties will be provided with a redacted copy of the Investigation Report (including exhibits). At that time, both parties are allowed five (5) business days to submit a written response to the Investigation Report to OSC. If no responses are received in the allotted time period, or if a Party fails to attend the *Outcome Conference*, OSC may proceed with the SRC Conference, or Administrative Determination and exclude any written responses not provided in a timely manner as outlined above. All submitted written responses will be shared with the other party, and the SRC members, prior to the SRC conference.

E. Administrative Determination

Generally, for cases where expulsion or suspension is not a potential sanction, the Office of Student Conduct will determine the appropriate disciplinary action. In doing so, OSC will consider the criteria outlined at VI. Sanctions and Remedies, section B. Sanction Considerations, on *page 14* of this document. The OSC will also consider impact statements provided by the parties.

F. Standing Review Committee (SRC)

Cases in which expulsion or suspension is a potential sanction are automatically referred to the Standing Review Committee (SRC). The OSC will convene the SRC. The purpose of the SRC Conference is to allow for an independent assessment of whether the preponderance of the evidence supports a finding of a Policy violation. The SRC is a body composed of a combination of five (5) staff, faculty, and students who have received training or experience to serve in this capacity. SRC members are obligated to disclose any conflicts or if any of the parties may be known to them, to the OSC, prior to participation in any SRC. Conflicts or familiarity with the parties disclosed to the OSC will automatically disqualify the SRC member from participation on a specific case.

An SRC Chair will be designated to facilitate and manage the SRC conference. The SRC Chair will be specifically trained on the obligations and responsibilities of serving as Chair.

G. SRC Conference Procedures

The SRC Conference is closed to members of the public other than the Parties, Support Persons and/or Advisors, SRC members and other appropriate University personnel. The

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Advisor or Support Person is not permitted to participate in the process and may not directly address the SRC, other parties, or the Special Investigator at any time.

Role of Special Investigator: The Conference will begin with brief introductions and the SRC Chair will invite the Special Investigator to summarize the Investigation and explain his/her analysis supporting the finding of a Policy violation. The Parties, including their respective Support Persons and Advisors, may be present. The SRC may pose questions directly to the Special Investigator about the investigation. When the SRC has concluded questioning the Special Investigator, the Chair will invite the Complainant and Respondent to submit questions to the Chair to be asked of the Special Investigator. Questions presented by either of the Parties to the Special Investigator, must be submitted in writing.

Questions Presented during the Conference: If the Investigator cannot answer a question (posed by either party or the SRC itself) to the satisfaction of the SRC, the SRC may suspend the case for further investigation by the Special Investigator. Once the Special Investigator has concluded any further investigation, the SRC Conference will be rescheduled. OSC will use best efforts to complete this process promptly, and will notify the parties of the status, as appropriate.

The SRC will determine what submitted questions are posed to the Special Investigator, and state the basis for their decision, retaining discretion regarding relevancy and redundancy. If either party has any follow up or clarifying question(s) resulting from the Special Investigator's response to a question, the follow up question also must be submitted in writing.

When all questioning is concluded, the Special Investigator will be excused. Afterwards the SRC will discuss the case and make a determination, based on majority vote, about the finding, called the *SRC Decision*.

H. Notice of SRC Decision

The SRC will issue a *Notice of SRC Decision* that includes the finding by the SRC as to whether there is a Policy violation, its rationale, and a brief summary of the evidence relied upon in making the decision. The *Notice of SRC Decision* will be sent by the OSC to the parties within five (5) business days with a request that the parties provide written *Impact Statements* within three (3) business days to OSC for consideration prior to the issuance of sanctions. If *Impact Statements* are not provided verbally or in writing to OSC within the allotted time period, OSC will impose sanctions without the benefit of the *Impact Statement(s)*.

Impact Statement. The Director of OSC will review and consider *Impact Statements* before imposing sanction(s). An *Impact Statement* is an opportunity for a party to provide more personal information about how the incident has impacted them.

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VI. REMEDIES & SANCTIONS

A. Remedies

The Title IX Officer or designee in consultation with the OSC will identify reasonable short-term and 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. Such remedies seek to restore to the Complainant, to the extent possible and within reason, the benefits and opportunities lost as a result of the Prohibited Conduct. The Title IX Officer may also identify remedies to address the effects of the conduct on the larger University community. Remedies include but are not limited to:

Supportive measures such as: extended classwork deadline, or flexible deadlines, change of venue for taking an exam, change in exam date or retaking of an exam.

Academic accommodations such as: retro-active drop from a particular class, retro-active withdrawal from a semester, policy exemption requests, and tuition reimbursement.

Additional remedies such as: no contact orders, housing accommodations, schedule changes, counseling and referral to outside agencies.

B. Sanction Considerations

The imposition of sanctions is designed to eliminate Prohibited Conduct under the Policy, prevent its recurrence, and remedy its effects, while supporting the University's educational mission and federal obligations. Sanctions may include educational, restorative, rehabilitative, and punitive components such as removal from University housing, removal from specific courses or activities, and disciplinary probation. Some behavior, however, is so egregious in nature, harmful to the individuals involved, or so deleterious to the educational process that it requires severe sanctions, including suspension or expulsion from the University.

The Director of Student Conduct or designee is responsible for determining the appropriate sanction in every sexual misconduct case. In reaching this determination, the OSC will consider the following:

- The nature and violence of the conduct at issue;
- The impact of the conduct on the Complainant;
- The impact or implications of the conduct on the community and/or the University;
- Prior misconduct by the Respondent, including the Respondent's relevant prior discipline history, both at the University or elsewhere, including criminal convictions;
- Respondent's acceptance of responsibility for the conduct;

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- Maintenance of a safe and respectful environment conducive to learning;
- Protection of the campus community and the University; and,
- Any other mitigating, aggravating, or compelling circumstances to reach a just and appropriate resolution in each case.

Where the Director of Student Conduct or designee concludes that a sanction(s) of expulsion or suspension is appropriate, and the Respondent has not already been suspended on an interim basis, there will be an immediate assessment by the Director of Student Conduct or designee to determine whether the Respondent poses a serious threat of disruption to the academic process or a continuing danger to other members of the University community or University property. The Director of Student Conduct or designee may impose interim suspension pending the conclusion of any Appeal. Where the sanction is other than expulsion or suspension, the imposition of sanction(s) will be deferred pending the conclusion of any Appeal. Protective Measures in effect will continue pending the conclusion of any Appeal. Sanctions may include, but are not limited to:

Educational Requirements. Completion of projects, programs, or requirements designed to help the student manage behavior and understand why it is inappropriate.

“No Contact” Orders. Compliance with orders of no contact that limit access to specific University areas or forms of contact with particular persons.

Housing Restrictions. Exclusion from University housing or change in housing arrangements.

Community Service. The OSC will monitor completion of up to sixty (60) hours of community service over a period not to exceed twelve (12) weeks under guidelines established by OCRSM in consultation with the OSC.

Disciplinary Reprimand. The student is warned that further misconduct may result in more severe disciplinary action.

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.

Suspension. The student is separated 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).

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Expulsion. The student is permanently separated 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).

C. Notice of Sanction

Upon reaching a sanction determination, the OSC will issue a *Notice of Sanction* to both parties and require each party attend an in-person meeting with OSC. At the meeting, OSC will provide the *Notice of Sanction* and the *Notice of Right to Appeal* to both parties.

D. Effect of Withdrawal and Records of Student Discipline

The existence of a pending investigation or resolution under the Policy will be noted on a student's transcript. In addition, currently active sanctions of expulsion or suspension will be noted on a student's transcript. In the event that a Respondent chooses to withdraw from the University prior to the resolution of disciplinary charges under the Policy, or where the Respondent declines to participate in proceedings under the Policy, the University will continue to process the disciplinary charges in the student's absence and without his/her participation. When a Respondent withdraws prior to the resolution of pending disciplinary charges, the Respondent is ineligible to return to the University until the disciplinary proceedings under the Policy have been resolved. In the event the student graduates while an investigation and resolution is pending, issuance of the student's diploma will be suspended. In some cases, academic transcripts may be withheld until the matter is resolved or marked "Disciplinary Action Pending."

VII. APPEAL

The Complainant and Respondent may appeal the *Notice of Sanction*. Mere dissatisfaction with the sanction is not a valid basis for appeal. The appeal must be submitted in writing within five (5) business days of receipt of the *Notice of Sanction*. The scope of the appeal is limited to the grounds stated below. If an appeal is received by the OSC, the other party will be notified and given five (5) business days to respond. Responses shall be submitted directly to the OSC. Appeals filed by each party will be considered together in one appeal review process. Receipt of the written appeal will be acknowledged in writing.

A. Grounds for Appeal

Grounds for appeal shall be limited to:

Procedural Error. The decision was significantly affected by the failure of the University to take a procedural step or to fulfill a procedural requirement. Mere deviations from procedures that did not significantly affect the outcome will not be a basis for sustaining an appeal.

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New Evidence. New and significant relevant information has become available which could not have been discovered during the Investigation phase or before OSC issued a *Notice of Policy Violation and Formal Charges*.

Sanction is Substantially Disproportionate to the Offense. The sanction is substantially disproportionate to the facts of the particular Policy violation. This basis for appeal is limited to cases involving sanctions of expulsion and suspension.

If neither party submits an appeal, the *Notice of Sanction* will become final after five (5) business days. Appeals submitted after five (5) business days shall be denied.

B. Considerations

Appeals are not intended to allow for a second review of the facts of the case and whether there was a Policy violation. A review of the matter will be prompt and narrowly tailored to the stated grounds for appeal. In most cases, appeals are confined to a review of the written record and the pertinent documentation regarding the grounds for appeal.

New Evidence. When the basis of the Appeal is new evidence, the OSC will consult with the Special Investigator, and the SRC Chair that facilitated the Conference in the case, and make a determination as to whether: 1) the information submitted is actually new evidence, and 2) that it was not available at the time of the investigation phase or before the issuance of the *Charging Notice*. If it is determined to not be new evidence, the appeal will be denied. If it is new evidence, the new evidence will be investigated and considered by the OCRSM, the OSC and the original SRC Conference members to determine whether it changes the respective Finding made by each entity.

C. Appellate Body

The University Senate Student Conduct Committee (SCC) is the designated Appellate Body for all cases involving sexual misconduct. The SCC is composed of three (3) members from the Senate Committee who have had no previous involvement with the case. The Appellate Body may accept, reject or modify the sanction. The SCC Appellate Body Chair will render a written decision on the appeal to the OSC within fifteen (15) business days from the date of the submission of all appeal documents. Appeal decisions by the SCC Appellate Body are final with the exception of cases involving expulsion or suspension that allow for further review (*see* page 15-16, above).

IX. FINAL OUTCOME

After all review processes are concluded, the OSC or the OCRSM will promptly notify the Complainant and Respondent, in writing, and in person when possible, by issuing a *Notice of Final Outcome* of the sexual misconduct complaint.

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A. Post-Resolution Follow Up

After a sanction or remedy is issued, if the Complainant agrees, the OCRSM or the OSC may periodically contact the Complainant to ensure the Prohibited Conduct has ended and to determine if additional remedies are necessary; and will contact the Respondent to assure compliance with any sanctions that have been imposed. The Complainant may decline future contact at any time. Any violation by a Respondent of a sanction or protective measure imposed under the Policy or a failure by a University employee to provide a specified remedy should be reported to the Title IX Officer. The Complainant and Respondent are encouraged to provide the OCRSM with feedback about their experience with the process and recommendations regarding ways to improve the effectiveness of the campus's implementation of the Policy.

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I. OVERVIEW

These procedures set forth in Appendix A accompany the University of Maryland (UMD) Sexual Misconduct Policy (the "Policy") and are the exclusive procedures that govern the handling of all reports or complaints of sexual misconduct against UMD students. Key terms used herein are defined in the Policy. For example, sexual misconduct is an umbrella term defined in the Policy that encompasses dating violence, domestic violence, sexual violence, sexual harassment, sexual assault, sexual exploitation, sexual intimidation, relationship violence and stalking.

Both the Complainant and Respondent may participate or decline to participate in the complaint process. As appropriate, the Title IX Officer, and the Director of Student Conduct, will determine whether the Investigation and University Resolution processes will proceed without the participation by one or both parties. A lack of participation by a party does not necessarily preclude a finding of a Policy violation or the imposition of appropriate disciplinary action.

Reference herein to the Title IX Officer includes the Director of the Office of Civil Rights and Sexual Misconduct and designees. Reference herein to the Director of Student Conduct includes the Assistant Director of Resident Life for Student Conduct in the Office of Rights and Responsibilities and designees.

II. RIGHTS TO SUPPORT PERSON AND ADVISOR

Throughout the process, any party may be accompanied to any meeting related to an investigation and resolution of a complaint by up to two (2) other people: (1) a Support Person, and (2) an Advisor. Meetings include, but are not limited to, the following meetings concerning a report: meetings with OCRSM, meetings with OSC, investigative interviews, document reviews, Disciplinary Conferences with the Director of Student Conduct, Standing Review Committee Conferences, alternative resolutions and sanction meetings.

A. Support Person

A party may choose to be assisted by a Support Person of their choice, at their own initiation and expense. A Support Person is someone who can provide emotional, logistical, or other kinds of assistance. The Support Person cannot be a witness or provide evidence in the case. The Support Person is a non-participant who is present to assist a Complainant or Respondent by taking notes, providing emotional support and reassurance, organizing documentation, or consulting directly with the party in a way that does not disrupt or cause any delay. A Support Person shall not be an active participant and the parties must speak for themselves.

B. Advisor

A party may choose to be assisted by an Advisor of their choice, including an attorney, at their own initiation and expense. The Advisor is a non-participant who is present to provide advice and consultation to a party. An Advisor cannot be a witness or provide evidence in a case. If necessary, a party may request a recess in order to speak privately with an Advisor. An Advisor shall not be an active participant. The parties must speak for themselves. An Advisor may not delay, or otherwise interfere with, the University's process.

C. Party Obligations

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Throughout the process, University staff and participants will communicate and correspond directly with the parties, not through a Support Person or Advisor. Parties are responsible for having Support Persons and Advisors follow the non-party participation requirements below. When a party wishes to have a Support Person or Advisor accompany them to a meeting, the individual must notify OCRSM or OSC in advance. Parties are also responsible for making sure appropriate authorization exists for the University to communicate non-party participation requirements below to any Support Person or Advisor.

D. Non-Party Participant Requirements

All Support Persons and Advisors must review the materials about the scope of their respective roles, prior to accompanying a party to any meeting or other activity. These materials may be obtained from the OSC, or online at the OCRSM website, www.umd.edu/ocrsm/. This is to ensure the Support Persons and Advisors are informed about the process and their respective roles. All parties, Support Persons and Advisors are expected to understand their roles and adhere to the University's expectations regarding decorum and privacy considerations.

III. REPORTING

Complaints and other reports of sexual misconduct against a student may be made to the following:

- The Office of Civil Rights & Sexual Misconduct (OCRSM),
- The Office of Student Conduct (OSC), or
- The Department of Resident Life, Office of Rights and Responsibilities (R&R).

Prompt reporting of Prohibited Conduct is encouraged so that the University can take immediate and corrective action to eliminate the misconduct, prevent its recurrence, and address its effects. The University will provide support and assistance to the Complainant and respond according to the steps outlined in these Student Procedures. Upon receipt of any report, the Title IX Officer will make an immediate assessment of the risk of harm to the parties or to the campus community and will take steps necessary to address any risks. These steps may include working with OSC and other campus offices to facilitate Interim Protective Measures that provide for the safety of the parties and the campus community, when appropriate.

A Complainant may choose to make a report to the University to pursue resolution under these Procedures, and may also choose to make a report to law enforcement. A Complainant may pursue either of these options or both options at the same time. The criminal process and the University's internal process under these Student Procedures are separate and independent. A Complainant who wishes to pursue criminal action should contact campus police or external law enforcement directly. See Policy Section VII for more information on criminal reporting.

The University recognizes that deciding whether to report sexual misconduct and proceed with a formal complaint under these Student Procedures is a personal decision that may evolve over time. While prompt reporting is strongly encouraged, there is no time limit for reporting a complaint of sexual misconduct. The OCRSM and the OSC will coordinate to provide support and assistance to each Complainant in making important decisions related to reports of sexual misconduct. Consistent with the goal of safety for all community members, the University will make every effort to respect a Complainant's autonomy in making their own personal decisions

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after reporting sexual misconduct. However, when appropriate, the University, through the OCRSM, retains the right to initiate a formal complaint on its own, independent of any individual's decision as to how they wish to proceed.

IV. COMPLAINT INTAKE PROCESS

A. Notification to the Complainant

Upon receipt of a complaint, the OCRSM will ensure that the Complainant is provided with a copy of the Policy and Student Procedures and informed of their rights and responsibilities. Either the OSC or the OCRSM will provide information to the Complainant about the University's internal, administrative complaint process and review with them their respective rights and responsibilities. The Complainant will be informed of available community and campus resources and services; their right to a Support Person and the Support Person's role; their right to an Advisor and the Advisor's role; their right to file a report with law enforcement, or not; and the University's prohibition against retaliation. The Complainant will have an opportunity to ask questions and seek additional information.

B. Requests for Confidentiality

Where possible, the OCRSM will take action consistent with the Complainant's expressed wishes regarding confidentiality. The University's ability to fully investigate and respond to a complaint may be limited if the Complainant requests that their name not be disclosed to the Respondent or declines to participate in an Investigation. When a Complainant requests their name or other identifiable information not be disclosed and/or that no further action be taken, the Title IX Officer will seek to honor such requests, balancing the Complainant's wishes for confidentiality with the University's obligation to provide a safe and non-discriminatory environment for all members of the University community. The University retains the right to proceed with a complaint as necessary to meet its obligations, and in some cases, would not be able to honor a request for confidentiality.

C. Initial Assessment of Complaint

When the University receives a complaint, the OCRSM will conduct an Initial Assessment. The Initial Assessment will determine whether the reported conduct constitutes a potential violation of the Policy, and if further action is warranted based on the reported conduct.

The first step in the Initial Assessment is a preliminary meeting between the Complainant and the OCRSM and/or the OSC to gather information that will enable the OCRSM, in consultation with other offices, as appropriate, to:

- Assess the nature and circumstances reported in the complaint;
- Assess the safety of the Complainant and of the campus community;
- Implement any appropriate interim protective measures;
- Assess for pattern evidence or other similar conduct by the Respondent as relevant to the safety assessment;
- Assess the Complainant's expressed preference regarding resolution, including any request that no further action be taken;
- Assess any request by the Complainant for confidentiality or anonymity; and

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- Assess the reported conduct for possible referral to the University of Maryland Police Department (UMPD) for a timely warning under the Clery Act.

At the conclusion of the Initial Assessment, the OCRSM will determine the appropriate next step, including but not limited to: no further action, the imposition of Interim Measures, Alternative Resolution, and/or proceed with an investigation.

When the Initial Assessment determines the reported conduct does not constitute a potential violation under this Policy, but may violate other University policy, the complaint may be referred to another appropriate University official for review and resolution.

Where the Initial Assessment reveals that the University lacks jurisdiction over the Respondent, the University will take available and reasonable steps to address the Sexual Misconduct, prevent its recurrence, and address its effects at the University.

D. Interim Protective Measures

Based on the nature and circumstances of the complaint, the Director of Student Conduct, after consultation with the Title IX Officer, may authorize interim protective measures to ensure the safety and well-being of the Complainant and others in the campus community, as appropriate. The Director of Student Conduct will promptly inform the Respondent (if they are a member of the University community) of any interim protective measures that will directly impact the Respondent and provide an opportunity for the Respondent to respond.

The Director of Student Conduct retains discretion to impose and/or modify any interim protective measures based on all available information. Interim protective measures will remain in effect until the University's final resolution of the sexual misconduct complaint. A party may challenge the imposition of interim protective measures, or a decision not to impose interim protective measures, by contacting the Director of Student Conduct to address any concerns. Information about interim protective measures can be found on pages 11-12 of the Policy.

V. RESOLUTION PROCESSES

A. Timeframe for Resolution

Consistent with the goal of maximizing educational opportunities, remedying the effects of Prohibited Conduct and promoting campus safety while minimizing the possible disruptive nature of the process, the OCRSM and OSC will strive to resolve all complaints within sixty (60) business days of receipt. In general, the investigation phase may last approximately four to five weeks and the adjudication phase may last approximately another four to five weeks. Good faith efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with the importance of resolving complaints in a timely and expeditious manner. The Title IX Officer may extend the general time frames for the completion of required actions. If such an extension occurs, the parties will be notified in writing by the OCRSM or OSC.

B. Alternative Resolution Process

In some cases, the Complainant may seek Alternative Resolution in lieu of investigation and adjudication.

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Alternative Resolution is a process whereby remedies and interventions may serve to address the alleged Prohibited Conduct without proceeding to an investigation. Alternative Resolution is not appropriate for complaints involving sexual violence, including sexual assault. The parties may decide not to proceed with Alternative Resolution and may request an investigation and adjudication at any time.

The Title IX Officer has the discretion to determine whether a complaint is appropriate for Alternative Resolution and retains discretion to terminate an ongoing Alternative Resolution process at any time.

The purpose of Alternative Resolution is to take appropriate action by imposing individual and community interventions and remedies designed to maximize the Complainant's access to educational, extra-curricular and/or employment activities at the University. Any combination of interventions and remedies may be utilized, including but not limited to:

- Increased monitoring, supervision and/or security at locations or activities where the Prohibited Conduct occurred or is likely to reoccur;
- Targeted or broad-based educational programming or training for relevant individuals or groups;
- Academic and/or housing modifications for Student Complainants;
- Workplace modifications for Complainants;
- Completion of projects, programs, or requirements designed to help the manage behavior, refrain from engaging in Prohibited Conduct and understand why the Prohibited Conduct is prohibited;
- Compliance with orders of no contact that limit access to specific University areas or forms of contact with particular persons; and
- Completion of up to sixty (60) hours of community service over a period not to exceed twelve (12) weeks under guidelines established by OCRSM in consultation with the OSC.

The imposition of remedies or interventions obtained through Alternative Resolution may be achieved by an agreement acceptable to the parties and University. In such cases the terms of the agreement are implemented and the matter is resolved and closed. In cases where an agreement is not reached, and the Title IX Officer determines that further action is necessary, or if a Respondent fails to comply with the terms of the Alternative Resolution, the matter may be referred for Investigation and Adjudication under these Procedures.

Where the Complainant and Respondent and University have reached an Alternative Resolution agreement, the parties will be provided a written notice of the outcome. The Title IX Officer will maintain all records of matters referred for Alternative Resolution.

C. Investigation Process

When the Initial Assessment determines the University has jurisdiction over the Respondent and the alleged conduct, and where Alternative Resolution is not appropriate, an investigation will occur.

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1. Standard of Review

In making a determination about whether a Policy violation has occurred, the standard of review is preponderance of the evidence. A preponderance of the evidence means “it is more likely than not.” Thus, at the conclusion of the investigation phase, a recommended finding will be made to as to whether, based on the information gathered, it is more likely than not that the reported conduct constituted Prohibited Conduct in violation of the Policy.

2. Preliminary Meeting

Prior to an investigation, the OCRSM and/or OSC will notify both parties and require their attendance (separately) at a preliminary meeting with OSC. The purpose of the meeting is to ensure students are provided adequate information about the investigation and adjudication process, and have an opportunity to ask and receive answers to any questions they may have. When a party does not attend the preliminary meeting with OSC, the University shall proceed with an investigation, noting the party’s lack of attendance at the preliminary meeting.

a. Notice of Potential Policy Violation and Investigation

At the preliminary meeting, the Respondent will be informed verbally and in writing of: the circumstances of the alleged incident (which generally will include, to the extent known, the name of the Complainant and the date, time and location), the Prohibited Conduct alleged as defined by the Policy, and the range of potential sanctions associated with the Prohibited Conduct. If a Respondent does not attend the preliminary meeting, the University will provide the Respondent with the information in writing. A copy of the Notice of Potential Policy Violation and Investigation will also be provided to the Complainant.

Both parties will also be informed during the preliminary meeting that they will have an opportunity to be heard regarding the complaint during the investigation process, including the opportunity to be heard during an interview with an investigator regarding the alleged sexual misconduct.

b. Notice of Rights and Responsibilities

Both parties will be provided with a copy of the Policy and Student Procedures and informed verbally (if present at the Preliminary Meeting) and in writing of their rights and responsibilities pursuant to the Policy. This includes but is not limited to: no contact directives (and provided a copy), prohibitions against retaliation and guidance about reporting any retaliatory conduct, and available community and campus resources and services.

3. Role of the Investigator

The Title IX Officer will designate an Investigator(s) from the OCRSM and/or an external investigator to conduct a prompt, thorough, fair, and impartial investigation. All investigators will receive annual training on issues related to sexual and gender-based harassment, sexual assault, dating violence, domestic violence and stalking; and how to conduct a fair and impartial investigation that provides parties with notice and a meaningful opportunity to be heard and protects the safety of complainants and the University community while promoting accountability.

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4. Overview of the Investigation

The investigation is an impartial fact-gathering process. It is an important stage of the process in which both parties have an opportunity to be heard regarding the complaint. During the investigation the parties will each have an opportunity to meet and speak with the Investigator, provide any relevant information about the reported conduct, and identify persons they believe the Investigator should speak with because they have relevant information. The Investigator will speak separately with both parties and any other individuals who may have relevant information. The Investigator will also gather any available physical evidence or documents, including prior statements by the parties or witnesses, communications between the parties, email messages, social media materials, and other records, as appropriate and available.

a. Special Considerations

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

At the discretion of the OCRSM, multiple reports may be consolidated in one investigation if the information related to each incident is relevant in reaching a determination. Matters may be consolidated where they involve multiple Complainants, multiple Respondents, or related conduct involving the same parties, provided that it does not delay the prompt investigation and resolution of complaints.

b. Draft Report

At the conclusion of the investigation, the Investigator will draft a written investigation report that summarizes the information gathered (including, but not limited to, the names of witnesses and summaries of their statements), and synthesizes the areas of agreement and disagreement between the parties.

c. Notice of Opportunity to Review the Draft Investigation Report

Before the investigation report is finalized, the parties will be given an opportunity to review and respond to the draft report. Upon receipt of notice to review the draft report, the parties will each have five (5) business days to review the report and all underlying documents and submit comments, information and/or ask questions. If there is any new or additional information to be provided by either party, it must be presented to the Investigator at this time. If further investigation is warranted based on the comments, information and/or questions provided during the review period, the Investigator will continue the investigation, as needed.

d. Final Investigation Report

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Upon timely receipt of any additional information or comments from the parties or after the five (5) business day comment period has lapsed with no comments provided, and the investigation is complete, the Investigator will finalize the investigation report. The final investigation report will include a summary of all relevant information obtained in the course of the investigation, proposed findings of material fact, and a recommendation by the Investigator as to whether the information gathered establishes, by a preponderance of the evidence, a potential Policy violation by the Respondent.

Both parties will be contacted by the OSC, and directed to contact OSC to schedule separate meetings with the Director of Student Conduct to discuss next steps.

VI. ADJUDICATION

A. Meeting with Director of Student Conduct

The Director of Student Conduct will meet separately with each party to explain next steps and provide each party with a confidential copy of the final investigation report, including all attachments.

- When an investigation concludes with a recommended finding of a policy violation, and expulsion or suspension is a possible sanction, the matter will be referred automatically to the Standing Review Committee (SRC) for an administrative determination of the initial outcome.
- For all other recommendations, including those of no policy violation, the OSC will resolve the Complaint by facilitating a Disciplinary Conference.
- Determinations by the SRC or by OSC in a Disciplinary Conference shall be based on the preponderance of the evidence.

At the meeting, the Director of Student Conduct will explain the relevant process to each party, and inform each party of the date and time of the SRC Conference or Disciplinary Conference.

Each party will be allowed five (5) business days to submit a written response to the Final Investigation Report, which will be considered by the respective reviewer, i.e., the SRC or Director of Student Conduct during the SRC or Disciplinary Conference process, as appropriate. All written responses will be shared with the other party prior to the SRC review or Disciplinary Conference.

In order to protect the privacy of all individuals involved, all materials shared with the parties are considered confidential and should not be publicly disclosed or released.

B. Disciplinary Conference

The Director of Student Conduct facilitates Disciplinary Conferences. Each party will be given an opportunity to speak separately to the Director of Student Conduct in person and respond to the information presented in the final investigation report. The Director of Student Conduct will consider any written response to the final investigation report submitted by the parties before issuing a decision.

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The Disciplinary Conference decision shall be in writing, and will include Policy violation findings and a rationale for the decision. The Disciplinary Conference Decision shall be issued to both the Complainant and Respondent.

In the event that the Director of Student Conduct finds that a Respondent is responsible for Prohibited Conduct, the Director of Student Conduct shall determine an appropriate sanction and/or remedy, as described in Section VII below.

Before a sanction and/or remedy are issued, the parties shall have the opportunity to submit impact and mitigation statements, as described in Section VII below. Sanctions and remedies imposed as a result of a finding of responsibility for Prohibited Conduct after a Disciplinary Conference will not include expulsion or suspension. If either party disagrees with the outcome of the Disciplinary Conference, they may appeal pursuant to Section VIII below.

C. Standing Review Committee (SRC) Conference

The role of the SRC is to review cases where a Policy violation could result in a sanction of suspension or expulsion. The SRC's role is to review all the available information, and determine, independent of the Investigator's recommendation, whether it is more likely than not that the reported Prohibited Conduct occurred, constituting a Policy violation.

The SRC is a five member body composed of at least three faculty or staff (at least one of whom is faculty) and at least one student who receive on-going training to serve in this capacity, including a Chair who facilitates the conference. SRC members are obligated to disclose to the OSC any known conflicts prior to participating in any specific SRC Conference. Conflicts or familiarity with the individuals involved in the matter that are disclosed to the OSC will automatically disqualify an individual SRC member from participation in any particular review.

Both parties will be notified of the date, time, and location of the SRC Conference. If either or both parties are not in attendance, the SRC Conference may proceed. The parties are not required to participate and the SRC may not draw any adverse inference from a decision by either party not to participate. The Investigator is required to attend all SRC Conferences. The SRC and/or a party may request the attendance of witnesses who provided information to the Investigator.

The SRC Conference offers the parties an opportunity to address the SRC members, in person, about the allegations, and have their respective questions asked and answered. The parties may address any information in the final investigation report and supplemental responses. The parties may not directly question each other or any witness, but may submit written questions (to the SRC Chair) for the SRC to ask the Investigator, the other party, and/or any witnesses who are present. The SRC may exercise reasonable discretion to decline to ask questions submitted by the parties that are harassing, unnecessarily repetitive or irrelevant.

1. SRC Conference Format

The SRC Conference generally begins with the SRC Chair introducing the purpose of the conference, identifying all persons present, and then inviting the Investigator to summarize the investigation and explain the evidence relevant to the alleged Prohibited Conduct in violation of the Policy. The SRC may pose questions directly to the Investigator, the parties, and any other witnesses. When the SRC has concluded its questioning, the Chair will invite the parties to

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submit written questions to be asked by the SRC of any of the witnesses, parties, or the Investigator. When all questioning is concluded, the parties will be given an opportunity to make brief closing statements. The SRC will then adjourn and the parties are excused.

If and when appropriate, the SRC, in its discretion, may suspend its review and request further investigation. Once the Investigator has concluded any further investigation, and if the recommendation by the Investigator is that there is sufficient evidence to support a finding of Prohibited Conduct in violation of the Policy (using a preponderance of the evidence standard), another SRC Conference will be scheduled. The OSC will use best efforts to complete this process as promptly as possible, and will notify the parties of the status, as appropriate.

2. SRC Decision

The SRC will issue a written decision based on its review. The decision is determined by majority vote. The SRC decision will include findings of relevant fact and a finding as to whether the Respondent engaged in the Prohibited Conduct in violation of the Policy, or not (based on a preponderance of evidence standard).

If the SRC finds the Respondent responsible for a Policy violation by a preponderance of the evidence, the matter will proceed through the impact/mitigation statement phase, as well as the sanctioning phase below.

If the SRC does not find the Respondent responsible for a Policy violation based on a preponderance of the evidence, the Complainant may appeal the SRC Decision pursuant to section VIII below. If there is no appeal, the case is resolved and notice of the final outcome will be issued.

VII. REMEDIES AND SANCTIONS

Any Disciplinary Conference or SRC decision will be sent by the OSC to the parties. Where there is a finding of responsibility, both parties have the opportunity, within three (3) business days from the date of receipt of the decision, to submit statements for consideration by the Director of Student Conduct in determining an appropriate sanction.

A. Impact and Mitigation Statements

The Complainant may submit a written statement describing the impact of the Prohibited Conduct on the Complainant, and/or request to meet with the Director of Student Conduct to provide their statement verbally.

The Respondent may submit a written statement explaining any factors the Respondent believes should mitigate or otherwise be considered in determining the sanction(s), and/or request to meet with the Director of Student Conduct to provide their statement verbally.

The Director of Student Conduct will consider any impact and mitigation statements in determining the remedies and sanctions to be imposed. The parties' respective statements will not be shared with the other party.

B. Remedies

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The Title IX Officer, in consultation with the OSC, will identify reasonable short-term and/or long-term remedies to address the effects of the conduct on the Complainant, prevent its reoccurrence, restore the Complainant's safety and well-being, and maximize the Complainant's educational and employment opportunities. Such remedies seek to restore to the Complainant, to the extent possible and within reason, the benefits and opportunities lost as a result of the Prohibited Conduct.

The Title IX Officer may also identify remedies, such as training for specific audiences, to address the effects of the conduct on the larger University community.

Remedies include, but are not limited to:

- **Supportive measures**, such as: extended classwork deadline, or flexible deadlines, change of venue for taking an exam, change in exam date, and/or retaking of an exam.
- **Academic accommodations** such as: retroactive drop from a particular class, retroactive withdrawal from a semester, policy exemption requests, and/or tuition reimbursement.
- **Additional remedies** such as: no contact orders, denial of access, housing accommodations, schedule changes, counseling and/or referral to outside agencies.

C. Sanction Considerations

The imposition of disciplinary sanctions is designed to eliminate Prohibited Conduct under the Policy, prevent its recurrence, and remedy its effects, while supporting the University's educational mission and federal obligations. Disciplinary sanctions may include educational, restorative, and rehabilitative components, such as completion of an educational project, removal from University housing, removal from specific courses or activities, and disciplinary probation. Some behavior, however, is so egregious in nature, harmful to the individuals involved, or so deleterious to the educational process that it requires more severe sanctions, including suspension or expulsion from the University.

The Director of Student Conduct will determine the appropriate disciplinary sanction in every sexual misconduct case. In reaching this determination, the following factors will be considered:

- The nature and degree of violence of the conduct at issue;
- The impact of the conduct on the Complainant;
- The impact or implications of the conduct on the community and/or the University;
- Prior relevant misconduct by the Respondent, including the Respondent's relevant prior discipline history;
- Respondent's acceptance of responsibility for the conduct;
- Maintenance of a safe and respectful environment conducive to learning;
- Protection of the campus community and the University; and
- Any other mitigating, aggravating, or compelling circumstances to reach a just and appropriate resolution in each case.

D. Sanctions

When the Director of Student Conduct concludes that a sanction of expulsion or suspension is appropriate, and the Respondent has not already been suspended on an interim basis, there will be an immediate assessment by the Director of Student Conduct to determine whether the

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Respondent poses a serious disruption to the learning environment or a continuing danger to other members of the University community or University property. Interim suspension may be imposed at this point pending conclusion of the Appeal, where appropriate. Interim protective measures already in effect will continue pending Appeal. Disciplinary sanctions for Policy violations may include, but are not limited to:

- **Educational Requirements.** Completion of projects, programs, or requirements designed to help the student manage behavior and understand why certain behavior is inappropriate.
- **“No Contact” Orders or Denial of Access.** Compliance with orders of no contact that limit access to specific University areas or forms of contact with particular persons.
- **Housing Restrictions.** Exclusion from University housing or change in housing arrangements.
- **Community Service.** The OSC will monitor completion of up to sixty (60) hours of community service over a period not to exceed twelve (12) weeks under guidelines established by OCRSM in consultation with the OSC.
- **Disciplinary Reprimand.** The student is warned that further misconduct may result in more severe disciplinary action.
- **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.
- **Suspension.** The student is separated from the University for a specified period of time. A permanent notation will appear on the student’s transcript. The student shall not participate in any University-sponsored activity and may be barred from University premises. Suspended time will not count against any time limits of the Graduate School for completion of a degree.
- **Expulsion.** The student is permanently separated from the University. A permanent notation will appear on the student’s transcript. The student will also be barred from the University premises.

E. Notice of Sanction

Once a sanction is determined, the OSC will issue written notification of the sanction to both parties, as allowed by law, and provide the parties with information about their rights to appeal, per Section VIII below. This constitutes the conclusion of the initial outcome phase.

VIII. APPEALS

The Complainant and Respondent may appeal the outcome of a Disciplinary or SRC Conference, including the sanction issued under either process. The scope of the appeal is limited to the grounds set forth below. Mere dissatisfaction with the decision and sanction is not a valid basis for appeal. An appeal must be submitted in writing within five (5) business days of the date of receipt of the notice of sanction. If an appeal is received by the OSC, the other party will be notified and given five (5) business days from the date of receipt of the notice to respond. Responses shall be submitted directly to the OSC. Appeals filed by each party will be considered together in one appeal review process. All appeal documents will be shared with the other party.

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If neither party submits an appeal, the decision and sanction are final after five (5) business days. Appeals submitted after five (5) business days shall be denied.

A. Grounds for Appeal

Grounds for appeal shall be limited to:

1. Substantial Procedural Error

Specified procedural errors or errors in interpretation of University policy were so substantial as to effectively deny a Complainant or a Respondent notice or a fair opportunity to be heard. Mere deviations from procedures that were not so substantial as to deny a Complainant or Respondent notice or a fair opportunity to be heard will not be a basis for sustaining an appeal.

2. New Evidence

New and significant relevant information has become available which a reasonably diligent person could not have discovered during the Investigation phase and/or prior to the issuance of the Disciplinary Conference or SRC Decision, as applicable.

3. Sanction

Sanction is substantially disproportionate to the offense. The sanction is substantially disproportionate to the facts of the particular Policy violation. This basis for appeal is limited to cases involving sanctions of expulsion or suspension.

B. Considerations

Appeals are not intended to allow for a second review of the facts of the case and determination of whether there was a Policy violation. A review of the matter will be prompt and narrowly tailored to the stated grounds for appeal. In most cases, appeals are confined to a review of the written record and the pertinent documentation regarding the grounds for appeal.

When the basis of the Appeal is new evidence, the Director of Student Conduct, in consultation with the Title IX Officer, will determine whether the information is new and was unavailable at the time of the investigation. If the information is determined not to be new, the Appeal will be denied. If the information is determined to be new and unavailable at the time of the investigation, it will be provided to the Appellate Body for review and determination whether the new information could change the outcome of the SRC decision. If it is determined that the outcome could be impacted by the new evidence, the case will be sent back to the SRC.

C. Appellate Body

The University Senate Student Conduct Committee (SCC) is the designated Appellate Body for all cases involving sexual misconduct. The SCC Appellate Body is composed of three (3) members from the SCC who have had no previous involvement with the case, and have been trained to review such cases. Deference shall be given to the determinations of the SRC. The SCC Appellate Body considers any written appeal submission and, based on its review, may:

- Affirm the SRC Decision and the sanction imposed;
- Affirm the SRC Decision and reduce, but not eliminate, the sanction;
- Remand the case to the SRC, in accordance with Section VI, above.

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The SCC Appellate Body Chair will render a written decision on the appeal to the OSC within ten (10) business days from the date of the submission of all appeal documents. Appeal decisions by the SCC Appellate Body are final with the exception of cases involving expulsion or suspension that require approval by the Vice President for Student Affairs.

IX. FINAL OUTCOME

After all review processes are concluded (or when the time for an appeal has passed with no appeal submitted, whichever is later), the OSC will promptly notify the Complainant and Respondent, in writing, of the final outcome of the sexual misconduct complaint.

X. RECORDS RETENTION

OSC and the Title IX Officer will maintain records of all complaints, investigations, adjudications, appeals and alternative resolutions arising under this Policy in accordance with the University's Records Retention and Disposal Schedule. Disciplinary records may be retained for longer periods of time or permanently, if so specified in the sanction.

XI. ACADEMIC TRANSCRIPTS AND EFFECT OF WITHDRAWAL

Disciplinary sanctions of expulsion and suspension are permanently noted on a Respondent's academic transcript. When a Respondent requests their transcript, the existence of a pending Investigation is also noted. In the event a Respondent chooses to withdraw from the University prior to the resolution of disciplinary charges under the Policy, or where the Respondent declines to participate in the University proceedings under the Policy, the University will continue to process the disciplinary action in the student's absence. When a Respondent withdraws before resolution of pending disciplinary charges, the Respondent is ineligible to return to the University until the disciplinary proceedings have been resolved. In the event the student graduates while an Investigation and Resolution is pending, issuance of the student's diploma will be withheld until the case is concluded. Academic transcripts will be withheld until the matter is resolved or marked "Disciplinary Action Pending."

XII. POST-RESOLUTION FOLLOW UP

After a sanction or remedy is issued, if the Complainant agrees, the Title IX Officer or the OSC may periodically contact the Complainant to ensure the Prohibited Conduct has ended and to determine whether additional remedies are necessary. The Complainant may decline future contact at any time. The Title IX Officer or the OSC may periodically contact the Respondent to assure compliance with any sanctions that have been imposed. Any violation by a Respondent of a sanction and/or protective measure imposed under the Policy should be reported to the Director of Student Conduct, and a failure by a University employee to provide a specified remedy should be reported to the Title IX Officer.

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

END OF DOCUMENT



University Senate TRANSMITTAL FORM

Senate Document #:	14-15-21
PCC ID #:	N/A
Title:	Proposed Policy on Excused Absence
Presenter:	Charles Delwiche, Chair of the Academic Procedures & Standards (APAS) Committee
Date of SEC Review:	April 19, 2016
Date of Senate Review:	April 28, 2016
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 4. For information only
Statement of Issue:	<p>In January 2015, Undergraduate Studies submitted a proposal to the Senate pertaining to excused absences for undergraduate students. The proposal called for the creation of a new excused absence policy that would apply to all types of excused absences and would replace the current III-5.10(A) University of Maryland, College Park Policies and Procedures Concerning Academic Assignments on Dates of Religious Observances and V-1.00(G) University of Maryland Policy for a Student's Medically Necessitated Absence from Class, as well as cover information contained in the Undergraduate Catalog. In addition, the Senate Office received a proposal from the Provost's Student Advisory Council regarding a proposed bereavement procedure for students.</p> <p>The Senate Executive Committee (SEC) charged the Academic Procedures and Standards (APAS) Committee with consideration of a new umbrella policy on excused absences. The SEC also requested that the Student Affairs Committee review the proposals and submit feedback and recommendations directly to APAS.</p> <p>During summer 2015, the Senate Office also received a proposal for an extension of the excused absence policy to cover military service. The proposal was submitted on behalf of the University of Maryland's Veteran's Steering Committee. The SEC charged both APAS and the Student Affairs Committee with review of the</p>

	additional proposal, and sent an amended version of the committees' charges asking them to consider whether military services should be included in an excused absence policy.
Relevant Policy # & URL:	<p>III-5.10(A) University of Maryland, College Park Policies and Procedures Concerning Academic Assignments on Dates of Religious Observances http://umd.edu/policies/2014-iii-510a.html</p> <p>V-1.00(G) University of Maryland Policy for a Student's Medically Necessitated Absence from Class http://umd.edu/policies/2014-V-100g.html</p>
Recommendation:	APAS recommends that the Senate approve its recommended University of Maryland Policy on Excused Absence, which immediately follows its report, as a replacement for III-5.10(A) University of Maryland, College Park Policies and Procedures Concerning Academic Assignments on Dates of Religious Observances and V-1.00(G) University of Maryland Policy for a Student's Medically Necessitated Absence from Class. If approved by the Senate and the President, all reference documents, including the Undergraduate Catalog and Faculty Handbook, should likewise be updated to reflect the new policy.
Committee Work:	APAS reviewed this topic during the 2015-2016 academic year. APAS reviewed similar policies and procedures at peer institutions and discussed the possibility of the creation of an online, centralized reporting/request mechanism at the University. APAS reviewed the text of the current relevant policies, as well as the information in the Undergraduate Catalog. APAS also discussed various aspects of excuse absence procedures and practices on campus and nationwide. APAS identified two elements as particularly important for the implementation phase of its final recommendations, which are further discussed in the report: 1) centralized reporting, and 2) updates and supplementary guidance in both the Undergraduate Catalog and the Faculty Handbook on best practices in implementation. APAS reviewed the text of the proposed policy as submitted by Undergraduate Studies and decided to craft its own umbrella policy. After numerous iterations of a draft policy, on April 9, 2016, the APAS Committee voted in favor of forwarding its recommended policy on excused absence to the Senate for consideration.
Alternatives:	To not approve the APAS Committee's recommended University of Maryland Policy on Excused Absence.
Risks:	There are no associated risks.
Financial Implications:	There are no financial implications at this time.
Further Approvals Required:	Senate approval, Presidential approval.

Senate Academic Procedures and Standards (APAS) Committee

Report on Senate Document # 14-15-21

Proposed Policy on Excused Absence

April 2016

2015-2016 APAS Committee Members

Charles Delwiche, Chair
Britt Reynolds, Ex-Officio, Undergraduate Admissions Rep
Mark Shayman, Ex-Officio, Graduate School Rep
William Cohen, Ex-Officio, Provost's Rep
Ann Smith, Ex-Officio, Undergraduate Studies Rep
Adrian Cornelius, Ex-Officio, University Registrar Rep
Robin Pike, Faculty
Marilee Lindemann, Faculty
Charles Mitter, Faculty
Eric McKenzie, Faculty
Richard Klank, Faculty
Douglas Roberts, Faculty
Linda Moghadam, Faculty
Brian Barker, Faculty
Daniela Wagner-Loera, Faculty
Lelyn Saner, Faculty
Emily Heavin, Exempt Staff
Mark Rivera, Graduate Student
Stephanie Gill, Undergraduate Student
Kevin Adams, Undergraduate Student
Lindsay Strehle, Undergraduate Student

BACKGROUND

In January 2015, the Office of Undergraduate Studies submitted a proposal to the University Senate pertaining to excused absences for undergraduate students. The proposal called for the creation of a new excused absence policy that would apply to all types of excused absences and would replace the current III-5.10(A) University of Maryland, College Park Policies and Procedures Concerning Academic Assignments on Dates of Religious Observances and the V-1.00(G) University of Maryland Policy for a Student's Medically Necessitated Absence from Class. The proposal included a single proposed excused absence policy, which had language drawing from the Religious Observances policy, the Medically Necessitated Absence policy, and the Undergraduate Catalog. The goal of the proposal was to present a single policy with a common approach to informing an instructor of absence, when documentation is needed, and the types of documentation required. The proposed policy attempted to reflect current policies and practices at the University in a single document. In addition, around the same time, the Senate Office received a proposal from the Provost's Student Advisory Council regarding a proposed bereavement procedure for students.

The Senate Executive Committee (SEC) met in spring 2015 and reviewed the proposals from Undergraduate Studies and the Provost's Student Advisory Council. The SEC decided to charge the Academic Procedures and Standards (APAS) Committee with consideration of a new umbrella policy on excused absences (Appendix 1). The SEC also requested that the Student Affairs Committee review the proposals and submit feedback and recommendations to APAS, in order to fully consider the impact of the proposed policy and to provide for an understanding of the perspectives of both faculty and students.

During the summer of 2015, the Senate Office also received a proposal for an extension of the excused absence policy to cover military service. The proposal was submitted on behalf of the University of Maryland's Veteran's Steering Committee. The SEC decided to charge both APAS and the Student Affairs Committee with review of the additional proposal, and sent an amended version of the committees' charges asking the committees to consider whether military services should be included in an excused absence policy as part of the current review of the Proposed Policy on Excused Absence (Appendix 2). The Student Affairs Committee was again asked to submit a memorandum to APAS regarding the committee's stance on the proposal.

COMMITTEE WORK

The APAS Committee began reviewing the charge in during the fall 2015 semester. It began by reviewing the text of the two relevant current University policies: 1) III-5.10(A) University of Maryland, College Park Policies and Procedures Concerning Academic Assignments on Dates of Religious Observances (Appendix 3), and 2) V-1.00(G) University of Maryland Policy for a Student's Medically Necessitated Absence from Class (Appendix 4). The committee also read the section of the Undergraduate Catalog that discusses excuse absence procedures (Appendix 5). The committee found that "excused absence" is not defined in current policy. In addition, the committee received and reviewed memos from the Student Affairs Committee regarding its recommendations on the practicality of an umbrella policy (Appendix 6) and on coverage for military service (Appendix 7).

The committee also reviewed similar policies and procedures for excused absences at peer institutions, including the University of Illinois - Urbana-Champaign, the University of Wisconsin - Madison, Indiana University - Bloomington, the University of California - Berkeley, the University of North Carolina - Chapel Hill, the University of Minnesota, Michigan State University, Ohio State University, Rutgers University, Pennsylvania State University, the University of Iowa, the University of Nebraska - Lincoln, Purdue University, Northwestern University, the University of Michigan, and the University of California - Los Angeles (see Appendix 8). The committee reviewed whether these institutions had policies, and if so, whether the policies discussed coverage for religious observances, medical/illnesses, bereavement leave, military service, academic/university-sponsored activities, and any other categories. The committee found that policies at institutions across the nation vary greatly in terms of coverage offered, outside of coverage for religious observances. Some of the policies appeared to leave substantial interpretation and individual judgment to each college/school or instructor. Only a few policies or procedures specifically covered military service.

The committee talked about how “excused absence” is currently defined in the Undergraduate Catalog, which indicates that it is practice at the University to “excuse the absences of students that result from the following causes: illness of the student, or illness of a dependent as defined by Board of Regents policy on family and medical leave; religious observance (where the nature of the observance prevents the student from being present during the class period); participation in university activities at the request of university authorities; and compelling circumstance beyond the students control.” The committee reviewed input and feedback from the Director of the University Health Center regarding policies for granting and administering medical notes at universities across the nation and found that the vast majority of universities in the United States do not require medical excuses. Committee members also gathered departmental practices and attendance procedures to share with the committee, in an effort to compare how different units on campus handle excused absence requests from students.

The committee also talked at length about the nature of make-up work and current procedures for make-up arrangements; for instance, the Religious Absence policy notes that it is the “student’s responsibility to contact the instructor for each course in which work is missed, provide appropriate written notification and make arrangements for make-up work or examinations.” It was also noted that the Medically Necessitated Absence policy indicates that the frequency of the absence and whether or not the absence coincides with a major scheduled graded event determine the type of excuse necessary.

Throughout the course of its discussion, the committee talked about the taxonomy of absences, including predictable absences (e.g., religious observances, University-sponsored activities like attendance at a conference, some personal events like a wedding), unpredictable absences (e.g., illness, bereavement), and somewhat predictable absences (e.g., military service, family leave). The committee talked about the duration of excuses absences (e.g., a single class/one event, multiple classes/one event, and multiple classes/more than one event). Timeliness of requests was also discussed (e.g., that predictable absences could be requested within the first two weeks of the semester, whereas unpredictable absences should be requested as soon as is practical). The committee also talked about what types of documentation is appropriate to require for excused

absence requests (e.g., using “verifiable” documentation for major graded events, self-signed notes for minor graded events).

The committee also discussed related ideas, including the importance of attending class and how classes with a significant amount of in-class participation manage excused absences. The committee talked about courses that use “Drop-N” practices, and how excused absences should not provide a reduced course load of work for students in most cases.

During the committee’s deliberations there were two elements that the committee identified as particularly important for the implementation phase of its final recommendations: 1) centralized reporting, and 2) updates and supplementary guidance in both the Undergraduate Catalog and the Faculty Handbook on best practices in implementation:

Centralized Reporting

Some institutions (notably the University of Michigan and Rutgers University) use an online, centralized reporting/request mechanism, by which a student can request excused absence by submitting a single request online (and uploading documentation as appropriate to the request), with the system then sending the request to all courses in which the student is registered, as well as maintaining a record of such requests for advising and administrative purposes. Such an online system would simplify the process of requesting excused absences, would help identify students facing unusual circumstances, and would help ensure consistent application of the excused absence policy. To establish such a system would require resources for its development and implementation, but the benefits would potentially be large, and the APAS Committee strongly recommends that the University work towards establishing such a system.

Updates & Supplementary Guidance

The Undergraduate Catalog and the Faculty Handbook are intended to provide information regarding the implementation and practice of University policies, and as such are more frequently referred to by members of the University community than University policies *per se*.

The Undergraduate Catalog currently has a section on “Attendance and Assessment/Examinations,” which discusses the importance of attendance and the University’s expectation that students will take full responsibility for their academic work and academic progress. This section of the Undergraduate Catalog also notes that attendance and in-class participation may be ongoing requirements and an integral part of the work in some courses. It discusses the responsibilities of students and instructors in regard to in-class participation and the effect of absences on the evaluation of the student’s work in a course. This section of the Undergraduate Catalog references the current policies on Religious Observances and Medically Necessitated Absences from Class. Similarly, the Faculty Handbook has a section on “Student Attendance,” which discusses the need for course syllabi to specify the nature of in-class participation expected and the effects of absences on students’ grades; it also has references to current University policy. The Faculty Handbook mentions excused absences in other sections, as well, including the sections on “Course Assessment Guidelines” and “Syllabus Guidelines.”

The committee felt strongly that both reference documents should continue to provide supplementary guidance to students and faculty regarding best practices in implementation of the new policy, and noted that it would be helpful to have some examples in the Faculty Handbook of syllabus language and grading policies that reflect these best practices. Consequently, the successful implementation of the proposed revisions to the policy on excused absences will require careful revision of these documents to reflect the changes in the policy, as well as to provide updated guidance and examples of best practices for both faculty and students.

During its review, APAS carefully reviewed the text of the proposed policy as submitted by Undergraduate Studies and ultimately decided to craft its own umbrella policy for discussion. After numerous iterations of a draft policy, on April 9, 2016, the APAS Committee voted in favor of forwarding its recommended policy on excused absence to the Senate for consideration. The committee's recommended policy defines excused absence as "an absence for which the student has the right to receive, and the instructor has the responsibility to provide, reasonable accommodations." The committee's recommended policy is organized into four sections: 1) Policy, 2) Notification and Documentation, 3) Academic Accommodations, and 4) Appeals.

RECOMMENDATIONS

The APAS Committee recommends that the Senate approve its recommended University of Maryland Policy on Excused Absence, which immediately follows this report, as a replacement for current policies III-5.10(A) University of Maryland, College Park Policies and Procedures Concerning Academic Assignments on Dates of Religious Observances and V-1.00(G) University of Maryland Policy for a Student's Medically Necessitated Absence from Class.

If approved by the Senate and President, all reference documents, including the Undergraduate Catalog and Faculty Handbook as noted above, should likewise be updated and revised to reflect the new policy.

APPENDICES

Appendix 1 – Charge from the Senate Executive Committee (SEC), dated February 23, 2015

Appendix 2 – Amendment to the Proposed Policy on Excused Absence Charge from the SEC

Appendix 3 – III-5.10(A) University of Maryland, College Park Policies and Procedures Concerning Academic Assignments on Dates of Religious Observances

Appendix 4 – V-1.00(G) University of Maryland Policy for a Student's Medically Necessitated Absence from Class

Appendix 5 – Excerpt from the Undergraduate Catalog 2015-2016 section on Attendance and Assessment/Examinations

Appendix 6 – Memo from the Student Affairs Committee, dated July 21, 2015

Appendix 7 – Memo from the Student Affairs Committee, dated October 6, 2015

Appendix 8 – Peer Institution Research, conducted during AY 2015-2016

UNIVERSITY OF MARYLAND POLICY ON EXCUSED ABSENCE

I. Policy

An excused absence is an absence for which the student has the right to receive, and the instructor has the responsibility to provide, reasonable accommodation.

Students are expected to take full responsibility for their own academic work and progress. Students, to progress satisfactorily, must meet all of the requirements of each course for which they are registered. Students are expected to attend classes regularly. Consistent attendance offers students the most effective opportunity to gain command of course concepts and materials. Excused absences must be requested promptly and must be supported by appropriate documentation.

Excused absences do not alter the academic requirements for the course. Students are responsible for information and material missed on the day of absence. Students are within reason entitled to receive any materials provided to the class during the absence. Students are responsible for making provision to determine what course material they have missed and for completing required exercises in a timely manner.

Events that justify an excused absence include religious observances; mandatory military obligation; illness of the student or illness of an immediate family member; participation in university activities at the request of university authorities; and compelling circumstances beyond the student's control (e.g., death in the family, required court appearance). Absences stemming from work duties other than military obligation (e.g., unexpected changes in shift assignments) and traffic/transit problems do not typically qualify for excused absence.

II. Notification and Documentation

To receive accommodation for an excused absence:

1. The student must notify the instructor in a timely manner. The notification should be provided either prior to the absence or as soon afterwards as possible. In the case of religious observances, athletic events, and planned absences known at the beginning of the semester, the student must inform the instructor during the schedule adjustment period. All other absences must be reported as soon as is practical.
2. The student must provide appropriate documentation of the absence. The documentation must be provided in writing to the instructor by the means specified in the syllabus.
 - a. For medically necessitated absences: Students may, one time per course per semester, provide a self-signed excuse as documentation of an absence from a single class (e.g., lecture, recitation, or laboratory session) that does

not coincide with a major assessment or assignment due date. For all other medically necessitated absences, students must provide documentation from a physician or the University Health Center, upon request of the course instructor.

- b. For all other absences students must provide verifiable documentation upon request (e.g., religious calendar, court summons, death announcement, etc.).
3. Providing false information to University officials is prohibited under Part 9(h) of the Code of Student Conduct (V-1.00(B) University of Maryland Code of Student Conduct) and may result in disciplinary action.

III. Academic Accommodations

In keeping with the USM III-5.10 Policy Concerning the Scheduling of Academic Assignments on Dates of Religious Observance, “Students shall not be penalized because of observances of their religious holidays and shall be given an opportunity, whenever feasible, to make up within a reasonable time any academic assignment that is missed due to individual participation in religious observances.” For all other excused absences, the student must be provided reasonable accommodation. The accommodation provided should, within reason, neither advantage nor disadvantage either the student or the rest of the class.

If the accommodation is a makeup assessment, it must be timely, at a time and place agreed upon by the instructor and student, cover the same material, and be at the same level of difficulty as the original assessment. In the event that a group of students requires the same makeup assessment, one time and place may be scheduled. The makeup assessment must not interfere with the student's regularly scheduled classes, and must be consistent with the V-1.00(A) University of Maryland Policy on the Conduct of Undergraduate Classes and Student Grievance Procedure.

If makeup work is not feasible, an alternate accommodation for excused absences will be provided. Alternate accommodations will be according to the principles established by the unit offering the course.

Students who miss a substantial number of class sessions or course assignments should seek guidance from an academic advisor with respect to academic options.

Extended absences stemming from active military duty are addressed in the USM V-7.00 Policy on Students who are called to Active Military Duty during a National or International Crisis or Conflict.

Absences related to a student's disability are addressed in the VI-1.00(D) University of Maryland Disability & Accessibility Policy and Procedures.

IV. Appeals

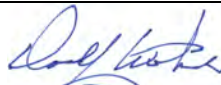
Students who feel that they have unfairly been denied either excused absence or appropriate accommodation for an excused absence should first seek to resolve the disagreement with the course instructor. If the student and instructor are unable to find a mutually agreeable resolution, the student may file an appeal with the head of the administrative unit offering the class. In most cases this will be the Chair of the Department. In the case of non-departmentalized units and interdepartmental programs, this role will be taken by the Dean (or the Dean's designee).

The unit head should use procedures similar to those specified in the III-1.20(B) University of Maryland Procedures for Review of Alleged Arbitrary and Capricious Grading – Undergraduate Students – but with clear indication that the appeal is with regard to excused absence, not arbitrary and capricious grading.

Appendix 1 - Charge from the SEC



University Senate CHARGE

Date:	February 23, 2015
To:	Charles Delwiche Chair, Academic Procedures & Standards (APAS) Committee Ian Chambers Chair, Student Affairs Committee
From:	Donald Webster  Chair, University Senate
Subject:	Proposed Policy on Excused Absence
Senate Document #:	14-15-21
Deadline:	November 6, 2015

The Senate Executive Committee (SEC) requests that the Academic Procedures & Standards (APAS) and Student Affairs Committees review the proposal entitled, "Proposed Policy on Excused Absence" and consider whether a new umbrella policy on excused absences is necessary. In order to understand the perspectives of both faculty and students, the SEC has assigned elements of the charge for each committee as follows:

We ask both committees to:

1. Review the University of Maryland, College Park Policies and Procedures Concerning Academic Assignments on Dates of Religious Observances (III-5.10 [A]).
2. Review the University of Maryland Policy for a Student Medically Necessitated Absence From Class (V-1.00 [G]).
3. Review the Attendance and Assessment/Examinations section of the University of Maryland Undergraduate Catalog (<http://www.umd.edu/catalog/index.cfm/show/content.section/c/27/ss/1584/s/1540>).
4. Review the proposed umbrella Policy on Excused Absence.
5. Review the proposed Student Bereavement Policy from the Provost's Student Advisory Council as a potential addition to the proposed umbrella policy on excused absence.
6. Consider the impact of the proposed policy on student performance and success.

We ask the Student Affairs Committee to:

1. Consider the impact of the proposed policy on undergraduate students at the University of Maryland.
2. Submit a recommendation to the Academic Procedures & Standards Committee regarding the proposed language.

We ask the Academic Procedures & Standards Committee to:

1. Consult with the proposer regarding her specific concerns.
2. Consult with the University Registrar.
3. Consult with a representative of the Office of Undergraduate Studies.
4. Consult with a representative of the Provost's Student Advisory Council.
5. Review similar policies for excused absences at peer and Big 10 institutions.
6. Consider the recommendation from the Student Affairs Committee regarding the proposed policy.
7. Consider whether the policy should include a maximum number of excused absences allowed for each course in a semester.
8. Consider the impact of the proposed policy on faculty at the University of Maryland.
9. Consult with the University's Office of General Counsel on any recommended policy revisions.
10. If appropriate, make recommendations as to whether a policy on excused absence should be developed.

We ask that the Academic Procedures & Standards Committee submit its final report and recommendations to the Senate Office no later than November 6, 2015. If you have questions or need assistance, please contact Reka Montfort in the Senate Office, extension 5-5804.

Attachments



University Senate PROPOSAL FORM

Name:	Ann C. Smith
Date:	1/13/15
Title of Proposal:	Proposed Policy on Excused Absence
Phone Number:	X59165
Email Address:	asmith@umd.edu
Campus Address:	2100 Marie Mount Hall
Unit/Department/College:	Office of Undergraduate Studies
Constituency (faculty, staff, undergraduate, graduate):	faculty
Description of issue/concern/policy in question:	<p>The policies and practices related to excused absences are described in three places:</p> <p style="padding-left: 40px;">Religious Observance Policy http://www.president.umd.edu/policies/iii510a.html</p> <p style="padding-left: 40px;">Student Medically Necessitated Absence from Class http://www.president.umd.edu/policies/docs/V-100G.pdf</p> <p style="padding-left: 40px;">Undergraduate Catalog http://www.umd.edu/catalog/index.cfm/show/content.section/c/27/ss/1584/s/1540</p>
Description of action/changes you would like to see implemented and why:	<p>Create a new Excused Absence policy that applies to all types of excused absences (see the Undergraduate Catalog) and replaces the Religious Observance Policy and the Student Medically Necessitated Absence from Class policy.</p>
Suggestions for how your proposal could be put into practice:	<p>Proposed new Excused Absence policy is attached. The language from the policy draws from the Religious Observance Policy and the Student Medically Necessitated Absence from Class policy and the UMD Undergraduate Catalog.</p>

Additional Information:

Please see attached a draft of the proposed policy on Excused Absence.

The draft is color coded. The draft draws heavily from the language of present policies. Please refer to this key:

- Policy III-5.10(A) on religious observances (Green)
- Policy V-1.00(G) on medically necessitated absence (Black)
- Undergraduate Catalog (Purple)
- Revisions (Red)

Comments in the draft draw attention to particular terms and suggestions for discussion.

Note

- **Definition of an excused absence** is from the Undergraduate catalog. The intention of “that students will not be penalized for an absence” is taken from the religious observance policy and is applied to all excused absences. The verification of absence language is taken primarily from the medically necessitated absence from class policy.
 - See Verifiable source in the document, is this the best term?
- **Time line of notification of excused absence** is defined in context of absences known at the start of the semester and those that are not known at the start of the semester
 - Is “first two weeks” the appropriate deadline (vs end of schedule adjustment?)
- **Format for notification of excused absence** is defined as written notification. In the proposed policy the procedure for submitting written notification is not defined. It is assumed that faculty would like to define how students will communicate the notification of an absence – this may be by presenting a note to the faculty member in person or perhaps sending an email. Thus the proposed policy indicates that the communication process must be defined for each course. The expectations of the written notification are defined in the policy and are drawn from the Medically Necessitated Absence Policy.
- **Special consideration must be given to the section on multiple excused absences that are isolated and unrelated.** In the proposed policy multiple excused absences that are non-consecutive and cause students to miss isolated single course meetings are considered in the same manner as a single

excused absence. In the Medically Necessitated Absence policy “Non-consecutive medically necessitated absences from more than a single lecture, recitation or lab” require each instructor to establish their own course policy. The proposed policy removes the requirement that each course establish a “written absence policy” (see Catalog and Syllabus Guidelines in the Faculty Handbook).

- **The opportunity for make up work** is defined in the proposed policy according to that outlined in the Religious Observance Policy
 - “Students shall be allowed, whenever **practicable**, to make up academic assignments that are missed due to such absence” (Religious Policy). Is “practicable” the best term to use? Is the intention clear? Does this term support the policy statement that “Students should not be **penalized** in any way for excused absences” (Religious Policy)
 - Is clarification of the phrase **reasonable time** necessary? Current practice includes delaying make up work until the end of the semester and the use of reading day for make up exams.
- **Syllabus Guidelines in the Faculty Handbook** (<http://faculty.umd.edu/teach/syllabus.html>) encourage faculty to discuss excused absences and make up policies in the syllabus.

Proposed Policy on Excused Absence

This draft is color coded to indicate that the text draws primarily from the language of existing policy:

- Policy III-5.10(A) on religious observances (Green)
- Policy V-1.00(G) on medically necessitated absence (Black)
- Undergraduate Catalog (Purple)
- Revisions (Red)

Highlighted terms are discussed in the attached comment document.

Policy

It is the policy of UMD to excuse the absences of students that result from the following causes: illness of the student, or illness of a dependent as defined by Board of Regents policy on family and medical leave; religious observance (where the nature of the observance prevents the student from being present during the class period); participation in university activities at the request of university authorities; and compelling circumstance beyond the students control. Students shall not be penalized in any way for excused absences. Students shall be allowed, whenever practicable, to make up academic assignments that are missed due to such absences. It is the student's responsibility to contact the instructor for each course in which work is missed, provide appropriate written notification and make arrangements for make-up work or examinations.

As explained below, the procedures and the documentation a student is required to provide to the class instructor for the purpose of obtaining an excused absence differ depending on the frequency of the absence, and whether the absence occurs during a Major Scheduled Grading Event

1. Procedures

A. Excused absence timeline for notification

1. If the date to be missed is known at the start of the semester the student is responsible for providing written notification to the professor within the first two weeks of the semester.
2. If the date to be missed is not known at the start of the semester the student should make a reasonable attempt to inform the instructor in advance of the absence and upon returning to class present written notification.

B. Excused absence format for notification

1. Students must present written notification using the communication process indicated by the course

asmith 1/12/2015 4:56 PM

Comment [1]: See discussion in proposal

asmith 1/12/2015 4:57 PM

Comment [2]: See discussion in proposal

asmith 12/1/2014 2:18 PM

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asmith 1/13/2015 4:52 PM

Comment [3]: Is the first two weeks the appropriate deadline? An alternate would be "by the end of the Schedule Adjustment period."

asmith 1/12/2015 4:58 PM

Comment [4]: See discussion in proposal

instructor to be found in the course syllabus. The process for notification should be confidential

2. Written notification will be a self-signed note from the student. The note must identify the reason for the absence and the date. Each note must also contain an acknowledgment by the student that the information provided is true and correct. Providing false information to University officials is prohibited under Part 9 (h) of the Code of Student Conduct (V-1.00(B) UNIVERSITY OF MARYLAND CODE OF STUDENT CONDUCT) and may result in disciplinary action. Such documentation shall be honored as sufficient documentation unless the absence results in a prolonged absence from classes and/or coincides with a Major Scheduled Grading Event. No written excuses or documentation from the Health Center shall be provided for absences from single lecture, recitation, or lab.
- ~~3. Written notification for Non-consecutive absences from more than a single lecture, recitation or lab will be:~~
4. A prolonged absence from classes is defined as multiple consecutive absences from a course during a semester due to the same reason.
5. "Major Scheduled Grading Events" shall be identified by the instructor in the course syllabus at the beginning of each semester.
6. Students who experience a prolonged absence(s) as defined above or an absence during a Major Scheduled Grading Event are required to supplement the written notification with supporting documentation from a verifiable source. The source (Health Center, Physician, Court Summons, Death Notice, etc) shall verify dates of absence and indicate the time frame that the student was unable to meet academic responsibilities. No diagnostic information shall be provided.

2. Examinations and Assignments

The make-up examination or substitute assignment must be at a time and place mutually agreeable to the instructor and student, cover only the material for which the student was originally responsible, and be at a comparable level of difficulty with the original examination. In the event that a group of students requires the same make-up examination or substitute assignment, one time and place may be scheduled. The make-up assessment or substitute assignment must not interfere with the student's regularly scheduled classes or in-class final examination.

asmith 1/13/2015 4:51 PM

Comment [5]: . See the Syllabus guidelines from Faculty Affairs
<http://faculty.umd.edu/teach/syllabus.html>

asmith 1/12/2015 5:00 PM

Comment [6]: Is this the appropriate term?

3. Class work

Students are responsible for information and material missed on the day(s) of absence. Students absent for an excused absence may request any materials given out during the absence. Students shall be given a reasonable time to make up class assignments.

asmith 1/12/2015 4:59 PM

Comment [7]: See discussion in proposal

4. Resolution of Problems

A student who wishes to contest a decision not to grant an excused absence should first try to resolve the issue with the class instructor. If the issue is not resolved with the instructor, the student should seek the advice of the instructor's Department Chair; the Dean's Office of the Department's College; the Health Center Director; or the Department of Disability Support Services (DSS) Director, if the student is registered with the DSS, in order to identify the proper procedure for resolution.

asmith 1/8/2015 1:32 PM

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If the student believes his or her final grade was affected by the filing of a complaint, recourse is available under UMCP Policy III-1.20(A), Procedures For Review of Alleged Arbitrary and Capricious Grading.

5. Religious Observance and the Academic Schedule

The President may specify certain dates within the academic calendar which, for reasons of religious observance by a large number of student and faculty, may not be used to administer examinations or tests, and may not be set as due dates for assignments. To avoid the likelihood of religious observances scheduling conflicts, it is recommended that professors avoid scheduling exams or field trips on major religious holidays. During orientation period, advisors and students should work together to avoid religious observances scheduling conflicts. When planning their classes, students should consider the likelihood that they might be absent multiple times from a given course. Students should choose lab and discussion sections accordingly.

UMD Policy

Student Bereavement Procedure

Purpose:

To preserve mental health and academic standing of students by allowing them sufficient time and accommodations to grieve the loss of loved ones.

Excused Academic Days:

All students who opt to use the Bereavement Procedure should be given **five (5)** academic days off to mourn the loss of an individual with a significant relationship. Unexcused absences already prescribed in the course syllabus should not be used in congruence with the Bereavement Procedure. Significant relationship can include, but is not limited to, individuals with the following legal titles:

- Uncle(s) or Aunt(s)
- Cousin(s)
- Niece(s) or Nephew(s)
- Legal In-Law(s)
- Grandparent(s)
- Step-Relation Individual(s)
- Child(ren) or Individual(s) in which the Mourner has Legal Guardianship Over
- Parent(s) or Legal Guardian(s)
- Sibling(s)
- Spouse or Legal Civil Union Partner

Traveling Day(s) System:

- Students should be allotted two days, in addition to the five mourning days, to travel to and from their respective locations. These locations include the home of the deceased, the home of the student grieving or the location of the funeral/services.

- Travel days will be calendar days, not academic days. Students opting to use the Bereavement Procedure can appeal to the professor and/or Provost's Office if more travel days are needed. These requests will be handled on a case-by-case basis.

Missed Academic Work:

Students who are mourning will be given a reasonable amount of days to make up any academic work that will not be completed as they mourn and/or travel.

- The allowance of days given for missed academic work should be equal to the number of days excused from class.

- The assignments missed should not be subject to deduction in scoring, as long as they are completed in the reasonable extended period of allotted time. The student is responsible for working with the professor to make up these assignments.
- If compelling verifiable circumstances are beyond the control of the student, and the nature of the assignment makes it impossible for missed work to be completed, faculty members should attempt to make a reasonable adjustment of the assignment.

Proof of Death:

Any students who wish to use the Bereavement Procedure should have proof of the death of the individual(s) who is/are being mourned. Proof of the individual(s) death(s) should be submitted to a faculty/staff member designated by the University Provost by the end of the allotted days. Documentation of the death or funeral service attended should suffice as evidence of the death.

- This could include, but is not limited to: an obituary, copy of death certificate, program from the funeral service, or a signed letter of funeral service from the funeral home.



University Senate
MEMORANDUM

TO: Charles Delwiche
Chair, Academic Procedures & Standards (APAS) Committee
Adam Berger
Chair, Student Affairs Committee

FROM: Willie Brown 
Chair, University Senate

SUBJECT: Amendment to the Proposed Policy on Excused Absence (14-15-21)
Charge

The Senate Executive Committee (SEC) requests that the Academic Procedures & Standards (APAS) and Student Affairs Committees review the proposal entitled, "Request for Extension of the Excused Absence Policy for Military Service (15-16-03)" and consider whether military services should be included in an excused absence policy. This review should be a component of the current review of the Proposed Policy on Excused Absence (14-15-21). In order to understand the perspectives of both faculty and students, the SEC has assigned specific tasks for each committee as follows:

We ask the Student Affairs Committee to:

1. Consider the impact of the attached proposal on undergraduate students at the University of Maryland.
2. Submit a brief memorandum regarding the committee's stance on the proposal to the Academic Procedures & Standards Committee by October 6, 2015.

We ask the Academic Procedures & Standards Committee to:

1. Consult with the proposer regarding her specific concerns.
2. Review similar language for military service in peer and Big 10 institutions policies.
3. Consider the memorandum from the Student Affairs Committee regarding the proposal.
4. Consider whether the excused absence policy should include military service.

In light of this additional request, we ask that the Academic Procedures & Standards Committee submit its final report and recommendations to the Senate Office no later than February 15, 2016. If you have questions or need assistance, please contact Reka Montfort in the Senate Office, extension 5-5804.

Attachment



University Senate PROPOSAL FORM

Name:	Marsha Guenzler-Stevens, PhD
Date:	July 21, 2015
Title of Proposal:	Request for extension of the Excused Absence Policy for Military Service
Phone Number:	301-314-8505
Email Address:	mguenzle@umd.edu
Campus Address:	3100 Stamp Student Union
Unit/Department/College:	Adele H. Stamp Student Union – Center for Camus Life
Constituency (faculty, staff, undergraduate, graduate):	Staff
Description of issue/concern/policy in question:	<p>On behalf of the University of Maryland’s Veterans Steering Committee, I would like to propose a change to the Excused Absence Policy for Assessment/Examinations. Current students who are members of the National Guard, Reserves, or Active Duty military may be called up for emergency situations, such as the recent Baltimore Riots. When these situations occur, students who are members of the military may be called up at a moment’s notice in order to respond.</p> <p>Depending on the discretion of the individual professors/instructors, students who are military members may not be afforded an excused absence during these trying times. Military service is not listed under the current excused absence policy. The discretion falls under “<i>and compelling circumstance beyond the students control.</i>”</p> <p>The Veteran Steering Committee requests that the institution add military obligations as an additional item within the policy. Proper documentation must be provided with a point of contact for verification purposes as stated at the end of the third bullet point. This may include, but is not limited to a memorandum from the commanding officer of the unit or official military orders.</p>

Description of action/changes you would like to see implemented and why:

The Veteran Steering Committee requests that the institution add military obligations as an additional item within the policy. Proper documentation must be provided with a point of contact for verification purposes as stated at the end of the third bullet point. This may include, but is not limited to a memorandum from the commanding officer of the unit or official military orders.

The current [policy](#) with proposed changes may read as follows:

Attendance and Assessment/Examinations

Attendance

The University expects each student to take full responsibility for his or her academic work and academic progress. The student, to progress satisfactorily, must meet all of the requirements of each course for which he or she is registered. Students are expected to attend classes regularly, for consistent attendance offers the most effective opportunity open to all students to gain command of the concepts and materials of their courses of study. Except as provided below, absences will not be used in the computation of grades, and the recording of student absences will not be required of the faculty.

- In some courses, attendance and in-class participation are ongoing requirements and an integral part of the work of the course. In other courses, occasional in-class assessments may occur, sometimes without advance notice. It is the responsibility of the instructor to inform each class at the beginning of the semester of the nature of in-class participation expected and the effect of absences on the evaluation of the student's work in the course.
- It is the policy of the university to excuse the absences of students that result from the following causes: illness of the student, or illness of a dependent as defined by Board of Regents policy on family and medical leave; religious observance (where the nature of the observance prevents the student from being present during the class period); **military obligations**; participation in university activities at the request of university authorities; and compelling circumstance beyond the students control. Students claiming excused absence must apply in writing and furnish documentary support for their assertion that absence resulted from one of these causes.

	<ul style="list-style-type: none"> • Absences in courses where in-class participation is a significant part of the work of the course shall be handled by the instructor in the course in accordance with the general policy of his or her academic unit.
<p>Suggestions for how your proposal could be put into practice:</p>	<p>This policy would be put into practice for students engaged in the military and would be disseminated to all veteran and active duty military service members, Reserve and Guard members via the Veterans Student Life unit to help them understand their opportunities within the confines of this policy.</p>
<p>Additional Information:</p>	<p>I take this action on behalf of the committee listed, as the Chair of the Veterans Services Steering Committee.</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!

Appendix 3 - UMD Policy on Religious Observances

III-5.10(A) UNIVERSITY OF MARYLAND POLICIES AND PROCEDURES CONCERNING ACADEMIC ASSIGNMENTS ON DATES OF RELIGIOUS OBSERVANCES

APPROVED BY THE PRESIDENT 1 AUGUST 1991; amended
March 28, 2006

A. Policy

It is the policy of UMP that students not be penalized in any way for participation in religious observances. Students shall be allowed, whenever practicable, to make up academic assignments that are missed due to such absences. It is the student's responsibility to contact the instructor for each course in which work is missed, and make arrangements for make-up work or examinations.

1. Procedure

The student is responsible for providing written notification to the professor within the first two weeks of the semester. The notification must identify the religious holiday(s) and the date(s).

The student shall hand the written notification to the instructor personally to avoid problems with collecting mail from mailboxes or e-mail. The process should be confidential.

2. Examinations and Assignments

The make-up examination or substitute assignment must be at a time and place mutually agreeable to the instructor and student, cover only the material for which the student was originally responsible, and be at a comparable level of difficulty with the original examination. In the event that a group of students requires the same make-up examination or substitute assignment, one time and place may be scheduled. The make-up assessment or substitute assignment must not interfere with the student's regularly scheduled classes or in-class final examination.

3. Classwork

Students are responsible for information and material missed on the day(s) of absence. Students absent for religious observance may request any materials given out during the absence. Students shall be given a reasonable time to make up class assignments.

B. Complaints

1. A student may file a complaint about an instructor who he or she believes has not complied with this policy. Such complaints should be:
 - a. in writing;
 - b. to the Department Chairperson;
 - c. state the specifics of the complaint.
2. The Department Chairperson shall review the complaint and meet with the instructor and the student to resolve the complaint.
3. A copy of the complaint is to be maintained by the Department Chairperson.
4. A student is not to be penalized in any way for filing a complaint.
5. If the student believes his or her final grade was affected by the filing of a complaint, recourse is available under UMCP Policy III-1.20(A), Procedures For Review of Alleged Arbitrary and Capricious Grading.

C. Academic Schedule

The President may specify certain dates within the academic calendar which, for reasons of religious observance by a large number of student and faculty, may not be used to administer examinations or tests, and may not be set as due dates for assignments.

To avoid the likelihood of religious observances scheduling conflicts, it is recommended that professors avoid scheduling exams or field trips on major religious holidays.

During orientation period, advisors and students should work together to avoid religious observances scheduling conflicts. When planning their classes, students should consider the likelihood that they might be absent multiple times from a given course. Students should choose lab and discussion sections accordingly.

D. Implementation

During the registration period, students will be informed of the policy and procedures through *Testudo*.

Instructors are encouraged to include a paragraph in their course syllabi describing the policy on religious observations. TAs should be informed of the above policy.

Appendix 4 - UMD Policy on a Student's Medically Necessitated Absence

V-1.00(G) UNIVERSITY OF MARYLAND POLICY FOR A STUDENT'S MEDICALLY NECESSITATED ABSENCE FROM CLASS

APPROVED BY THE PRESIDENT 1 AUGUST 1991; AMENDED May 10, 2011

I. Policy

The University shall excuse class absences that result from a student's own illness. As explained below, the procedures and the documentation a student is required to provide to the class instructor for the purpose of obtaining an excused absence differ depending on the frequency of the absence.

II. Procedures

A. Medically necessitated excused absence from a single lecture, recitation, or lab per semester.

1. No written excuses or documentation from the Health Center shall be provided for absences from single lecture, recitation, or lab.
2. For a medically necessitated absence from a single lecture, recitation, or lab, students may submit a self-signed note to their instructor. Such documentation shall be honored as an excused absence unless the absence coincides with a Major Scheduled Grading Event. The procedure for a medically necessitated excused absence for a Major Scheduled Grading event is set forth below.
3. Any student who wishes to be excused for an absence from a single lecture, recitation, or lab due to a medically necessitated absence shall:
 - a. Make a reasonable attempt to inform the instructor of his/her illness prior to the class; and,
 - b. Upon returning to class, present their instructor with a self-signed note attesting to the date of their illness. Each note must also contain an acknowledgment by the student that the information provided is true and correct. Providing false information to University officials is prohibited under Part 9 (h) of the *Code of Student Conduct* (V-1.00(B) UNIVERSITY OF MARYLAND CODE OF STUDENT CONDUCT) and may result in disciplinary action.

B. Non-consecutive medically necessitated absences from more than a single lecture, recitation, or lab.

1. At the beginning of each semester, the instructor shall establish a written policy for non-consecutive medically necessitated absences beyond a

single lecture, recitation, or lab.

C. Prolonged Absence from Classes and/or Absence from a Major Scheduled Grading Event

1. A prolonged absence is defined as multiple consecutive absences from a course during a semester due to the same illness.
2. "Major Scheduled Grading Events" shall be identified by the instructor in writing at the beginning of each semester.
3. Students who experience a prolonged absence(s), as defined above or an illness during a Major Scheduled Grading Event as identified in writing by the class instructor shall be required to provide written documentation of the illness from the Health Center or from an outside health care provider. In cases where written verification is provided, the Health Center or outside health care provider shall verify dates of treatment and indicate the time frame that the student was unable to meet academic responsibilities. No diagnostic information shall be given.

D. Resolution of Problems

A student who wishes to contest a decision not to grant a medically necessitated excused absence should first try to resolve the issue with the class instructor. If the issue is not resolved with the instructor, the student should seek the advice of the instructor's Department Chair; the Dean's Office of the Department's College; the Health Center Director; or the Department of Disability Support Services (DSS) Director, if the student is registered with the DSS, in order to identify the proper procedure for resolution.

Undergraduate Catalog 2015-2016

Attendance and Assessment/Examinations

Attendance

The University expects each student to take full responsibility for his or her academic work and academic progress. The student, to progress satisfactorily, must meet all of the requirements of each course for which he or she is registered. Students are expected to attend classes regularly, for consistent attendance offers the most effective opportunity open to all students to gain command of the concepts and materials of their courses of study. Except as provided below, absences will not be used in the computation of grades, and the recording of student absences will not be required of the faculty.

- In some courses, attendance and in-class participation are ongoing requirements and an integral part of the work of the course. In other courses, occasional in-class assessments may occur, sometimes without advance notice. It is the responsibility of the instructor to inform each class at the beginning of the semester of the nature of in-class participation expected and the effect of absences on the evaluation of the student's work in the course.
- It is the policy of the university to excuse the absences of students that result from the following causes: illness of the student, or illness of a dependent as defined by Board of Regents policy on family and medical leave; religious observance (where the nature of the observance prevents the student from being present during the class period); participation in university activities at the request of university authorities; and compelling circumstance beyond the student's control. Students claiming excused absence must apply in writing and furnish documentary support for their assertion that absence resulted from one of these causes.
- Absences in courses where in-class participation is a significant part of the work of the course shall be handled by the instructor in the course in accordance with the general policy of his or her academic unit.

Medically Necessitated Absences from Class

The University shall excuse class absences that result from a student's illness, provided the student complies with the procedures below. Procedures vary depending on the length and frequency of the absence and whether the absence occurs during a Major Scheduled Grading Event.

- **Major Scheduled Grading Events and Prolonged Absences.** Instructors shall identify in writing all Major Scheduled Grading Events pertaining to each course at the beginning of the semester. Students who miss a Major Scheduled Grading Event due to illness or who have a prolonged absence due to illness (multiple consecutive absences due to the same illness) shall be required to provide his or her instructor with written documentation of the illness from the University Health Center or from his or her own health care provider. The University Health

Center or health care provider shall verify dates of treatment and indicate the dates the student was unable to meet academic responsibilities.

- **Absences from Class.** Except during a Major Scheduled Grading Event, students may be excused from a single lecture, recitation or laboratory session one time per course per semester for a medically necessitated reason. The student should make a reasonable attempt to inform the instructor of his/her illness prior to the class, and present his or her instructor with a self-signed note attesting to the date of his or her illness. This note must include an acknowledgement: (a) that the information provided is true and correct, and (b) that the student understands that providing false information to University officials is a violation of Part 9(h) of the Code of Student Conduct.

- **Written Absence Policies.** Students who have more than one non-consecutive medically necessitated absence should comply with the requirements of the written absence policy applicable to each class. Instructors shall adopt a written policy addressing non-consecutive student absences for medically necessitated reasons at the beginning of each semester. Instructors should specify the nature of information and the documentation they require from students.

- **Resolution of Problems.** A student who wishes to contest a decision by the instructor should consult with the instructor's Department Chair and the Dean's Office of the college as necessary. www.president.umd.edu/policies/docs/V-100G.pdf .

Assessment

The chair, the director or the dean of the department, non-departmentalized school or college, as appropriate, is responsible for the adequate administration of assessments in courses under his or her jurisdiction.

No in-class assessment shall exceed the allotted time for a regularly scheduled class period. In the case of in-class final examinations, the time allotted shall not exceed the scheduled final examination period.

Each student shall be given the instructions and performance requirements for all assessments intended to require more than one-half class period in a form translatable to hard copy, unless the chair, the director or the dean of the department, non-departmentalized school or college, as appropriate, has authorized another procedure. The instructions and requirements of the assessment shall be archived in an appropriate medium in a suitable place.

Ordinarily, assessments are given during class hours in accordance with the regularly scheduled (or officially arranged) time and place of each course. No less than seven calendar days notice shall be given for assessments scheduled at other times and places. It shall be the instructor's responsibility to ensure that the change in schedule does not interfere with any students regularly scheduled classes or in-class final examinations. It is the responsibility of the student to be informed concerning the dates of announced quizzes, tests, and examinations. Performance assessments may take a variety of forms and need not be classroom-based written examinations.

The following rules shall govern all in-class examinations, unless the instructor for a specific course stipulates alternate rules for that course. A breach of any of the rules shall constitute disruption of class, a disciplinary offense (Code of Student Conduct, section 9.m.), or may serve as the basis of an allegation of academic dishonesty.

- a. Students arriving late for an examination may not unreasonably disrupt the examination room.
- b. Students must leave all unauthorized materials (e.g., books, notes, calculators) with the proctor before being seated.
- c. Where seating arrangements are established by proctors, student must conform to these arrangements.
- d. Students may not return to an examination room after leaving, unless permission to do so has been granted by the proctor prior to the student's departure.
- e. Students must cease conversation prior to the passing out of examination papers and maintain silence during the entire examination period.
- f. Students must place examination papers face down on the writing desk until the examination is officially begun by the proctor.
- g. Students must keep examination papers flat on the writing desk at all times.
- h. Students at an examination must be prepared to show current university identification.

Final Examination: A final examination shall be given in every undergraduate course. Exceptions may be made with the written approval of the chair, the director or the dean of the department, non-departmentalized school or college, as appropriate. However, a student's final course grade shall be based on a combination assessments that is at least the equivalent of a comprehensive final examination. No final examination or equivalent may be given or due during the last week of classes. All in-class final examinations must be held on the date and at the time listed in the official final examination schedule. Out-of-class final examination or equivalent assessments shall be due on the date and at a time listed in the official final examination schedule.

A student may seek to reschedule final examinations so that he or she has no more than three (3) examinations on any given day. It is the responsibility of the student to initiate the rescheduling or be responsible for taking the examination as originally scheduled. When rescheduling is desired, the student should first contact his or her class instructor(s). A student who encounters difficulty rescheduling examinations with his or her instructors is advised to contact his or her respective Dean's Office. Faculty members are expected to accommodate students with legitimate rescheduling requests.

Each faculty member is to retain, for one full semester after a course is ended, the students' final assessments in the appropriate medium. If a faculty member goes on leave for a semester or

longer, or leaves the university, the final assessments and grade records for the course must be left with the chair, the director or the dean of the department, non-departmentalized school or college, as appropriate.

In the event of an excused absence: The university provides students with excused absences the opportunity to reschedule significant assessments, except in cases where the nature of the assessment precluded the possibility of rescheduling, OR to perform a substitute assignment without penalty. An instructor is not under obligation to offer a substitute assignment or to give a student a make-up assessment unless the failure to perform was due to an excused absence (see Attendance). Students claiming excused absence must apply in writing and furnish documentary support for their assertion that absence resulted from one of these causes.

The student must notify his or her instructor of the reason for absence as soon as possible. Where the reason for absence from a scheduled assessment is known well in advance (for example, in cases of religious observance or participation in university activities at the request of university authorities), the student must inform the instructor by the end of the schedule adjustment period. Prior notification is especially important in connection with final examinations, since failure to reschedule a final examination before conclusion of the final examination period may result in loss of credits during the semester. Where the reason is not known well in advance (for example, in cases of illness or compelling circumstances beyond the student's control), the student must inform the instructor as soon as the reason develops, or as soon as possible after its development.

Students who have a concern regarding religious observances should see their instructors at the start of the semester. Although the university attempts to accommodate the religious beliefs of all of its members, it functions within a secular environment and is limited in the extent to which it can interrupt its normal operations. The president shall determine when it is appropriate for the campus community to restrict rescheduling examinations or other significant assessments on the dates of religious observance. At this time, examinations or other significant assessments may not be scheduled on Rosh Hashanah, Yom Kippur, Good Friday, or the first two days of Passover.

The make-up assessment or substitute assignment must be at a time and place mutually agreeable to the instructor and student, cover only the material for which the student was originally responsible, and be at a comparable level of difficulty with the original assessment. In the event that a group of students requires the same make-up assessment or substitute assignment, one time and place may be scheduled. The make-up assessment or substitute assignment must not interfere with the student's regularly scheduled classes or in-class final examination.

In cases of dispute, the student may appeal to the chair, the director or the dean of the department, non-departmentalized school or college offering the course within one week from the date of the refusal to schedule a make-up assessment. In those instances where the instructor is the chair, director or dean, the appeal shall be made to the next higher administrative officer, whose decision shall be final.



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MEMORANDUM

To: Charles Delwiche, Chair, Senate Academic Procedures and Standards (APAS) Committee

From: Ian Chambers, Past Chair, Senate Student Affairs Committee

Date: July 21, 2015

Re: Proposed Policy on Excused Absence (Senate Document #14-15-21)

I am writing on behalf of the Senate Student Affairs Committee (SAC) regarding its consideration of the Proposed Policy on Excused Absences charged to the Senate Academic Procedures and Standards (APAS) Committee and to the SAC on February 23, 2015.

The Student Affairs Committee was asked to review current policies and procedures related to various types of excused absences, consider a proposed Student Bereavement Policy, and discuss the impact of the proposal on student success, before submitting recommendations to the APAS Committee regarding the proposed language. The SAC reviewed the relevant documents and met with the proposer in March to gain a better understanding of the issues behind the proposal. After due consideration, the SAC completed its review on April 29, 2015. I have enclosed a few specific revisions to the proposed policy language with this memo, and I have outlined the committee's discussions and findings below.

Suggestions on Specific Language Highlighted in the Proposal

In its review, the SAC considered each of the highlighted language concerns presented in the proposal, but felt that in many cases, it would be difficult to find more specific language that would still be flexible enough to cover all courses at UMD. For that reason, the SAC would generally be comfortable using language such as "whenever practicable" and "reasonable time" in the final proposed policy.

The SAC considered the appropriate timelines for students to notify an instructor of absences that are expected at the start of a semester. The proposal suggested considering revising the deadline of "within the first two weeks of the semester" to instead reference the schedule adjustment period. As we discussed this issue, students on the SAC pointed out that undergraduates do not always keep track of when the end of the schedule adjustment period is, especially if they do not frequently add or drop courses during the start of the semester. Therefore, the SAC agreed that "within the first two weeks of the semester" is more appropriate for the policy language.

The SAC discussed at length the section on written notifications in the case of a prolonged absence or an absence occurring during a Major Scheduled Grading Event. The proposal suggested reconsidering the wording that states that the notification must come from a "verifiable source." The SAC could not find terminology that would be more appropriate, and as such has no suggestions for revising this language. However, the SAC did have general concerns related to this section, since it feels that non-comprehensive lists within policy documents can often cause conflicts for students. Members considered scenarios in which a prolonged absence could not be verified by the sources listed in the policy ("Health Center, Physician, Court Summons, Death Notice, etc"), and raised concerns that students could be disadvantaged by the language if faculty are not willing to consider other types of sources. The SAC recommends that

APAS consider removing the list entirely, stating instead that an appropriate source shall be required and shall be able to verify the dates of the absence. If APAS were to decide to retain the list, the SAC would recommend adding “including, but not limited to” in order to indicate that other sources are acceptable.

Language Related to the Health Center

The SAC briefly reviewed the history of the University of Maryland Policy for a Student’s Medically Necessitated Absence From Class (V-1.00[G]), since this policy language was used in large part as the basis of the new proposed Policy on Excused Absences. The SAC recognizes that many phrases within that policy referring to the Health Center were necessary in 2011 when the policy was revised to move from requiring medical excuse notes from the Health Center to the current practice of using “self-signed notes.” However, the SAC felt that these explanations and references are no longer necessary in the policy language, since the current practice has been established for four years and the Health Center is no longer involved in granting excuses for isolated absences. Therefore, in the enclosed policy revisions, the SAC has removed language in multiple sections related to self-signed notes and the Health Center. In addition, the SAC combined some language under 1.B. to streamline information about the process for notification.

Academic Reasons for Excused Absences

As it reviewed the policy language, members of the SAC raised concerns related to the list of causes for which a student can request an excused absence. The SAC noted that the list includes “participation in university activities at the request of university authorities,” which is often used for participation in athletic events. However, members pointed out that none of the reasons explicitly allow for participation in academic activities, such as attending a conference or participating in a company site visit that is related to a class but is not held during class time. Members of the SAC strongly agreed that activities such as these enhance a student’s knowledge and academic success, and should be valued by the University. While many faculty would likely be accommodating of requests for absences for these reasons, students are not currently ensured these opportunities by the policy. After much discussion, the SAC revised the language in the beginning of the policy to state that absences for “participation in academic or university activities” would be acceptable causes for an excused absence.

Impact of Absences on Student Performance

The SAC considered at length the impact of multiple excused absences on student success. Even in cases where all absences are excused for reasons provided for by the policy, the SAC recognizes that there may come a point where a faculty member would be unable to issue a final grade because the student cannot have successfully met the goals of the course. The SAC agreed that in these cases, students likely should be advised to withdraw from the course. The SAC felt that it would be impossible for the policy to set a threshold for absences after which withdrawal would be necessary; each course should have different expectations, and only faculty would be able to make the determination of where that threshold should be for a particular course. In the enclosed revisions, the SAC added language in 1.B.2. to give students and faculty some guidance towards this idea, stating that “If prolonged absences cause a student to be unable to achieve the goals and outcomes of the course, withdrawal may be necessary.” The SAC recommends that the APAS Committee address this idea further in its final recommendations.

Absences Related to Bereavement

In addition to reviewing the suggestions in the proposed policy, the SAC also discussed a proposed Student Bereavement Policy. Bereavement is certainly a valid reason to request an excused absence, and the SAC recognized that students can currently request an excused absence within the current guidelines, since such absences can be considered under the provision for “compelling circumstance beyond the

students' control." However, the SAC also recognized that faculty may not always be accommodating, since the policy language is not explicit. After discussion, the SAC agreed that University policy should make it clear that excused absences should be granted for bereavement purposes.

In reviewed the proposed Student Bereavement Policy, the SAC considered how to best address the issue of bereavement while staying true to the intent of the original proposal on excused absences. University policies and practices related to excused absences are currently described in different places depending on the type of absence, and the proposal under review was originally intended to create one umbrella policy to apply to all types of absences, to assist students in finding and understanding all policies and procedures. The SAC is very much in support of this goal, and as such, determined that language to include bereavement should be included in the proposed Policy on Excused Absences, rather than in a separate policy on bereavement leave for students.

The proposed Student Bereavement Policy specifically delineates how many days should be excused and what types of relationships should apply in these cases. The SAC discussed these details and felt that any such specific language should likely align as best as possible with current policies and procedures related to staff or faculty. However, after much discussion, the SAC agreed that within the structure of the proposed Policy on Excused Absences, it would be best to simply add language noting that the "death of an immediate family member" would be a cause for an excused absence and allow students to follow the same procedures as for other excused absences. This simplifies and streamlines the process, so the SAC agreed to include this language in the enclosed policy. However, the SAC also considered whether "immediate family member" is appropriate; for instance, students may have individuals very close to them who may not fit this definition, such as in cases where students were raised by neighbors or previously resided with cousins. The SAC could not agree on appropriate language to address this concern, and recommends that the APAS Committee consider this issue carefully in its review.

After concluding its consideration of this charge, the Student Affairs Committee was in agreement with the above suggestions and enclosed revisions to the proposed policy language. In the enclosed document, any changes agreed to by the SAC are highlighted and commented in blue. The enclosed still shows the original proposed edits in the colors used by the proposal.

The Student Affairs Committee respectfully submits this report for consideration by the APAS Committee, and looks forward to learning more about the APAS Committee's consideration of this issue during the 2015-2016 academic year. Please contact me with any questions or concerns that you or the committee may have. Thank you for your consideration of this report.

Enclosures:

- Student Affairs Committee Revisions to Proposed Policy on Excused Absences
- Student Affairs Committee Minutes from March 11, 2015 Meeting with Proposer

IC/seh

Student Affairs Committee Revisions to Proposed Policy on Excused Absences

Proposed Policy on Excused Absence

This draft is color coded to indicate that the text draws primarily from the language of existing policy:

- Policy III-5.10(A) on religious observances (Green)
- Policy V-1.00(G) on medically necessitated absence (Black)
- Undergraduate Catalog (Purple)
- Revisions (Red)

Highlighted terms are discussed in the attached comment document.

Policy

It is the policy of UMD to excuse the absences of students that result from the following causes: illness of the student, or illness of a dependent as defined by Board of Regents policy on family and medical leave; religious observance (where the nature of the observance prevents the student from being present during the class period); participation in academic or university activities at the request of university authorities; death of an immediate family member; and compelling circumstance beyond the students control. Students shall not be penalized in any way for excused absences. Students shall be allowed, whenever practicable, to make up academic assignments that are missed due to such absences. It is the student's responsibility to contact the instructor for each course in which work is missed, provide appropriate written notification and make arrangements for make-up work or examinations.

As explained below, the procedures and the documentation a student is required to provide to the class instructor for the purpose of obtaining an excused absence differ depending on the frequency of the absence, and whether the absence occurs during a Major Scheduled Grading Event

1. Procedures

A. Excused absence timeline for notification

1. If the date to be missed is known at the start of the semester the student is responsible for providing written notification to the professor within the first two weeks of the semester.
2. If the date to be missed is not known at the start of the semester the student should make a reasonable attempt to inform the instructor in advance of the absence and upon returning to class present written notification.

B. Excused absence format for notification

Comment [seh1]: To include absences for attending/presenting at conferences, for example.

Comment [seh2]: To incorporate bereavement into the policy more explicitly, without going into too much detail.

1. Students must present written notification using the communication process indicated by the course instructor to be found in the course syllabus. The process for notification should be confidential
2. Written notification will be a self-signed note from the student. The notification must identify the reason for the absence and the date. Each notification must also contain an acknowledgment by the student that the information provided is true and correct. Providing false information to University officials is prohibited under Part 9 (h) of the Code of Student Conduct (V-1.00(B) UNIVERSITY OF MARYLAND CODE OF STUDENT CONDUCT) and may result in disciplinary action. Such documentation shall be honored as sufficient documentation unless the absence results in a prolonged absence from classes and/or coincides with a Major Scheduled Grading Event. No written excuses or documentation from the Health Center shall be provided for absences from single lecture, recitation, or lab.
3. ~~Written notification for Non-consecutive absences from more than a single lecture, recitation or lab will be:~~
- 4.2. A prolonged absence from classes is defined as multiple consecutive absences from a course during a semester due to the same reason. If prolonged absences cause a student to be unable to achieve the goals and outcomes of the course, withdrawal may be necessary.
- 5.3. "Major Scheduled Grading Events" shall be identified by the instructor in the course syllabus at the beginning of each semester.
- 6.4. Students who experience a prolonged absence(s) as defined above or an absence during a Major Scheduled Grading Event are required to supplement the written notification with supporting documentation from a verifiable source. The source (including, but not limited to: Health Center, Physician, Court Summons, Police Report, Death Notice, etc) shall verify dates of absence and indicate the time frame that the student was unable to meet academic responsibilities. No diagnostic information shall be provided.

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Comment [seh3]: Combined 1 and 2 and streamlined language.

Comment [seh4]: Unnecessary because of shift away from requiring Health Center notes.

Comment [seh5]: The committee recognizes that if students miss a large portion of a course for an excused reason, faculty may need to advise that a student take a leave of absence or withdraw.

Comment [seh6]: The SAC recommends considering removing this list from the policy, as incomplete lists can cause confusion in policy documents.

2. Examinations and Assignments

The make-up examination or substitute assignment must be at a time and place mutually agreeable to the instructor and student, cover only the material for which the student was originally responsible, and be at a comparable level of

difficulty with the original examination. In the event that a group of students requires the same make-up examination or substitute assignment, one time and place may be scheduled. The make-up assessment or substitute assignment must not interfere with the student's regularly scheduled classes or in-class final examination.

3. Class work

Students are responsible for information and material missed on the day(s) of absence. Students absent for an excused absence may request any materials given out during the absence. Students shall be given a reasonable time to make up class assignments.

4. Resolution of Problems

A student who wishes to contest a decision not to grant a medically necessitated an excused absence should first try to resolve the issue with the class instructor. If the issue is not resolved with the instructor, the student should seek the advice of the instructor's Department Chair; the Dean's Office of the Department's College; ~~the Health Center Director;~~ or the Department of Disability Support Services (DSS) Director, if the student is registered with the DSS, in order to identify the proper procedure for resolution.

Comment [seh7]: The SAC agrees that this language is unnecessary.

Comment [seh8]: The SAC also feels this is no longer necessary.

If the student believes his or her final grade was affected by the filing of a complaint, recourse is available under UMCP Policy III-1.20(A), Procedures For Review of Alleged Arbitrary and Capricious Grading.

5. Religious Observance and the Academic Schedule

The President may specify certain dates within the academic calendar which, for reasons of religious observance by a large number of student and faculty, may not be used to administer examinations or tests, and may not be set as due dates for assignments. To avoid the likelihood of religious observances scheduling conflicts, it is recommended that professors avoid scheduling exams or field trips on major religious holidays. During orientation period, advisors and students should work together to avoid religious observances scheduling conflicts. When planning their classes, students should consider the likelihood that they might be absent multiple times from a given course. Students should choose lab and discussion sections accordingly.



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MEMORANDUM

To: Charles Delwiche, Chair, Senate Academic Procedures and Standards (APAS) Committee
From: Adam Berger, Chair, Senate Student Affairs Committee
Date: October 6, 2015
Re: Charge Amendment to Proposed Policy on Excused Absence (Senate Document #14-15-21)

I am writing on behalf of the Senate Student Affairs Committee (SAC) regarding its consideration of the amendment to the charge on Proposed Policy on Excused Absences that was sent to the Senate Academic Procedures and Standards (APAS) Committee and to the SAC in September 2015.

The Student Affairs Committee was asked to review a new proposal to include military obligations in the Proposed Policy on Excused Absences and to consider the impact of the proposal on undergraduate students. The SAC reviewed the proposal at its meetings in September and early October 2015. After consideration, the SAC recommends that the APAS Committee include military obligations in its final Proposed Policy on Excused Absences. This recommendation was unanimously agreed upon by the SAC members.

During its consideration, a few issues were raised that the Student Affairs Committee would suggest APAS take into consideration as it finalizes its work on this policy:

Appropriate Language: The SAC discussed how best to incorporate this into the proposed policy and felt that simply adding “military obligations” to the policy could be appropriate. However, the committee would recommend consulting with the Office of Veteran Student Life and the Office of General Counsel to ensure that the language is broad enough to encompass any type of responsibility that could be required of a student involved in national defense or military service.

Application to International Students: The SAC noted that the language as currently written would likely apply to international students who are called for military obligations in other countries. The SAC has no objection to this, but suggests that the APAS Committee may want to be aware of this during its review and consider whether consultation with the Office of International Student & Scholar Services would be necessary to understand the implications of this proposal for international undergraduate students.

AB/seh

Appendix 8 - Peer Institution Research

Peer Institution Research – Excused Absence Policies (compiled by the Senate Office, 2015-2016)

UNIVERSITY OF ILLINOIS, URBANA-CHAMPAIGN

Policy/Guiding Document, Hyperlink: [2014-2015 Student Code](#) (governed by the Urbana-Champaign Senate and Chancellor)

Religious Observance Coverage: Excused absences include those resulting from "a student's religious beliefs, observances, and practices. (University policy and state law require that all instructors reasonably accommodate conflicts with class attendance and work requirements resulting from a student's religious beliefs, observances, and practices. Instructors shall hold all students who miss class for religious or University sponsored activities to the same standard. Accommodating absences for some groups but not others amounts to invidious discrimination and is against University policy."

Medical/Illness Coverage: Excused absences include those resulting from "illness." Because the Health Center does not provide medical excuses, instructors should be aware that a student may not be able to provide formal documentation for minor illnesses. For more serious or extended medical absences, the student should advise the instructor at the earliest possible opportunity. The student should provide supporting evidence for serious or extended medical absences as appropriate. The Dean of Students should serve as a resource when medical confidentiality might limit what can be shared with the instructor. Students who will be absent from classes due to an extended illness or hospitalization, or who are required to recover at home or other extended care facility, also should contact the Emergency Dean, Office of the Dean of Students, as soon as possible with this information.

Bereavement Coverage: Excused absences include those resulting from "death in the family."

Military Service Coverage: Absence due to active military service is only discussed in the section regarding extension allowances for removing course grades of "incomplete".

Academic/University-Sponsored Activities Coverage: Instructors must reasonably accommodate students whose class absence resulted from formal participation in scheduled activities of officially recognized groups such as athletic teams, performing groups, and the Urbana-Champaign Senate.

Other Coverage: Excused absences include those resulting from "other emergency, or other reasons beyond the student's control" are Covered. Also, University policy and state law require that all instructors reasonably accommodate conflicts with class attendance and work requirements resulting from a student's serving as an emergency worker.

Procedural Notes: The student must provide an explanation to the instructor and supply supporting evidence as required by the instructor. The student must make arrangements with the instructor to make up missed work expeditiously. The student may appeal in writing an instructor's decision for absence to the dean of the academic unit offering the course. Before taking action, the dean or director should request that the instructor explain his or her denial in writing. The instructor decides when a student's attendance becomes irregular. In this case, the instructor may send oral, written, or electronic notice of the student's irregular attendance to the dean of the student's college. The dean shall then notify the student by electronic, campus, or US mail. The notification may be in the following form: "[Faculty] has notified this office that your attendance in [course] has become irregular. Please contact the instructor immediately. The instructor may refuse to grade, return, or record any assignment, quiz, or examination until you have met with the instructor to discuss your attendance problem." If, after receiving such a notice, a student's attendance continues to be irregular, the instructor may

report this fact to the student's college dean. The dean of the student's college, in consultation with the instructor, may determine that the student's attendance has become so irregular that the student's scholarship is likely to be severely impaired. The dean may require the student to withdraw from the course with a grade of Withdrawal or Failure. A student may notify the Emergency Dean, Office of the Dean of Students, if the student will be unavoidably absent from class because of illness, death in the family, or other emergency. The emergency dean will pass this information along as is appropriate. The student's college may forward this information to instructors. This communication is meant for information and does not certify the validity of the student's reason for absence. Class absences before and after vacations are treated like any other absences during the semester. Regularly scheduled classroom or laboratory work shall have precedence over instructional field trips except on the second Saturday of each month.

UNIVERSITY OF WISCONSIN, MADISON

Policy/Guiding Document, Hyperlink: [Faculty Legislation, Academic Matters](#) (governed by the Secretary of the Faculty)

Religious Observance Coverage: Not discussed.

Medical/Illness Coverage: Not discussed.

Bereavement Coverage: Not discussed.

Military Service Coverage: Not discussed.

Academic/University-Sponsored Activities Coverage: Faculty and instructors are encouraged to extend reasonable consideration to accommodate students should their university-endorsed extracurricular activities, not including practice activities for performances or athletic events, conflict with class attendance requirements.

Other Coverage: Not discussed.

Procedural Notes: It is expected that students provide adequate and reasonable advance notice to faculty and instructors in order that they can ensure that an accommodation, if granted, not jeopardize or compromise the pedagogical goals and requirements of the course and students' learning.

INDIANA UNIVERSITY, BLOOMINGTON

Policy/Guiding Document, Hyperlink: [Indiana University Academic Guide](#) (repository for academic policies, governed by the Bloomington Faculty Council)

Peer Institution Research – Excused Absence Policies (compiled by the Senate Office, 2015-2016)

Religious Observance Coverage: Indiana University respects the right of all students to observe their religious holidays and will make reasonable accommodation, upon request, for such observances. It is the policy of Indiana University that instructors must reasonably accommodate students who want to observe their religious holidays at times when academic requirements conflict with those observances. This policy is intended to ensure that both faculty and students are fully aware of their rights and responsibilities in the accommodation of students' religious observances. Students must make a request to the instructor for a reasonable accommodation for that observance by the end of the second week of the course. All instructors are encouraged to include on the syllabus and to announce at the beginning of the semester the policy and procedure as it applies to religious holidays. The Office of the Vice Provost for Faculty and Academic Affairs will prepare, for guidance, a list of dates of the major religious holidays. This list, policy, and a note to the effect that students wanting accommodations for observance of religious holidays must contact their instructors, will be brought to the attention of both students and faculty. The Vice Provost for Faculty and Academic Affairs will write regularly to the various deans and chairs, indicating that they, in turn, are to inform the faculty (including associate instructors under their supervision) concerning this policy and of the importance of observing it. If a conflict with a religious observance exists, a student must make a request to the instructor for a reasonable accommodation for that observance by the end of the second week of the course. Any relevant change to the course calendar affords a new opportunity to make such a request in a timely manner. The request is to be made in writing on a standardized form to be used for this purpose, and copies of that form will be made widely available. The instructor and the student should discuss what a reasonable accommodation should include in a given case. Generally, it is insufficient to require a student to forgo taking an exam or doing some other major assignment even if the instructor agrees to average the remaining exams or other assignments. The student must be given the opportunity to do appropriate make-up work that is intrinsically no more difficult than the original exam or assignment. If the instructor and student agree on the accommodation, the plan should be carried out. If after discussion there is no consensus on the accommodation, either party or both may ask the Vice Provost for Faculty and Academic Affairs to mediate. The VPFAA will confer with both the instructor and the student, and may seek advice from anyone else who could provide helpful information. If the instructor and student still cannot reach consensus over the accommodation, the VPFAA will then make a determination about the appropriate accommodation. Either the instructor or the student may appeal the VPFAA's decision to the Office of Affirmative Action. Final authority for determining the outcome rests with the Provost.

Medical/Illness Coverage: Not discussed.

Bereavement Coverage: Not discussed.

Military Service Coverage: Veterans Support Services assists Indiana University students who are veterans, service members, or children or spouses of disabled veterans with University issues or concerns related to their military service, inability to attend orientation due to military orders, deployment during a semester, and delays in VA benefit payment and resulting financial hardship, among other issues.

Academic/University-Sponsored Activities Coverage: Not discussed.

Other Coverage: Not discussed.

Procedural Notes: Students who fail to attend the final exam of a class and who have a passing grade up to that point should be given an Incomplete only if the instructor has reason to believe the absence was beyond the student's control. If not, the grade of "F" must be awarded.

UNIVERSITY OF CALIFORNIA, BERKELEY

Policy/Guiding Document, Hyperlink: [Senate Guidelines Concerning Scheduling Conflicts with Academic Requirements](#)

Religious Observance Coverage: When occasional conflicts arise, for instance, because of job-seeking, or athletic team-related activities, or religious observance, for instance, and the student has notified the instructor at the outset of the semester, including a statement concerning his/her proposed handling of the situation (e.g. attending an alternative section one week) and discussed the matter with the instructor or designated GSI, faculty should try to accommodate the student.

Medical/Illness Coverage: Not discussed.

Bereavement Coverage: Not discussed.

Military Service Coverage: Not discussed.

Academic/University-Sponsored Activities Coverage: Many extra-curricular activities in which students are the central participants arrange their performances, matches, debates, practices, and rehearsals to occur outside the hours students are regularly expected to be in class or to be taking final exams This is the preferred arrangement. When such activities are scheduled at times that classes and exams are regularly scheduled, students should be notified of that schedule (and of potential additional late-scheduled obligations such as tournaments and special performances) before they enroll in their courses for the term in question. Those music directors, coaches and others scheduling activities that require student absence from regularly-scheduled classes and exams should seek to minimize the number and the impact of these conflicts. The NCAA Bylaw 17.1.5.6.1, provides a useful template for all – Declaration of Playing Season: 2005-2006 Missed Class Guidelines: 1) No away competition should be scheduled during the first week of each semester unless the game is a Pac-12 conference scheduled game. 2) No home or away competition should be scheduled during Final Exam Week. 3) No away competition should be scheduled during Dead Days. 4) No departure for away competition may occur prior to the evening of the last day of Final Exam Week. However, if all team members have completed their final exams early, travel may occur after the last final is complete. 5) No travel (return trip from an away competition) scheduled during Dead Days. 6) No departure for an away competition earlier than 48 hours prior to the start of the actual competition and no return more than 36 hours following the conclusion of the actual competition. 7) In the sports of men's and women's basketball, a team may not leave campus before 3:00 p.m. the day before all away Pac-12 competitions. 8) No home competition starting times prior to 1:00 p.m. 9) When at all possible (depending on destination of trip and availability of flights) departure for all away competition will occur after noon. 10) No missed class time will be allowed for any practice activity.

Other Coverage: When occasional conflicts arise, for instance, because of job-seeking, or athletic team-related activities, or religious observance, for instance, and the student has notified the instructor at the outset of the semester, including a statement concerning his/her proposed handling of the

situation (e.g. attending an alternative section one week) and discussed the matter with the instructor or designated GSI, faculty should try to accommodate the student.

Procedural Notes: All major exams, papers, and project due dates, and field trips should be on the course syllabus and available to students the first day of class (or earlier if practicable). Faculty teaching courses that are structured so that this early notice is impossible or undesirable should accept the burden of accommodating students who have conflicts and who have notified their teacher of those conflicts in a timely manner. When circumstances change unexpectedly, resulting in event schedules changing during the semester, the music director, coach or other person scheduling the changed activity should consult the students involved to determine whether there will be any classroom conflicts and whether they can be resolved. The organizers should accept that students with unresolvable conflicts may not be able to participate in the rescheduled event. It is the student's responsibility to inform the instructor (or designated GSI), in writing, before the end of the second week of term of all foreseeable conflicts between the syllabus (classes, exams, project due dates, field trips) and scheduled practices, matches, games, potential tournaments, interview weeks, performances, and other activities in which the student will be participating (or may be participating) that would require absence from academic activities during the semester, as well as to provide a proposal for resolving these conflicts. If unforeseen conflicts arise during the course of the semester students must promptly notify the instructor and arrange to discuss the situation as soon as these conflicts (or the possibility of these conflicts) are known. Similarly, if the music directors, coaches, and others who arrange these activities have stated policies concerning mandatory attendance punctuality, and participation, students involved in these activities must notify these individuals by the second week of term concerning academic conflicts or potential conflicts. If a mutually-satisfactory arrangement is not possible, the student may be dropped from the roster of that activity. If systematic conflicts occur that might, for instance, require a student to leave lecture or section early or arrive late on a consistent basis, and if, in the opinion of the instructor there is no mutually-workable solution, the student may be dropped from the class. Students are responsible for material covered during missed classes whether or not they have been formally excused; therefore it is the student's responsibility to inform him/herself about the material missed.

UNIVERSITY OF NORTH CAROLINA, CHAPEL HILL (UNC)

Policy/Guiding Document, Hyperlink: [2015-2016 Undergraduate Bulletin](#)

Religious Observance Coverage: Students are authorized up to two excused absences each academic year for religious observances required by their faith. Students who wish to request more than two excused absences in an academic year for religious observances required by their faith will need to contact their course instructors and request the additional absence, which will only be granted with the course instructor's permission. Primary holy days for religious observance are noted on a Web-based interfaith calendar site at www.interfaithcalendar.org. Students are responsible for providing a written notice for an excused absence for a religious observance two weeks in advance of the date requested or as soon as possible if the date occurs within the first two weeks of the semester. This policy also applies to students who have an excused absence for a religious observance during the summer. Students must be given the opportunity to make up tests and other work missed due to an excused absence for a religious observance. Make-up tests may entail an alternative examination, or other accommodation which allows the student not to be penalized for an excused absence for a religious observance.

Medical/Illness Coverage: Course instructors may excuse absences from class for illness (a student should present his or her explanation for any absences in writing to the course instructor in advance if the reason for the absence could be foreseen, or as soon as possible thereafter if the reason for the absence could not be foreseen).

Bereavement Coverage: Course instructors may excuse absences from class for family emergency (a student should present his or her explanation for any absences in writing to the course instructor in advance if the reason for the absence could be foreseen, or as soon as possible thereafter if the reason for the absence could not be foreseen).

Military Service Coverage: Not discussed.

Academic/University-Sponsored Activities Coverage: No right or privilege exists that permits a student to be absent from any class meetings *except* for excused absences for authorized University activities or religious observances required by the student's faith.

Other Coverage: Not discussed.

Procedural Notes: Regular class attendance is a student obligation, and a student is responsible for all the work, including tests and written work, of all class meetings. No right or privilege exists that permits a student to be absent from any class meetings except for excused absences for authorized University activities or religious observances required by the student's faith. If a student misses three consecutive class meetings, or misses more classes than the course instructor deems advisable, the course instructor may report the facts to the student's academic dean. Only course instructors excuse absences from class for valid reasons (illness or family emergency, religious observance, etc.). A student should present his or her explanation for any absences in writing to the course instructor in advance if the reason for the absence could be foreseen, or as soon as possible thereafter if the reason for the absence could not be foreseen. A student may appeal a course instructor's denial of a request that an absence be excused if the request to be excused from class and the reasons for the request are presented to the course instructor in writing within the time limits above. The appeal is to be made to the course instructor's immediate academic supervisor. Students who are members of regularly organized and authorized University activities and who may be out of town taking part in some scheduled event are to be excused during the approved period of absence. Notification of such an absence must be sent by the responsible University official to the course instructor before the date(s) of the scheduled absence.

UNIVERSITY OF MINNESOTA

Policy/Guiding Document, Hyperlink: [Makeup Work for Legitimate Absences: Twin Cities, Crookston, Morris, Rochester](#) (owned by Vice Provost and Dean for Undergraduate Education and Vice Provost and Dean for Graduate Education) “Students will not be penalized for absence during the semester due to unavoidable or legitimate circumstances. Such circumstances include illness of the student or his or her dependent, medical conditions related to pregnancy, participation in intercollegiate athletic events, subpoenas, jury duty, military service, bereavement, and religious observances. Such circumstances also include activities sponsored by the University if identified by the senior academic officer for the campus or his or her designee as the basis for excused absences. Such circumstances do not include voting in local, state, or national elections.”

Religious Observance Coverage: Yes (see above paragraph)

Medical/Illness Coverage: Illness, in general, is covered under the policy (see above). In the event that the University declares a pandemic emergency (e.g., flu), the Senior Vice President for Academic Affairs and Provost or designee may waive the requirement that students are required to have documentation from a health care provider for illness.

Bereavement Coverage: Bereavement is covered (see above paragraph). However, relationships covered under this policy are at the discretion of the instructor. The death of a close family member is usually included in the absences related to bereavement circumstances. In addition, there may be other circumstances when a student is affected by the death of a person who was close to the student, and was not a relative (for example, the death of a roommate or friend). The student is responsible for explaining the circumstances and requesting to be able to make up the work.

Military Service Coverage: Yes (see above paragraph)

Academic/University-Sponsored Activities Coverage: Above policy states intercollegiate athletic events are covered. However, “Teams that wish to be officially excused from class can seek permission from the Provost. Students who have not been officially excused from class must get permission, in advance, from the instructor to miss class and make up the work. Instructors are not compelled to accommodate students who miss class for participation in athletic events or other university-sponsored events that are not intercollegiate events.”

Other Coverage: Instructors are expected to accommodate students who wish to participate in party caucuses, pursuant to Board of Regents resolution ([see December 2005 Board of Regents Minutes, p 147.](#))

Procedural Notes: The instructor has the right to request verification for absences. If a student believes he or she has been wrongly denied the opportunity to make up work due to disagreement with the instructor about the legitimacy or unavoidability of an absence, the student should pursue his or her complaint using the usual process for appeals of student grievances. A student must notify instructors of circumstances identified in (1) as soon as possible and provide documentation if requested by the instructor. This policy applies to all course requirements, including any final examination. Colleges and academic units may establish specific criteria for notice and completion of work to implement this policy.

Related Policies: [Mandatory Attendance at First Class Session and Consequences for Absence: Twin Cities, Crookston, Morris, Rochester](#); [Teaching and Learning: Student Responsibilities \(Twin Cities, Crookston, Morris, Rochester\)](#)

MICHIGAN STATE UNIVERSITY

Policy/Guiding Document, Hyperlink: No official policy on excused absences. The [Attendance Policy](#) states that there is no university-wide requirement to attend class. This document is part of the [Academic Programs Catalog](#). The [Code of Teaching Responsibility](#) states that instructors must provide information to students in the course syllabi if a course attendance policy differs from the all-university policy.

Religious Observance Coverage: The [Policy on Religious Observance](#) states “It has always been the policy of the University to permit students and faculty to observe those holidays set aside by their chosen religious faith. The faculty and staff should be sensitive to the observance of these holidays so that students who absent themselves from classes on these days are not seriously disadvantaged. It is the responsibility of those students who wish to be absent to make arrangements in advance with their instructors. It is also the responsibility of those faculty who wish to be absent to make arrangements in advance with their chairpersons, who shall assume the responsibility for covering their classes.” Guidelines for planning can be found at <http://www.interfaithcalendar.org>. This policy is found in both the Faculty Handbook and the [Academic Programs Catalog](#).

Medical/Illness Coverage: Not discussed.

Bereavement Coverage: The [Grief Absence Policy](#) adopted by the University Council on [April 28, 2015](#) notes that “the faculty and staff should be sensitive to and accommodate the bereavement process of a student who has lost a family member or who is experiencing emotional distress from a similar tragedy so that the student is not academically disadvantaged in his/her classes.”

Military Service Coverage: Not discussed.

Academic/University-Sponsored Activities Coverage: Not discussed.

Other Coverage: None.

Procedural Notes: None.

OHIO STATE UNIVERSITY

Policy/Guiding Document, Hyperlink: Not found.

Religious Observance Coverage: Not found.

Medical/Illness Coverage: [Student Health Services](#) provides documentation of absences. The [Medical Excuse Absence Form](#) can be provided to instructors upon request.

Bereavement Coverage: Not found.

Military Service Coverage: Not found.

Academic/University-Sponsored Activities Coverage: Not found.

Other Coverage: Not found.

Procedural Notes: Class Absence Excuse form (non-medical) exists, but need OSU credentials to access it.

RUTGERS UNIVERSITY, NEW BRUNSWICK

Policy/Guiding Document, Hyperlink: The main [Course Attendance](#) policy is managed by the Office of Academic Affairs.

Religious Observance Coverage: The Course Attendance policy states that “recognized religious holidays” are grounds for absence, but does not specify what those holidays are. The policy states that the university will “excuse without penalty” students who are absent for religious holidays and will allow them to make up missed work. It also states that examinations should not be scheduled on religious holidays with the exception of clinical work.

Medical/Illness Coverage: Listed as number 1 under the grounds for absence section of the Course Attendance policy is an “illness requiring medical attention”

Bereavement Coverage: Not discussed.

Military Service Coverage: Not discussed.

Academic/University-Sponsored Activities Coverage: Listed as number 2 under the grounds for absence section of the Course Attendance policy is “curricular or extra-curricular activities approved by the faculty”

Other Coverage: The Course Attendance policy allows for absence for “personal obligations claimed by the student and recognized as valid” and “severe inclement weather causing dangerous traveling conditions”

Procedural Notes: The policy states that each college or school is responsible for designating someone to authenticate the reason for absence.

Rutgers maintains an online tool called the [Self-Reporting Absence Application](#) that students are encouraged to use to inform their instructor of a class absence. Use of this system does not guarantee the absence is excused. It is simply a notification system and students must work with instructors to make up work.

PENNSYLVANIA STATE UNIVERSITY

Policy/Guiding Document, Hyperlink: [42-27 Class Attendance](#) and [44-35 Conflict of Non-Final Examinations](#) (Senate policies)

Religious Observance Coverage: [R-4: Religious Observances](#) notes that missing a class for religious reasons should be dealt with in accordance with the procedures outlined in E-11: Class Attendance.

Penn State University recognizes in its Framework to Foster Diversity that “the multiplicity of characteristics possessed by persons are not simply tolerated but valued” and that it is each individual’s obligation to cultivate a positive and inclusive environment.” This tenet is echoed in the University Strategic Plan goal to “create a more inclusive, civil, and diverse learning community.” Recognizing that the right of students to participate in religious observance is a fundamental element of diversity and a characteristic to be valued, Faculty Senate Policy 42-27 and AAPP E-11 state that “on occasion, students may opt to miss a class meeting in order to participate in . . . religious observance.”

In accord with these policies and core values, a student’s decision to miss a class to participate in religious observance shall be treated within the procedures of AAPP E-11.

Medical/Illness Coverage: This is classified as a legitimate, unavoidable absence in Senate policy 42-27. However, in E-11: Class Attendance, it says “Note: As of Fall 2002, University Health Services (UHS) no longer provides verification of illness forms for minor illnesses or injuries. Verification will be provided only for serious illnesses for which UHS clinicians provided services, or when UHS has received such documentation from outside providers.”

Bereavement Coverage: Not specifically mentioned, but it could fall under the “family emergency” category

Military Service Coverage: Not discussed.

Academic/University-Sponsored Activities Coverage: Instructors should provide, within reason, opportunity to make up work for students who miss class for regularly scheduled, University-approved curricular and extracurricular activities (such as Martin Luther King Day of Service, field trips, debate trips, choir trips, and athletic contests). However, if such scheduled trips are considered by the instructor to be hurting the student’s scholastic performance, the instructor should present such evidence for necessary action to the head of the department in which the course is offered and to the dean of the college in which the student is enrolled or to the Division of Undergraduate Studies if the student is enrolled in that division.

Other Coverage: Family emergencies are allowed

Procedural Notes: [E-11: Class Attendance](#) of the Academic Administrative Policies and Procedures Manual details the procedures for missing a class in accordance with Senate policy 42-27. [F-4: Conflict Non-Final Examinations](#) details the policies for missing an exam. In general, the student must fill out a [Class Absence Form](#) and obtain the approval of the person in charge in the sponsoring department.

Students who will miss a class in accordance with Senate Policy 42-27, should, where appropriate, present a class absence form to the faculty member as soon as possible and, except in unavoidable situations, at least one week in advance of a planned absence. In the case of illness, students are not required to secure the signature of medical personnel.

Students should be provided with a reasonable opportunity to make up missed work. Ordinarily, it is inappropriate to substitute for the missed assignment the weighting of a semester's work that does not include the missed assignment. Completion of all assignments assures the greatest chance for students to develop heightened understanding and content mastery that is unavailable through the weighting process. The opportunity to complete all assignments supports the university's desire to enable students to make responsible situational decisions without endangering their academic work.

If an instructor believes a requested absence for such events will harm a student scholastically, the instructor should present evidence for necessary action to the head of the department in which the course is offered and inform the assistant/associate dean of the college in which the student is enrolled, or to the Division of Undergraduate Studies if the student is so enrolled. (E-11: Class Attendance)

When presented with the Class Absence form (or other appropriate documentation), faculty should provide the student with a make-up opportunity that ensures the promotion of learning. By providing evaluation similar to that given in the scheduled class or evening exam, faculty do not penalize the student who has a legitimate reason for being absent.

Faculty who may have difficulty scheduling an evening and/or non-evening conflict examination or quiz should contact their own department for assistance in locating an appropriate facility and/or proctor. (F-4: Conflict Non-Final Examinations)

UNIVERSITY OF IOWA

Policy/Guiding Document, Hyperlink: The University of Iowa Operations Manual [Chapter 8- Absences from Class](#). Examples from college-level policy: [College of Liberal Arts and Sciences Student Handbook Section on Attendances and Absences](#) and the [Tippie College of Business Attendance Policy and Excused Absences](#)

Religious Observance Coverage:

University-wide policy: University regulations require that students be allowed to make up examinations which have been missed due to illness, mandatory religious obligations, or other unavoidable circumstances or University activities.

College-level policy: A student with a mandatory religious obligation that interferes with examination times must provide documentation to verify this obligation before it occurs in order to be permitted to make up the examination.

Medical/Illness Coverage: University-wide policy: University regulations require that students be allowed to make up examinations which have been missed due to illness, mandatory religious obligations, or other unavoidable circumstances or University activities.

College-level policy: CLAS instructors generally have the right to ask for documentation for most student absences caused by illness.

Peer Institution Research – Excused Absence Policies (compiled by the Senate Office, 2015-2016)

- A student with a long-term illness (or generally those who miss more than five days of classes) should be able to provide a record of appointments or documentation from a health care provider, such as a note stating the student has been under the doctor's care.
- Students who do visit Student Health have access to their electronic medical records through MyChart. If they have activated this service, they are able to print off a summary of their appointment dates and times from MyChart. Faculty wishing for documentation for a long-term illness should accept a student's summary of visits as adequate documentation. Student Health is encouraging all students to activate their MyChart account during office visits and summer orientation. UIHC also provides this tool. Students are not required to share specific medical records since they are covered by privacy laws.
- A student who is absent for more than five days due to an emergency or an illness may request the Registrar's Service Center, 17 Calvin Hall, registrar@uiowa.edu, to notify each instructor of the reason for the absence.

[2015 Memo from the Provost on Medical Absences from Class](#): Instructors cannot require a medical note for an absence due to illness. Students are encouraged to self-report using the registrar's website.

Bereavement Coverage:

University- wide policy: University regulations require that students be allowed to make up examinations which have been missed due to illness, mandatory religious obligations, or other unavoidable circumstances or University activities. May fall under the category of "family tragedy" in the college-level policy: "Students with unavoidable circumstances such as a family tragedy or involvement in an automobile accident should contact their instructors as soon as possible or ask a family member to do so. The Registrar's Service Center, 17 Calvin Hall, 319-384-4300, will notify the student's instructors of the emergency. The student, if able, can also email instructors to notify them of the incident."

Military Service Coverage: Not discussed in University-wide policy. National Guard service is mentioned in the college-level policy, but there is no specific policy on military service.

Academic/University-Sponsored Activities Coverage:

University-wide policy: University regulations require that students be allowed to make up examinations which have been missed due to illness, mandatory religious obligations, or other unavoidable circumstances or University activities.

College-level policy: Students participating in authorized University activities are expected to give each instructor a statement before the absence signed by a responsible official that specifies the dates and times the student will miss class. Authorized activities include participation in intercollegiate athletic teams, in the marching band and pep band, and attendance at events scheduled by recognized University groups (such as mock trial competitions).

Other Coverage: General. The desirability of wholesome interest in and enthusiasm for activities sponsored by the University is fully recognized. If this interest and enthusiasm should find expression in group activities, arrangements for such programs should be made through the proper administrative channels, should reflect the wishes of the entire student body, and should not interfere with regularly scheduled University classes.

Procedural Notes: Each College can establish its own rules for absences as long as they comply with the general university policy.

The University of Iowa's Registrar's Office maintains an [Absence from Class](#) form that can be presented to an instructor should the student miss class.

UNIVERSITY OF NEBRASKA, LINCOLN

Policy/Guiding Document, Hyperlink: [Class Attendance Policy](#) (approved by the Faculty Senate)

Religious Observance Coverage: In recognition of the diversity of the student body, the University provides that a student may request an excused absence from class for participation in religious observances. In all such instances, it is the student's responsibility to request, preferably in writing, that the instructor excuse the absence and to discuss how the absence will affect the student's ability to meet the course requirements. A student should make any such requests by the end of the second week of classes.

Medical/Illness Coverage: In cases where a student is unable to contact his or her instructors due to major illness, serious injury, or hospitalization or when given military orders which are effective immediately, a notice may be sent to the student's instructors by a family physician or the Student Affairs Office, 106 Canfield Administration Building, (402) 472-3755. This notice is for the instructor's information only and does not relieve the student of contacting instructors as soon as possible.

Bereavement Coverage: Students grieving from a personal tragedy, such as the loss of a loved one, may need to be excused from a class, lab, studio meeting, or required class activity to attend a funeral or manage grief. It is the student's responsibility to contact the Office of the Vice Chancellor for Student Affairs to request that a notice of his or her leave be sent to instructors. This notice is for the instructor's information only and does not relieve the student of contacting instructors as soon as possible. Upon his/her return, the student will provide documentation of the loss to each instructor and the Office of the Vice Chancellor for Student Affairs. Consistent with course requirements, instructors should seek to make reasonable accommodations for the grieving student, and should attempt to provide the opportunity to earn similar or equivalent credit for missed assignments or assessments. However, students should recognize that not every course can accommodate absences and neither the absence (nor the notification of the absence) relieves them from meeting the course requirements. If the student is not satisfied by the execution of this policy by a faculty member, he or she is encouraged to contact the department head/chair, and if necessary, the Vice Chancellor for Student Affairs. Upon his/her return, the student will also be encouraged to visit the [Counseling and Psychological Services Office](#) in the UNL Health Center on City Campus or the [Family Resource Center](#) on East Campus to discuss the best methods of returning to normality and integrating once again into the classroom and college life.

Military Service Coverage: In cases where a student is unable to contact his or her instructors due to major illness, serious injury, or hospitalization or when given military orders which are effective immediately, a notice may be sent to the student's instructors by a family physician or the Student Affairs Office, 106 Canfield Administration Building, (402) 472-3755. This notice is for the instructor's information only and does not relieve the student of contacting instructors as soon as possible.

Academic/University-Sponsored Activities Coverage: Students involved in University-sponsored activities, including intercollegiate athletics, may need to be excused from a class, lab, or studio meeting. In all instances it is the student's responsibility to request permission for the absence (preferably in writing) from the instructor and to discuss how the absence will affect their ability to meet the course requirements. Students should do this as soon in the semester as possible. While instructors should seek to the greatest extent possible, consistent with course requirements, to make reasonable accommodation for a student involved in University-sponsored activities, students should recognize that not every course can accommodate absences and neither the absence (nor the notification of an absence) relieves them from meeting the course requirements.

Other Coverage: None.

Procedural Notes: Students are expected to attend all lectures, recitations, quizzes, and laboratories regularly. The University has no regulation which permits cutting class. You are responsible for the attendance policy set by your instructor and should clear absences directly with that instructor. [A Student Absence Form](#) is available for use.

PURDUE UNIVERSITY

Policy/Guiding Document, Hyperlink: [Classes](#) section of Purdue University Regulations (compilation of a number of University Senate Documents)

Religious Observance Coverage:

Conflicts with Religious Observances

The University values a community with diverse backgrounds and traditions and recognizes that conflicts between regularly scheduled curricular activities and religious observances of some members of our community can arise. Instructors are encouraged to cooperate with students in dealing with work missed due to absences resulting from participation in religious observances.

Students requesting special consideration in scheduling are encouraged to make this known to instructors well in advance, minimize the length of the absence, and be flexible in arranging alternative times to complete any assignments they might miss. Students holding the opinion that they have wrongly been denied an excused absence or the opportunity to make up missed work due to an absence for a religious observance should contact the head of the department offering the course to attempt to resolve the conflict.

Medical/Illness Coverage: It is recognized that occasionally it may be necessary for a student to be absent from a scheduled course activity for personal reasons beyond his/her control (e.g., illness, family emergency, bereavement, etc.). The University expects each student to be responsible for class-related work missed as a result of an unavoidable absence; this work may be made up at the discretion of the instructor.

Bereavement Coverage: Grief Absence Policy for Students (University Senate Document 10-6, March 21, 2011)

Policy Statement: Purdue University recognizes that a time of bereavement is very difficult for a student. The University therefore provides the following rights to students facing the loss of a family member through the Grief Absence Policy for Students (GAPS).

Peer Institution Research – Excused Absence Policies (compiled by the Senate Office, 2015-2016)

GAPS Policy: Students will be excused for funeral leave and given the opportunity to earn equivalent credit and to demonstrate evidence of meeting the learning outcomes for missed assignments or assessments in the event of the death of a member of the student's family.

Scope: This policy applies to all full-time and part-time students currently enrolled in the Purdue University System.

Immediate Family: Students are eligible for up to three (3) days of excused absence over five (5) consecutive calendar days for the death of a spouse, parent, child, grandparent, grandchild or sibling, or a corresponding in-law or step-relative.

Relative living in the student's home: Students are eligible for up to three (3) days of excused absence over five (5) consecutive calendar days for the death of an uncle, aunt, niece, nephew or first cousin living in the student's home.

Relative: Students are eligible for one (1) day of excused absence for the death of an uncle, aunt, niece, nephew or first cousin.

In the event of the death of another family member or friend not explicitly included within this policy, a bereaved student should petition for grief absence through the Office of the Dean of Students (ODOS) by meeting individually with an ODOS staff member for case evaluation.

In addition, students may be granted additional absences to account for travel considerations, to be determined by the distance of the verified funeral services from West Lafayette, IN, as follows:

Within 150 mile radius of West Lafayette - no additional excused absence days; between 150-300 mile radius of West Lafayette - one additional excused absence days; beyond 300 mile radius of West Lafayette - two additional excused absence days; outside the 48 contiguous United States - four additional excused absence days.

A student should contact the ODOS to request that a notice of his or her leave be sent to instructors. The student will provide documentation of the death or funeral service attended to the ODOS. Given proper documentation, the instructor will excuse the student from class and provide the opportunity to earn equivalent credit and to demonstrate evidence of meeting the learning outcomes for missed assignments or assessments. If the student is not satisfied with the implementation of this policy by a faculty member, he or she is encouraged to contact the Department Head and if necessary, the ODOS, for further review of his or her case. In a case where grades are negatively affected, the student may follow the established grade appeals process.

Military Service Coverage:

Military Absence Policy for Students (University Senate Document 13-4, March 24, 2014)

Purdue University recognizes that those who are actively serving in the Reserves or National Guard of the United States are required by their military contract to attend mandatory training through the Military Absence Policy for Students (MAPS).

Students will not be penalized for mandatory military training and will be given the opportunity to earn equivalent credit and to demonstrate evidence of meeting the learning outcomes for missed assignments or assessments in the event of a schedule or class conflict due to mandatory military training. It is

Peer Institution Research – Excused Absence Policies (compiled by the Senate Office, 2015-2016)

the responsibility of the student to inform the instructor at the beginning of the semester of the potential for mandatory military training conflicts. Students should expect that absences from heavier course loads will be more difficult to recover from than absences from lighter course loads.

Students are eligible for up to fifteen (15) days for military-required absences per academic year with no more than ten (10) academic calendar days taken consecutively, for their mandatory military training. Total absences, including travel, may not exceed 1/3 of the course meetings for any course. Students may be granted additional absences to account for travel considerations, to be determined by the distance of the verified military training from the Purdue campus, as follows:

Within 150 mile radius of the Purdue campus, no additional excused absence days.

Between 150 - 300 mile radius of the Purdue campus, one additional excused absence days.

Beyond 300 mile radius of the Purdue campus, two additional excused absence days.

Outside the 48 contiguous United States, four additional excused absence days.

A student should contact the Office of the Dean of Students (ODOS) to request that a notice of the leave be sent to instructors as soon as he or she is informed of the dates of mandatory military training. The student will provide documentation of the mandatory military training in the form of orders or equivalent documents as proof of legitimate absence to the ODOS as soon as these documents are available. If necessary, the ODOS may consult with the Veterans Success Center about the nature of the documentation. When documentation is presented to the Office of the Dean of Students, a verified absence notification will be sent to the student's instructors.

The student may provide verbal information about the leave to the ODOS and an unverified preliminary (non-MAPS) notice will be sent to instructors for planning purposes only. MAPS will be applicable only when the student has returned to the ODOS with substantiating documentation and ODOS has sent a verified absence notification to the instructors.

With a verified absence notification from the ODOS, the instructor will not penalize the student for missing class and will provide the opportunity to earn equivalent credit and to demonstrate evidence of meeting the learning outcomes for missed assignments or assessments. If the student begins to make up the work and is not satisfied with the implementation of this policy, he or she shall provide, within 10 days, a written statement to the professor clearly explaining their objection and suggesting an alternative accommodation. If the professor and student cannot expediently resolve this written objection, then the student may appeal for further review or consultation of his or her case to the Department Head, whereupon ODOS or the Veterans Success Center may become involved. In a case where grades are negatively affected, the student may follow the established grade appeals process.

Unique or variant exceptions should be dealt with in a negotiated manner between the student and professor, which may include involving the Department Head, ODOS, or the Veterans Success Center to review and consult on his or her situation.

In certain laboratory-based or intensive short-term courses, a student can jeopardize his/her academic status with an unreasonable number of absences, particularly in lab courses that cannot be made up later. In courses with extensive laboratory exercises, group projects, group performances, or participation requirements, equivalent exercises or assessments may not be possible as determined by the instructor and subject to review by the Dean of the school offering the course, or their designee. In such a case the student may be eligible for retroactive withdrawal. The student should always consult with the instructor to determine the potential impact of any absence.

Academic/University-Sponsored Activities Coverage: Not discussed.

Other Coverage: Not discussed.

Procedural Notes: Only the instructor can excuse a student from a course requirement or responsibility. When conflicts or absences can be anticipated, such as for many University sponsored activities and religious observances, the student should inform the instructor of the situation as far in advance as possible and the instructor should strive to accommodate the student. Individual course policies may state expected notification periods. For unanticipated or emergency absences where advance notification to an instructor is not possible, the student should contact the instructor as soon as possible by e-mail, phone, or by contacting the main office of the department that offers the course. When the student is unable to make direct contact with the instructor and is unable to leave word with the instructor's department because of circumstances beyond the student's control, and in cases of bereavement, the student or the student's representative should contact the Office of the Dean of Students. A member of the Dean of Students staff will notify the student's instructor(s) of the circumstances. The student should be aware that this intervention does not change in any way the outcome of the instructor's decision regarding the students' academic work and performance in any given course.

NORTHWESTERN UNIVERSITY

Policy/Guiding Document, Hyperlink: No university-wide policy was found.

Religious Observance Coverage: [Statement on Academic Accommodations for Religious Holidays](#) (Office of the Provost)

Although Northwestern University does not as an institution observe religious holidays, the academic calendar is designed to avoid conflicts with observed holidays, such as July 4, Memorial Day, Thanksgiving, New Year's Day, and Christmas. As the diversity of our community has increased, additional religious holidays now affect a significant number of students and faculty. Consistent with our commitment of creating an academic community that is respectful of and welcoming to persons of differing backgrounds, we believe that every reasonable effort should be made to allow members of the university community to observe their religious holidays without jeopardizing the fulfillment of their religious obligations.

In particular, we believe that:

- Faculty should provide course syllabi at the beginning of each term that specify dates of exams and due dates of assignments. Every effort should be made to avoid scheduling exams on religious holidays. (A calendar of religious holidays will be maintained on the Office of the [University Chaplain web site](#).) It is the responsibility of students to review these syllabi as soon as they are distributed and to consult the faculty member promptly regarding any possible conflicts. Upon the timely request of students, faculty members should, whenever possible, reschedule exams and assignment deadlines that fall on religious holidays. In some cases, it may be advisable for the student to change sections or courses.
- Students should not be penalized for class absences because of religious holidays. Students should notify the faculty member of conflicts due to religious holidays well in advance of any anticipated absence. If asked, the student should provide accurate information about the obligations entailed in the observance of that particular holiday.

Peer Institution Research – Excused Absence Policies (compiled by the Senate Office, 2015-2016)

- Faculty should be permitted to reschedule class meetings that conflict with their observance of a religious holiday, assuring that appropriate advance notice is provided to both students and the department chairperson and/or dean.

In the past, issues such as those raised in this statement have been successfully handled by informal discussions among students, faculty, and administrators, when necessary. We hope and expect that such accommodations will continue to be made in the future. In the event, however, that agreement cannot be reached through informal means, the student or faculty member should bring the issue to the office of the relevant school dean or, if necessary, to the Provost's office. In the event that advice in resolving the issue is needed, the Provost may seek the counsel of a three person committee chaired by the University Chaplain and including a student nominated by the Associated Student Government and a faculty member nominated by the General Faculty Committee.

Holidays observed by many members of the university community include, but are not limited to: Rosh Hashanah; Yom Kippur; Sukkot; Passover; Shavuot; 'Id al-Fitr; 'Id al-Adha, and Good Friday. Information about these holidays and the dates of their observance is available on the [web page maintained by the University Chaplain](#). More detailed information is also available on this web site. Please note that Jewish holidays begin at sundown the evening before the date listed.

Medical/Illness Coverage: [Academic Work Missed for Medical Reasons](#) (Health Services)

Students who miss class or exams for reasons of illness (other than a final examinations) should:

- Notify your instructor(s) at the time of the illness and arrange for make-up work.
- Call 847.491.2204 for an appointment at the Health Service at the time of the illness.
- If you are seen for medical care outside the Health Service, contact the Health Service and submit records of care provided (not just a doctor's 'excuse note') for submission into your university health record.
- Sign a [release of information](#) (PDF) consent which permits the Health Service to share information about your illness to NU academic and Dean of Students' Office staff.

The Health Service does not write 'excuse' notes, but will verify that you have been seen for a medical problem if you have signed a release of information for student affairs and academic staff and your academic staff can then contact the Health Service at 847.491.2204.

Students who miss final examinations/projects/presentations for reasons of illness:

- Notify your instructors at the time of the illness and arrange for make-up work.
- Call 847.491.2204 for an appointment at the Health Service at the time of the illness.
- If you are seen for medical care outside the Health Service, contact the Health Service and submit records of care provided (not a doctor's 'excuse note') for inclusion into your university health record.
- Sign a [release of information](#) (PDF) consent which permits the Health Service to share information about your illness with NU academic and Dean of Students Office staff.

The Health Service compiles a list of students who miss final exams for medical reasons and sends the list to all academic deans and Dean of Students Office staff after the end of the final exam period each quarter. Academic staff may confirm illness during the final examination period by calling 847.491.2204. The Health Service cannot verify an illness or injury after the fact.

Bereavement Coverage: Not discussed.

Military Service Coverage: Not discussed.

Academic/University-Sponsored Activities Coverage: Not discussed.

Other Coverage: None.

Procedural Notes: None.

UNIVERSITY OF MICHIGAN

Policy/Guiding Document, Hyperlink: [Handbook for Faculty and Instructional Staff](#) (from the College of Letters, Sciences, and Arts); No university-wide policy was found.

Religious Observance Coverage: [U-M Guidance to Students Regarding Conflicts Between the Academic and Religious Calendars](#)

Although the University of Michigan, as an institution, does not observe religious holidays, it has long been the University's policy that every reasonable effort should be made to help students avoid negative academic consequences when their religious obligations conflict with academic requirements. Absence from classes or examinations for religious reasons does not relieve students from responsibility for any part of the course work required during the period of absence. Students who expect to miss classes, examinations, or other assignments as a consequence of their religious observance shall be provided with a reasonable alternative opportunity to complete such academic responsibilities. It is the obligation of students to provide faculty with reasonable notice of the dates of religious holidays on which they will be absent. Such notice must be given by the drop/add deadline of the given term. Students who are absent on days of examinations or class assignments shall be offered an opportunity to make up the work, without penalty, unless it can be demonstrated that a make-up opportunity would interfere unreasonably with the delivery of the course. Should disagreement arise over any aspect of this policy, the parties involved should contact the Department Chair, the Dean of the School, or the Ombudsperson. Final appeals will be resolved by the Provost. [Official Policy](#)

Medical/Illness Coverage: Absence from Class Due to Illness or Unanticipated Circumstances (College of Letters, Sciences, and Arts)

Students are expected to attend class regularly and meet all requirements set by the instructor. When a student misses class because of an illness or unanticipated event, it is the student's responsibility to notify the instructor and provide an explanation. In the case of documented short-term absence

due to illness or other unanticipated circumstance, instructors should provide reasonable effort to accommodate the student in a way that maintains the integrity of the class. Report My Illness website. LSA provides a website for students to self-report an illness and it is a centralized means of initial contact with all of a student's instructors. It is important for students to realize that this self-reporting does not constitute an excused absence and that instructors may request documentation to substantiate the absence. The email message that is generated to the student after self-reporting does point this out and indicates that it is the student's responsibility to contact their instructors directly about work missed during his/her absence. If the student's absence due to illness causes the student to miss an assignment, an exam, or any other required work for the class affecting the course grade, the professor has the right to require additional documentation verifying the cause of absence. The options available to make up that missed work may be limited and will be determined by the instructor within the limits of the course. Students are held to the expectations outlined in the LSA Community Standards of Academic Integrity when seeking any accommodation due to absence.

Bereavement Coverage: Not discussed.

Military Service Coverage: Not discussed.

Academic/University-Sponsored Activities Coverage: [Letter from the Provost](#) granting ability to make up work without penalty for students missing class that are representing the university. In order for him/her to represent the University of Michigan, he/she may miss a portion of your class. The student will bring you an individualized class excuse form that will explain the obligations that may result in missed assignments and tests as well as missed class time. Absence from class or examinations for these events does not, in any way, relieve the student from responsibility for coursework and required course activities during the period of absence. When students are absent from class on behalf of the University, it is my expectation that you and the student will make alternative arrangements for fulfilling class assignments. The alternative arrangements should not unduly inconvenience either you or the student.

Other Coverage: None.

Procedural Notes: None.

UNIVERSITY OF CALIFORNIA, LOS ANGELES

Policy/Guiding Document, Hyperlink: No official policy found. According to various syllabi found online, it appears that it is up to the individual instructor to decide on excused absences.

Religious Observance Coverage: [Policy on Alternate Examination Dates](#) (UCLA Catalog)

In compliance with [Section 92640\(a\) of the California Education Code](#), the University must accommodate requests for alternate examination dates for any test or examination at a time when that activity would not violate a student's religious creed. This requirement does not apply in the event that administering the test or examination at an alternate time would impose an undue hardship that could not reasonably be avoided. Accommodation for

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alternate examination dates are worked out directly and on an individual basis between the student and the faculty member involved. In general, students should make such requests of the instructor during the first two weeks of any given academic term, or as soon as possible after a particular examination date is announced by the instructor. Students unable to reach a satisfactory arrangement with their instructor should contact the Office of Ombuds Services, 105 Strathmore Building, or the Office of the Dean of Students, 1206 Murphy Hall, for assistance. Instructors who have questions or who wish to verify the nature of the religious event or practice involved should contact the Office of Ombuds Services or the Office of the Dean of Students for assistance.

Medical/Illness Coverage: Not found.

Bereavement Coverage: Not found.

Military Service Coverage: Not found.

Academic/University-Sponsored Activities Coverage: Not found.

Other Coverage: Not found.

Procedural Notes: Not found.



University Senate TRANSMITTAL FORM

Senate Document #:	14-15-37
Title:	Revisions to the Smith School of Business (BMGT) Plan of Organization
Presenter:	Jess Jacobson, Chair, Senate Elections, Representation, & Governance (ERG) Committee
Date of SEC Review:	April 19, 2016
Date of Senate Review:	April 28, 2016
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 for Shared Governance mandates that all Colleges and Schools be governed by a Plan of Organization that conforms to the stipulations set forth in Article 11 of the University of Maryland Plan of Organization for Shared Governance. College and School Plans of Organization must be reviewed and approved by the University Senate for compliance. The Senate Elections, Representation, & Governance (ERG) Committee is the standing committee responsible for conducting these reviews. Any Plan of Organization under review that is determined not to be in compliance with Article 11 of the University of Maryland Plan of Organization for Shared Governance is returned to the College or School for revision. The Robert H. Smith School of Business (BMGT) submitted its revised Plan of Organization to the University Senate for review in January 2015.</p>
Relevant Policy # & URL:	http://www.senate.umd.edu/governingdocs/2015Bylaws.pdf
Recommendation:	The ERG Committee recommends that the Senate approve the revised Plan of Organization of the Robert H. Smith School of Business (BMGT).
Committee Work:	The ERG Committee began its review of the BMGT Plan of Organization in January 2015. The BMGT Plan was last approved by the Senate and President in 1995. The ERG Committee reviewed the Plan at its meetings on February 18, 2015, and March 12, 2015. The ERG Committee compiled its comments and

	<p>returned them to the School in early April 2015 and invited representatives to a meeting to discuss the committee’s remaining concerns. The committee met with representatives on April 24, 2015 and discussed various concerns. After discussion, representatives from the Smith School agreed to consider revisions and follow up with the ERG Committee via email.</p> <p>In fall 2015, representatives from BMGT met with the ERG Committee Chair, Committee Coordinator, and Senate Director to discuss the revisions to the Plan, and sent a revised version to the ERG Committee in December 2015. The ERG Committee reviewed the revised Plan at its January 29, 2016 meeting. The ERG Committee had a number of remaining concerns and returned them to the School in early February 2016. In late February 2016, BMGT provided a response which was discussed at the March 2, 2016 meeting. The ERG Committee asked BMGT to reconsider a few areas of the Plan. After reviewing additional information and revisions, the ERG Committee voted to approve the Plan at its March 24, 2016 meeting contingent upon one amendment being accepted by BMGT.</p> <p>During the final months of work by the ERG Committee on reviewing the BMGT Plan, the Faculty Affairs Committee (FAC) began conducting its review of the APT section of the Plan, which is a required component of all reviews of Plans of Organization. After initial work conducted by a subcommittee and communication on revisions with BMGT, the full FAC reviewed a revised APT section at its meeting on April 15, 2016. The committee found that the revised APT section was in compliance with University policy, and unanimously voted to approve it. The BMGT School Assembly reviewed the final draft of the Plan in April 2015. The Assembly voted to approve the Plan, including the amendment requested by the ERG Committee, with a vote concluding on April 21, 2016.</p>
Alternatives:	The Senate could reject the revised BMGT Plan of Organization. BMGT would then remain bound by its existing Plan of Organization until a new revised version is presented for Senate approval.
Risks:	There are no associated risks.
Financial Implications:	There are no financial implications.
Further Approvals Required:	Senate approval, Presidential approval.

Senate Elections, Representation, & Governance Committee

Report on Senate Document # 14-15-37

Revisions to the Smith School of Business (BMGT) Plan of Organization

April 2016

2015-2016 ERG Committee Members

Jess Jacobson, Chair
Kathleen Denz, Ex-Officio VP IRPA Rep
Deidra Adams, Ex-Officio Director of Human Resources Rep
Alice Altstatt, Faculty
Virginia Brown, Faculty
Toby Egan, Faculty
Charles Fenster, Faculty
Andrew Horbal, Faculty
Anne Raugh, Faculty
Holly Rollins, Exempt Staff
Cliffornia Royals Pryor, Non-Exempt Staff
Kevin Fitzgerald, Graduate Student
Kimberley Hannah, Graduate Student
Sudeep Roy Choudhury, Undergraduate Student
Leslie Joy, Undergraduate Student

BACKGROUND

The University of Maryland Plan of Organization for Shared Governance (the University Plan) mandates that all Colleges and Schools be governed by a Plan of Organization that conforms to the stipulations set forth in Article 11 of the University Plan. College and School Plans of Organization must be reviewed and approved by the University Senate for compliance. The Senate Elections, Representation, & Governance (ERG) Committee is the standing committee responsible for conducting these reviews. Any Plan of Organization under review that is determined not to be in compliance with Article 11 of the University of Maryland Plan of Organization for Shared Governance is returned to the College or School for revision.

The Smith School of Business (BMGT) submitted its revised Plan of Organization to the University Senate for review in 2015.

COMMITTEE WORK

The ERG Committee began discussions related to the Smith School (BMGT) Plan of Organization during the 2013-2014 academic year. In September 2013, the Senate Office contacted BMGT to remind the School that its Plan of Organization was in need of revision, since the BMGT Plan had not been approved since 1995 and the University Plan requires a ten-year review cycle. BMGT began moving forward on reviewing its Plan, forming a committee to conduct the revision. The chair of the ERG Committee and the committee coordinator met with the BMGT committee to answer questions related to the review process for Plans, and the ERG Committee provided guidance as needed throughout the academic year.

In the spring of 2014, the School asked for clarification on the guidelines under which its Plan must be reviewed. The Plan of Organization for the School was last approved by the Senate and President in 1995; however, BMGT had been operating under later versions of the Plan that were approved by the School Assembly but not approved by the Senate and President. The University Plan states that the version most recently approved by the Senate and the President will be in effect until the President approves a revised Plan, so BMGT agreed to conduct its revisions under the guidelines of the 1995 Plan. However, BMGT raised concerns because the 1995 Plan states that amendments should be sent to the School Assembly, the membership of which has changed considerably since 1995. BMGT asked whether it should reconstitute an Assembly that mirrors the membership laid out in the 1995 Plan (which did not include representation of professional track [PTK] faculty), or whether amendments may be sent to the current Assembly for approval. After much discussion, the ERG Committee agreed that BMGT should be allowed to send amendments to the current Assembly for review. After the committee relayed its guidance, the School received some concerns from its T/TT faculty. A compromise was reached within the School, whereby the School agreed that for voting on the revisions to the Plan, all members of the current Assembly can vote, but for a motion to pass, it must have a majority of all votes as well as a majority of all votes cast by T/TT faculty, so as to ensure that the guidelines of the 1995 Plan are being met.

In January 2015, BMGT submitted a revised Plan to the ERG Committee for review, along with a few amendments to the Plan discussed by the School that were not approved by the School Assembly. The ERG Committee reviewed the Plan at its meetings on February 18, 2015, and March 12, 2015. The committee highlighted concerns related to faculty constituencies within the Smith School, the overlapping functions of School committees, and the difference between administrative and shared governance bodies, among other issues.

The ERG Committee compiled its comments and returned them to the School in early April 2015 and invited representatives to a meeting to discuss the committee's remaining concerns. The committee met with representatives on April 24, 2015, and discussed various concerns. Representatives mentioned mechanisms the School uses to get feedback from students and staff, and the ERG Committee recommended describing such mechanisms in the Plan. The ERG Committee also explained why it would

prefer to see inclusion of students and staff on Smith School committees. Much of the meeting was also spent discussing the voting privileges of the faculty constituencies. Representatives from the School explained the intent of many mechanisms in the Plan, to allow all faculty to have a voice in deliberations but to also give tenured and tenure-track faculty a larger voice in decision making. The ERG Committee discussed other mechanisms BMGT could explore for reaching those goals in a potentially less complex and controversial manner. After discussion, representatives from the Smith School agreed to consider revisions and follow up with the ERG Committee via email.

In fall 2015, representatives from BMGT met with the ERG Committee Chair, the committee coordinator, and the Director of the Senate to discuss developments in BMGT's review process, and BMGT sent a revised version to the ERG Committee in December 2015. The ERG Committee reviewed the revised Plan at its January 29, 2016 meeting and discussed issues related to the titles used in the School, review committees, staff membership on the School Assembly, PTK faculty representation in the Faculty Committee, the evaluation and promotion of PTK faculty, election of the Faculty Council, stipulations related to committee chairs, membership selection of the Staff Advisory Committee, student representation on program committees, and provisions in the BMGT Plan that were potentially inconsistent with the University of Maryland Plan of Organization for Shared Governance. The ERG Committee compiled its comments and returned them to the School in early February 2016.

In late February, BMGT provided a response to the comments sent by the ERG Committee. The response was discussed at the March 2, 2016 ERG Committee meeting where committee members continued to raise concerns with BMGT's response on the issues of election procedures, PTK faculty representation, staff representation, and the membership of the Plan review committee. The ERG Committee asked BMGT to reconsider four issues that the committee had raised in a prior response to BMGT. The chair and coordinator spoke with representatives from BMGT in mid-March 2016 and BMGT sent further revisions which the ERG Committee considered at its March 24, 2016 meeting. After discussion on the latest revisions, the ERG Committee voted to approve the Plan at its March 24, 2016 meeting, contingent upon one amendment to the section on elections for Faculty Council being accepted by BMGT.

During the final months of work by the ERG Committee on reviewing the BMGT Plan, the Faculty Affairs Committee (FAC) began conducting its review of the APT section of the Plan, which is a required component of all reviews of Plans of Organization. The FAC assigned the section to a subcommittee, which delivered an assessment to the committee chair and Associate Provost for Faculty Affairs. After working with the subcommittee to identify the substantive issues to be addressed in the APT section, the Associate Provost acted as a liaison between the FAC and BMGT to discuss potential revisions to the APT section, and BMGT presented a revised APT section to the FAC for review. The FAC reviewed the section at its meeting on April 15, 2016. The committee found that the revised APT section was in compliance with University policy, and unanimously voted to approve the revised APT section.

The BMGT School Assembly reviewed the final draft of the Plan in April 2016. The Assembly voted to approve the Plan, including the amendment requested by the ERG Committee, with a vote concluding on April 21, 2016. The Plan was approved by BMGT, both by a vote of the full current Assembly as well as according to the guidelines of the 1995 Plan.

RECOMMENDATIONS

The ERG Committee recommends that the revised Plan of Organization for the Robert H. Smith School of Business be approved.

APPENDICES

Appendix 1 – 1995 BMGT Plan of Organization

**ROBERT H. SMITH SCHOOL OF BUSINESS
UNIVERSITY OF MARYLAND**

PLAN OF ORGANIZATION

April 2016

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**ROBERT H. SMITH SCHOOL OF BUSINESS
UNIVERSITY OF MARYLAND**

PLAN OF ORGANIZATION

April 2016

I. NAME AND MISSION

Name: The name of the unit shall be “The Robert H. Smith School of Business” of the University of Maryland, College Park, hereinafter referred to as the “School”.

Mission: The Smith School's mission is to create knowledge, promote a learning environment that fosters intellectual discovery, and equip current and future leaders to assess complex problems and deliver innovative solutions.

II. PURPOSE

The purpose of this plan is to establish a framework for shared governance of the School so as to provide for the orderly and effective discharge of the School’s mission. The plan advances the School’s mission within its strong and enduring commitment to shared governance, which ensures that all members of the School community (see Article III) join in shaping the School and its future. The plan is created to be consistent with the policies, procedures, and regulations of the University of Maryland, College Park. However, should there be discrepancies between these and the provisions of this plan, University statutes shall take precedence.

III. MEMBERS OF THE SCHOOL COMMUNITY

A. **Faculty:** “Faculty” of the School consist of the following categories.

1. **Tenured and Tenure Track Faculty:** All tenured and tenure-track faculty whose tenure home is the Smith School.
2. **Professional Track Faculty:** The term professional track faculty is used in this plan to refer to salaried full-time non-tenure track faculty members of the School. Faculty in these ranks (1) have salaried appointments of 50% FTE or greater and (2) are neither tenured nor eligible for tenure. The list of professional track faculty ranks that may be used at the Smith School are as specified in the bylaws.
3. **Adjunct Faculty:** The term adjunct faculty is used in this plan to refer to non-tenure track faculty members of the School who are either: (1) compensated on a course by-course basis, (2) or on salaried appointments at less than 50%.

4. **Emeritus Faculty:** Faculty who have retired from the Smith School and have been granted emeritus status by the University.
5. **Other Faculty:** Individuals with faculty titles as defined by the University who do not fall into one of the above four categories.

The term “full-time faculty” will be used in the plan to refer to faculty defined in Articles III.A.1 and III.A.2.

- B. **Staff:** “Staff “ includes all administrative personnel, holding full time or part time of 50% or greater appointments to professional and support positions, and who do not otherwise hold teaching or research appointments and are not students. Staff does not include hourly employees or graduate assistants. Staff are classified as either “exempt” or “non-exempt” based on applicable University procedures.
- C. **Students:** “Students” shall include all students who are enrolled in the School's academic Programs and are candidates for a degree or certificate. Student status as part-time or full-time is as determined by the registrar of the University.

IV. ADMINISTRATIVE STRUCTURE

A. Dean

1. **Selection:** The Dean is appointed by authority of the President of the University of Maryland, upon recommendation of the Provost, following a search involving substantial participation of the School faculty, staff, and students. The School encourages the Provost to ensure that a majority of search committee members shall be tenured and tenure-track faculty. The Dean shall be appointed to the rank of Tenured Full Professor at the School, subject to University Appointment, Promotion, and Tenure procedures.
2. **Duties and responsibilities:** The Dean is the Chief Academic and Administrative Officer of the School. The Dean exercises those functions delegated to him/her by the President and Provost. The Dean has overall responsibility for the School's budget, academic affairs, programs, research, operations, and personnel matters.
3. **Review:** Review of the Dean is governed by the University of Maryland, College Park Policies. It states “The Dean shall serve for a fixed term 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.”

B. Senior Associate Dean for Faculty

1. **Selection** The Senior Associate Dean for Faculty reports directly to the Dean. The Dean selects the Senior Associate Dean for Faculty from amongst the tenured full professors of the School.

2. **Duties and responsibilities:** The responsibilities of the Senior Associate Dean for Faculty include faculty personnel matters including Appointments, Promotion, and Tenure; and Merit Review. More broadly the Senior Associate Dean for Faculty should promote and represent School Faculty within the School and on campus and should work with the Dean on strategic initiatives related to faculty. Other responsibilities may be assigned to the Senior Associate Dean for Faculty at the discretion of the Dean. After the Dean, the Senior Associate Dean for Faculty is the highest ranked administrator within the School. In the event that the Dean is unable to perform his/her duties, the Senior Associate Dean will serve as Interim Dean until the Provost makes alternate arrangements.
3. **Review:** The Senior Associate Dean for Faculty shall be appointed to a fixed term of no longer than three years. The Senior Associate Dean for Faculty is eligible for reappointment after a formal review. The Senior Associate Dean for Faculty should be formally reviewed in the final year of each appointment term, by a committee of three Tenured Faculty Members elected by the Faculty Committee (see Article VI.A). The purpose of the review is to evaluate how well the Senior Associate Dean for Faculty is fulfilling his/her leadership and administrative responsibilities, to provide constructive recommendations for improving his/her success, and to provide a basis for a reappointment decision. The review must allow for input from all School Assembly members (see Article V). The Review Committee should provide a report to the Dean discussing its findings and recommendations with the Dean.

C. **Areas:** Faculty in the School are organized into academic areas. As of April 15, 2016, the areas were:

1. Accounting and Information Assurance
2. Decision, Operations, and Information Technologies
3. Finance
4. Logistics, Business, and Public Policy
5. Management and Organization
6. Marketing

D. Area Chairpersons

1. **Selection:** The appointment of an Area Chairperson is for a fixed term of no longer than three-years. The Area Chairperson must be a Tenured Faculty member in the academic area. The Senior Associate Dean for Faculty shall solicit input from full-time faculty and staff in the area on all the eligible candidates for chair, and convey this input to the Dean. Faculty input should include an advisory ballot from tenured, tenure-track, and professional track Faculty Committee members in an area on all eligible candidates for chair. The Dean shall incorporate this input in his/her selection of the Area Chairperson, and should choose a Chairperson acceptable to the majority of the tenured faculty members in the area.
2. **Duties and Responsibilities:** Area Chairpersons are the academic and administrative officers of their Faculty Area. They exercise those functions delegated to them by the Dean and Senior Associate Dean. These duties include administering the

appointment, promotion, and tenure policies within the area as specified by University policies, assigning teaching duties to faculty in an area, and having responsibility towards all academic programs that are associated with an area. They also serve as a conduit for information between the Dean's Office and the Academic Area.

3. **Review and Reappointment:** In the final year of the term of the Chairperson, full-time faculty in an area will evaluate their Chairperson. Anonymity of respondents will be maintained. The evaluation will be separated out by professional track faculty and tenured and tenure-track faculty. The evaluation will be conducted and summarized by the Senior Associate Dean for Faculty, who can also solicit information from other members of the School. Results will be given to the Chairperson by the Dean and Senior Associate Dean for Faculty. A Chairperson is eligible for reappointment after review. He/she may not serve more than two consecutive terms, unless there are exceptional circumstances.

E. **Executive Committee**

1. **Membership:** The committee shall consist of the following members: the Dean, Senior Associate Dean for Faculty, Chairpersons of the faculty areas (as identified in IV C). The Senior Associate Dean for Faculty and the Area Chairpersons (or their designate) are voting members. The Dean is in an ex-officio role.
2. **Duties and Responsibilities.**
 - a. To advise and assist the Dean on both administrative and academic matters
 - b. To play a role in initiating and developing academic policy and programs, and in monitoring their implementation
 - c. To spearhead strategic planning in the School
 - d. To recommend faculty and staff hiring priorities to the Dean
 - e. To consult regularly with the Dean on matters of interest and concern to the School, including budget decisions and facility planning.
 - f. To review budgets and major long-term contracts.
 - g. To conduct periodic reviews of performance of various offices, centers, and administrators.
 - h. To serve as a nominating committee for School and university level committees.
 - i. To review reports and recommendations of School committees.
3. **Meetings:**
 - a. The chair of the Executive Committee shall be the Senior Associate Dean for Faculty.
 - b. The Executive Committee shall meet at least twice a semester, and at least once during the summer.
 - c. The Dean may invite any member of his/her administrative team to attend Executive Committee Meetings.

- d. In the event that an Area Chairperson cannot attend a particular Executive Committee meeting, he/she may appoint a substitute with voting powers from the tenured faculty in the chairperson's area.
- e. For a motion to carry in the Executive Committee, a simple majority of its voting membership must vote in favor of it.
- f. Minutes shall be taken at each meeting and, after being reviewed by the committee, made available to full-time faculty and Deans in a timely manner.

F. Associate and Assistant Deans

- 1. **Selection:** The Dean consults with the Executive Committee and appoints the Associate and Assistant Deans. After consultation with the voting members of the Executive Committee, the Dean may also alter the administrative structure of the Associate and Assistant Dean positions, with the exception of the Senior Associate Dean for Faculty. The Dean should use approved university titles for these administrative positions.
- 2. **Duties and Responsibilities:** The duties and responsibilities associated with each Associate and Assistant Dean position should be specified explicitly by the Dean in writing.
- 3. **Review:** The administrative performance of Associate and Assistant Deans shall be subject to recurrent formal reviews at times that do not exceed three years between reviews. The review should allow for input from faculty, staff, and students. Review of Associate Deans should be conducted by committees with the majority of members coming from the Faculty Committee.

V. SCHOOL ASSEMBLY

A. Membership: The School Assembly shall include the following voting members.

- 1. **Faculty:** All Faculty Committee Members (See Section VI.A).
- 2. **Staff:** Two staff representatives shall be elected annually from and by School staff. Exempt staff must be guaranteed at least one representative if they constitute at least 25% of the total staff at the School. Non-exempt staff must be guaranteed at least one representative if they constitute at least 25% of the total staff at the School.
- 3. **Students:** Students shall be represented by one Undergraduate, one Masters level, and one Doctoral student representative elected annually by their representative groups.

B. Meetings: The School Assembly shall meet at least twice a year, once during the fall and once during the spring semesters. School assemblies shall generally be run as informational exchanges and discussions. The meeting is open to all faculty and staff. In addition to the student membership, the Student Advisory Committee (see Article VII) is welcome to attend the meetings. The Chair of the Faculty Committee will Chair the

meeting. Special meetings of the School Assembly may be called at any time by any member, provided the call is endorsed in writing by 25 percent of the membership. A written agenda shall be distributed to the membership prior to any meeting. Any proposals that may require a vote shall be presented in writing and shall be submitted to the membership in advance, together with the agenda. A third of the membership shall constitute a quorum. Meetings can be held in the absence of a quorum. However, no vote shall be taken in the absence of a quorum.

- C. Functions.** The functions of the School Assembly shall include serving as a forum for:
1. The Dean to present an annual State of the School address.
 2. The recognition of School personnel achievements.
 3. The faculty, staff, and students to collectively express their viewpoints and concerns.
 4. Promoting effective communication among all the faculty, staff, and students, within the School.
 5. Promotion of collaborative activities that advance the mission of the School.

VI. STANDING FACULTY COMMITTEES

Article VI describes various standing committees largely responsible for faculty governance and processes at the School.

A. FACULTY COMMITTEE

- 1. Purpose:** The Faculty Committee shall generally address issues of academic policy, academic programs, or faculty policies and processes.
- 2. Duties and Responsibilities:**
 - a. To make recommendations on academic policy, academic programs, and faculty policies and processes.
 - b. To offer its recommendations on all proposals brought before it by School committees.
 - c. The Faculty Committee shall have final approval authority on all non-doctoral Programs, Curricula, and Course matters. All non-doctoral proposals that necessitate a Programs, Curricula, and Course (PCC) Committee form submitted to a higher unit (e.g., Graduate School PCC, University Senate, Maryland Higher Education Commission (MHEC)) shall first be subject to approval by the Faculty Committee.
 - d. To approve the process to elect the School's Faculty Senators on the University Senate.
 - e. To consider and deliberate questions of School governance.
 - f. To advise the Dean on any matters pertaining to the School's mission.
 - g. To consult with the Dean at least once a year on matters of interest and concern to the School, including budget decisions and facility planning. To facilitate discharge of this responsibility, at least once a year the Dean shall share with the Faculty Committee the detailed School budget.

3. Membership:

- a. Adjunct Faculty: Adjunct faculty will be represented by a single adjunct faculty member who shall be elected annually by the adjunct faculty.
- b. Tenured and Tenure-Track Faculty: Except for the Dean all tenured and tenure-track faculty (as defined in Article III.A.1) of the School.
- c. Professional Track Faculty: Professional track faculty eligible to serve on the Faculty Committee are identified in the Bylaws. If the total number of eligible professional track faculty together with the single adjunct faculty representative is less than or equal to 30 percent of the number of tenured and tenure-track faculty members in the Faculty Committee all eligible professional track faculty shall serve on the Faculty Committee. Otherwise, an annual election shall be held amongst the professional track faculty to choose their Faculty Committee representatives. The number of professional track Faculty Committee representatives to be elected will be determined so that their total number along with the single adjunct faculty representative is as close to but does not exceed 30 percent of the total number of tenured and tenure-track Faculty Committee members.

4. Meetings:

- a. A Tenured Faculty member shall be elected Chairperson of the Faculty Committee each year.
- b. The Faculty Committee shall meet at least twice a year, once during the Fall and once during the Spring semester.
- c. Meetings will be scheduled by the Dean's Office in consultation with the Chair of the Faculty Committee.
- d. Upon a written request to the Dean by twenty percent of the Faculty Committee membership, the Chair of the Faculty Committee shall be required to call a meeting of the Faculty Committee within 30 days.
- e. The agenda shall be set by the Chair of the Faculty Committee after due consultation with the Dean's Office. In particular, the Dean, any member of the Executive Committee, and any member of the Faculty Council may place topics on the agenda. In addition any matter supported by ten percent of Faculty Committee members in writing may be placed on the agenda. The agenda should be distributed prior to the meeting.
- f. Each meeting shall have a designated parliamentarian.
- g. Full-time School faculty who are not members of the Faculty Committee and Emeritus Faculty may attend any Faculty Committee meeting with voice but no-vote privileges. A quorum on any vote shall consist of a majority of the members of the Faculty Committee. Faculty on leave and faculty on sabbatical shall not be considered when determining the quorum.
- h. At the discretion of the Dean or the Chairperson of the Faculty Committee, or by majority vote of the Faculty Committee members present and voting, processes may be put into place to enable all Faculty Committee members (including those who are unable to attend the meeting) to vote on specific motions. However, such a determination must be made prior to holding the vote on the motion.

- i. At the discretion of the Chairperson of the Faculty Committee a scheduled meeting can be held in the absence of a quorum, provided that any voting on motions follows Article VI.A.4.h.
- j. For a motion to carry, at least a quorum must cast a vote, and a majority of the votes cast must be in favor of the motion.
- k. For all motions of the Faculty Committee for which voting is to be held under Article VI.A.4.h, upon request of the Faculty Committee the results of the vote will be broken out by the following faculty groups: 1) Tenured Faculty, 2) Tenure-Track Faculty, and 3) Professional Track Faculty Committee members. Such a request should be made in writing to the Senior Associate Dean for Faculty, by any Executive Committee member, Faculty Council member, or by ten percent of the Faculty Committee, prior to the Faculty Committee vote.
- l. Minutes of the Faculty Committee meetings shall be taken. The Dean's Office is responsible for keeping the minutes, getting them approved, and making them available to the Faculty Committee Members in a timely manner.

B. TENURED FACULTY COMMITTEE:

- 1. **Purpose:** The Tenured Faculty Committee shall address Faculty Appointment, Promotion, and Tenure (APT) policies and procedures at the School. It also addresses all matters related to the research agenda of the School, and all academic matters (requiring faculty approval) related to the doctoral program. It may also offer its advice to the Faculty Committee, School Assembly, and the Dean on other matters before the School.
- 2. **Duties and Responsibilities:**
 - a. To review and approve the School's Faculty Appointment, Promotion, and Tenure Policies and Procedures.
 - b. To address matters related to the research agenda and research mission of the School.
 - c. The Tenured Faculty Committee shall have final approval authority on all PCC matters related to the doctoral program.
 - d. The Tenured Faculty Committee may offer its advisory opinion to the Faculty Committee, School Assembly, and the Dean on any matters before the School.
 - e. To consult with the Dean at least once a year on matters of interest and concern to the School, including faculty hiring.
- 3. **Membership:** Except for the Dean, all tenured faculty members of the School for whom the Smith School is their tenure home.
- 4. **Meetings**
 - a. A Tenured Professor shall be elected Chairperson of the Tenured Faculty Committee each year.
 - b. The Tenured Faculty Committee shall meet at least once a year.
 - c. Meetings will be scheduled by the Dean's Office in consultation with the Chair of the Tenured Faculty Committee.

- d. Upon a written request to the Dean by twenty percent of the Tenured Faculty Committee membership, the Chair of the Tenured Faculty Committee shall be required to call a meeting of the Tenured Faculty Committee within 30 days.
- e. A quorum on any vote shall consist of a majority of the Tenured Faculty Committee. Faculty on leave and faculty on sabbatical shall not be considered when determining the quorum.
- f. At the discretion of the Dean or the Chairperson of the Tenured Faculty Committee, or by majority vote of the Tenured Faculty Committee members present and voting, processes may be put into place to enable all Tenured Faculty Committee members (including those who are unable to attend the meeting) to vote on motions. However, such a determination must be made prior to holding the vote.
- g. At the discretion of the Chairperson of the Tenured Faculty Committee a scheduled meeting can be held in the absence of a quorum, provided that any voting on motions follows Article VI.B.4.f.
- h. For a motion to carry, at least a quorum must cast a vote, and a majority of the votes cast must be in favor of the motion.

C. FACULTY COUNCIL

1. **Purpose:** To provide a mechanism for two-way communication on academic and policy issues between the faculty and the administration
2. **Duties and Responsibilities**
 - a. Representing the faculty in discussions with the administration over policy and academic issues,
 - b. Providing a mechanism for collecting and reporting faculty input on issues that directly affect the faculty
 - c. Monitoring the School's governance practices for compliance with the School's Operating Plan.
 - d. Meeting with the Dean at least once each semester to consult on matters of interest and concern to the School (including budget and facility planning)
 - e. Reporting at least once a year to the Faculty Committee or School Assembly.
 - f. Serving as a Committee to nominate a slate of candidates from which the Dean may appoint members for service on School Committees.
3. **Membership:** The Faculty Council shall be comprised of six full-time faculty members elected from and by members of the Faculty Committee.
 - a. **Eligibility:** All members of the Faculty Committee may serve on the Faculty Council, with the exception of Area Chairpersons and individuals with "Dean" titles (e.g., Associate Dean; Assistant Dean). Each year the Senior Associate Dean for Faculty will distribute the list of individuals eligible for membership on the Faculty Council.
 - b. **Selection:** Elections to fill positions on the Faculty Council shall ensure that the following two conditions are satisfied in the composition of the council
 - i. There shall be exactly one member from each Academic Area, and

- ii. There shall be at least two Professors, one Associate Professor, one Assistant Professor, and one Professional Track Faculty Committee Member. The election procedures for the Faculty Council must be approved by a 2/3rd vote of the Faculty Committee.
- c. **Term:** Members will serve two year terms. Their terms may be staggered.

4. Meetings

- a. A tenured full professor shall be elected chairperson by and from the voting members of the Committee each year and shall serve a one year term.
- b. The Faculty Council will meet at least twice each semester.
- c. Minutes of the Faculty Council shall be taken and made available to the Faculty Committee Members in a timely manner.

D. MERIT PAY REVIEW COMMITTEES

The School will establish faculty merit pay/salary committee(s) which should be consistent with the University policy (UM Policy VII--4.00(A)). The Committee's input will guide the Dean in determining merit pay according to current campus distribution guidelines. The School shall post the approved faculty merit review plan on its internal web site so that its full-time faculty can easily access it. As specified in university policy VII--4.00(A) Merit Review Procedures must be approved by a majority of tenure-track/tenured faculty in the School.

E. APPOINTMENT, PROMOTION, AND TENURE COMMITTEES

Appointment, Promotion, and Tenure (APT) Committee(s) make recommendations to the Dean on proposed faculty appointments, promotion, and tenure decisions. The School's APT policies and procedures should conform to official policies of the University. These policies are reflected in the Appointment, Promotion, and Tenure Manual published annually by the University's Office of Faculty Affairs. The policies and manual can be found on the faculty affairs website at <http://www.faculty.umd.edu>. The School's approved APT policies and procedures shall be posted on its internal website so that its full-time faculty can easily access it. These procedures prescribe the composition of the School's APT Committee(s). A copy of the School's APT Policy and Procedures shall be provided to the Associate Provost for Faculty Affairs.

VII. STUDENT ADVISORY COMMITTEE

- A. Membership:** The Student Advisory Committee (SAC) shall be comprised of representatives from the Smith Undergraduate Student's Association (SUSA), the MBA Association (MBAA), the Smith Masters Students Association (SMSA), and the Association of Doctoral Students (ADS). Each association will nominate one member to serve on the SAC. The chief criterion for selection to serve on the SAC is the student's engagement with the student community in their respective programs 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 School student community across all academic programs and providing the Dean with student perspectives on School-wide needs, problems, concerns, issues, and general input on future plans.

VIII. STAFF ADVISORY COUNCIL

- A. Membership:** The Staff Advisory Council includes exempt and non-exempt staff from each of the various administrative departments and academic areas of the School. Members are selected by the Dean based on input from staff, the Executive Committee, and the Faculty Council.
- B. Function:** Serve as high level, cross functional team that can take a holistic view of the School in order to advance the mission of the School; to serve as representatives of various units in the School to ensure that administrative departments and areas work effectively and efficiently together to further the overall mission of the School. The Council addresses School wide concerns and policies as it relates to staff issues, updates or changes concerning budget, morale, retention, hiring practices, staff development, operations, workflow and School wide programming and events. Relevant issues are brought to the attention of the Dean.
- C. Meetings:** The Staff Advisory Council meets at least once in the Fall and the Spring semester.

IX. ADMINISTRATIVE COMMITTEES

Articles IX.A through IX.D describe administrative committees with oversight functions over the different academic programs the School offers.

A. UNDERGRADUATE PROGRAMS OVERSIGHT COMMITTEE

- 1. Purpose:** To provide watchful care and stewardship of the undergraduate programs at the School. Among consideration are all facets of the undergraduate programs.
- 2. Duties and Responsibilities**
 - a. To review and recommend academic policies for the undergraduate programs. Areas of oversight include: curricula, special programs, admissions, retention, advising, placement, and relationship building with alumni.
 - b. To serve as the Programs, Curricula, and Course (PCC) Committee for the Undergraduate Programs, with final approval subject to the Faculty Committee.

- c. To advise the Office of the Dean in matters concerning the undergraduate programs.
- d. To meet at least once each semester with undergraduate student representatives
- e. To report at least once each year to the Faculty Committee.

3. Membership: The committee should have one Faculty Committee member from each Academic Area. The committee shall be appointed by the Dean upon consultation with the Executive Committee and Area Faculty. Members will serve two year terms, and their terms may be staggered. A chairperson shall be elected by and from the voting members of the Committee each year and shall serve a one-year term. The Dean's designate will serve on the committee as a nonvoting member. The Undergraduate Student Association will have one representative on the committee as a nonvoting member.

B. MBA PROGRAMS OVERSIGHT COMMITTEE

1. Purpose: To provide watchful care and stewardship of the MBA programs at the School. Among consideration are all facets of the MBA programs.

2. Duties and Responsibilities:

- a. To review and recommend academic policies for the MBA programs. Areas of oversight include: curricula, special programs, admissions, retention, advising, placement, and relationship building with alumni.
- b. To serve as the Programs, Curricula, and Course (PCC) Committee for the MBA programs, with final approval subject to the Faculty Committee.
- c. To advise the Office of the Dean in matters concerning the MBA Programs.
- d. To meet at least once in the Fall and Spring semester with student representatives from the MBA Programs.
- e. To report at least once each year to the Faculty Committee.

3. Membership: The committee should include one Faculty Committee member from each Academic Area. The committee shall be appointed by the Dean upon consultation with the Executive Committee and Area Faculty. Members will serve two year terms, and their terms may be staggered. A tenured faculty member shall be elected chairperson by and from the voting members of the Committee each year and shall serve a one-year term. The Dean's designate will serve on the committee as a nonvoting member. The MBA Student Association will have one representative on the committee as a nonvoting member.

C. SPECIALTY MASTERS PROGRAMS OVERSIGHT COMMITTEE

1. Purpose: To provide watchful care and stewardship of the Specialty Masters (MS) programs at the School. Among consideration are all facets of the Specialty Masters programs.

2. Duties and Responsibilities:

- a. To review and recommend academic policies for the Specialty Masters Programs. Since individual Specialty Masters Programs are largely associated with individual Academic Areas, the Oversight Committee should closely interact with and across Academic Areas.
- b. To serve as the Programs, Curricula, and Course (PCC) Committee for the Specialty Masters Programs, with final approval subject to the Faculty Committee.
- c. To advise the Office of the Dean on matters concerning the Specialty Masters Programs.
- d. To meet at least once each year with Specialty Masters student representatives.
- e. To report at least once each year to the Faculty Committee.

- 3. Membership:** The committee should have one Faculty Committee member from each Academic Area. The Committee shall be appointed by the Dean upon consultation with the Executive Committee and Area Faculty. Members will serve two year terms, and their terms may be staggered. A tenured faculty member shall be elected chairperson by and from the voting members of the Committee each year and shall serve a one-year term. The Dean's designate will serve on the committee as a nonvoting member. The Smith Masters Student Association will have one representative on the committee as a nonvoting member.

D. DOCTORAL PROGRAMS OVERSIGHT COMMITTEE

- 1. Purpose:** To provide watchful care and stewardship of the Doctoral programs at the School. Among consideration are all facets of the Doctoral programs.

2. Duties and Responsibilities:

- a. To review and recommend academic policies for the doctoral programs. Areas of oversight include: recruitment, selection, admissions, advising, retention, dismissal, curricula, assistantships, fellowships, candidate examination, theses supervision, placement of graduates, and relationship building with program alumni and the academic community.
- b. To serve as the Programs, Curricula, and Course (PCC) Committee for the doctoral programs, with recommendations subject to the approval of the Tenured Faculty Committee.
- c. To advise the Office of the Dean on matters concerning the Doctoral programs.
- d. To meet at least once each year with Doctoral student representatives.
- e. To report at least once each year to the Tenured Faculty Committee.

- 3. Membership:** The committee should include one Faculty Committee member from each Academic Area. Only tenured and tenure-track faculty are eligible to serve on this committee. The committee shall be appointed by the Dean upon consultation with the Executive Committee and Area Faculty. Members will serve two year terms, and their terms may be staggered. A tenured faculty member shall be elected chairperson by and from the voting members of the Committee each year and shall serve a one-year term.

The Director of the Ph.D. Program or his/her designate will serve on the committee as a nonvoting member. The Association for Doctoral Students will have one representative on the committee as a nonvoting member.

E. TEACHING ENHANCEMENT COMMITTEE

- 1. Purpose:** To review, develop and implement programs designed to enhance teaching excellence at the School.
- 2. Duties and Responsibilities:**
 - a. To review and recommend teaching policies that can enhance teaching excellence at the School.
 - b. To oversee, review, and disseminate teaching evaluations following University approved procedures.
 - c. To acknowledge outstanding teaching performance.
 - d. To advise the Office of the Dean in matters concerning teaching performance
 - e. To meet at least once each year with undergraduate and graduate student representatives.
 - f. To report at least once each year to the Faculty Committee.
- 3. Membership:** The committee should have one Faculty Committee member from each Academic Area. The committee shall be appointed by the Dean upon consultation with the Executive Committee and Area Faculty. Members will serve two year terms, and their terms may be staggered. A chairperson shall be elected by and from the voting members of the Committee each year and shall serve a one-year term. The Dean's designate will serve on the committee as a nonvoting member.

X. AMENDMENT AND REVIEW OF PLAN OF ORGANIZATION

A. AMENDMENTS TO PLAN

1. Amendments to the Plan may be proposed by a) The Executive Committee, b) The Faculty Council, c) Petitions supported by 10 percent of the voting members of the School Assembly, or d) a Plan of Organization Review Committee (see Article X.B.1).
2. Proposed Amendments must be distributed to all Voting Members of the School Assembly 21 days before any vote may be taken on it.
3. Proposed Amendments and their subsidiary motions will then be considered and debated upon in a special session of the School Assembly open only to voting members.
4. Following debate, electronic voting shall be conducted to provide all School Assembly members the opportunity to vote on the proposed amendment.
5. A 2/3rd majority of the members eligible to vote is required for adoption of a proposed amendment.

6. After adoption of a proposed amendment by the School Assembly, the proposed amendment will be submitted to the University Senate for approval.

B. REVIEW OF PLAN

1. The School's Plan of Organization shall be reviewed at least every ten years by a Plan of Organization Review Committee elected by the voting members of the School Assembly. It shall consist of at least one tenured faculty member from each Area. It shall consist of at least one professional track Faculty Committee member. The representation of tenured and tenure track faculty members must be at least 75% of the committee.
2. The review should be conducted in a manner consistent with Article 11.2 of the University's Plan of Organization.
3. Recommended revisions, amendments, or a new Plan of Organization should be approved following the process described in X.A.2 through X.A.6.

XI. BYLAWS

- A. The School Assembly shall have the power to organize its constituents and to make bylaws and regulations for its own proceedings so long as those bylaws do not contravene the statutes of the University, the Powers of the Board of Regents, the powers delegated to the Chancellor and to the President, and this Plan of Organization.
- B. Amendments to the Bylaws should follow the process described in XI.B.1 through XI.B.5.
 1. Amendments to the Bylaws may be proposed by a) The Executive Committee, b) The Faculty Council, c) Petitions supported by 10 percent of the voting members of the School Assembly, or d) a Plan of Organization Review Committee.
 2. Proposed Amendments must be distributed to all Voting Members of the School Assembly 21 days before any vote may be taken on it.
 3. Proposed Amendments and their subsidiary motions will then be considered and debated upon in a special session of the School Assembly open only to voting members.
 4. Following debate, electronic voting shall be conducted to provide all School Assembly members the opportunity to vote on the proposed amendment.
 5. A 2/3rd majority of the members eligible to vote is required for adoption of a proposed amendment.

XII. CONDUCT OF MEETINGS

Meetings of the School Assembly and School Committees shall be conducted in accordance with Robert's Rules of Order, Revised, except as they may be inconsistent with the rules of the School's Plan of Organization which shall take precedence.

**BYLAWS TO THE PLAN OF ORGANIZATION OF THE ROBERT H. SMITH
SCHOOL OF BUSINESS**

- I. Full-Time Professional Track Faculty titles that may be used at the Smith School are: Lecturer, Senior Lecturer, Principal Lecturer, Assistant Clinical Professor, Associate Clinical Professor, Clinical Professor, Assistant Research Professor, Associate Research Professor, Research Professor, and Professor of Practice.

- II. Full-Time Professional track faculty ranks eligible to serve on the Faculty Committee are: Lecturer, Senior Lecturer, Principal Lecturer, Assistant Clinical Professor, Associate Clinical Professor, Clinical Professor, Assistant Research Professor, Associate Research Professor, Research Professor, and Professor of Practice.

APPENDIX 1 - 1995 BMGT PLAN OF ORGANIZATION

CONSTITUTION AND PLAN OF ORGANIZATION COLLEGE OF BUSINESS AND MANAGEMENT University of Maryland

I. PURPOSE

The purpose of the Constitution of the College of Business and Management is to provide the framework for governing academic policy and other related matters within the College. The College Constitution shall provide for a College Assembly and designated committees. The powers, duties, and privileges of these bodies shall be as herein specified.

II. COLLEGE ASSEMBLY

The College Assembly shall consist of all tenure-track, tenured and emeritus faculty members of the College of Business and Management, together with all Deans, Directors, Associate Directors and Assistant Directors of Programs and Centers; and one undergraduate student, one MBA student, one doctoral student, and one support staff member, all four of whom will be elected to the Assembly for a period of one year by their representative groups. The chairperson of the College Assembly shall be the Dean of the College or his/her designate, usually the Academic Associate Dean.

The College Assembly shall have final approval authority on all academic policy and programmatic matters. All staff and administrators are welcome to attend sessions of the College Assembly and to participate in all discussions.

However, only faculty members of the Assembly shall be permitted to vote on academic matters, which include, but are not restricted to, course and curriculum matters and Promotion and Tenure matters. On non-academic matters, all College Assembly members as defined above shall have the right to vote. A quorum shall consist of a majority of the members of the Assembly. For a motion to carry in the Assembly, a simple majority of those present and eligible to vote must vote in favor of it. The College Assembly may, at any time, vote to exclude non-Assembly members from attending a particular session, or part of a session.

The College Assembly shall elect the College's representatives to the College Park Campus Senate. The small College Advisory Committee shall serve as the nominating committee, although nominations may also be made from the floor of the Assembly. The election shall normally be held in the Spring semester.

A qualified parliamentarian shall be appointed by the Dean. Robert's Rules of Order Revised shall govern the Assembly as applicable, except as they may be inconsistent with the rules of the College Constitution. Minutes of the College Assembly meetings shall be taken and copies distributed to the College Assembly members and kept on file in the College office. The Academic Associate Dean will be responsible for ensuring that minutes are taken and distributed within two weeks.

There shall be a minimum of one College Assembly each semester. Assemblies will be scheduled by the Dean. A tentative agenda will accompany the announcement of the meeting. Upon a written request to the Dean by ten percent of the College Assembly, the Dean shall be required to call a meeting of the College Assembly within two weeks.

III. ADMINISTRATIVE STRUCTURE

The Dean appoints the Associate and Assistant Deans and the Directors of Undergraduate Studies, the Master's Programs and the Ph.D. Program. In addition, the Dean appoints the chairpersons of the seven faculty areas based on advisory ballots -- to be described in the following paragraph -- from the tenure-track and tenured faculty members of each area: Accounting; Finance; Information Systems; Management Science and Statistics; Marketing; Management and Organization; and Transportation, Business and Public Policy.

The appointment of each area chairperson is for a three-year term. An advisory ballot, administered by the Office of the Academic Associate Dean, for selecting a chairperson will take the following form: Each tenured or tenure-track area faculty member will identify each candidate as acceptable or unacceptable and then rank order the acceptable candidates. A candidate is defined as any tenured faculty member in a faculty area. An acceptable candidate is defined as a candidate who has been voted acceptable by at least fifty percent of the area faculty. The Dean will be requested to choose a chairperson from the set of acceptable candidates. A chairperson may not serve more than two consecutive terms, unless there are no other acceptable candidates.

Toward the end of each term, the tenure-track and tenured faculty members of each area will evaluate their chairperson. The evaluation will consist of a written questionnaire. The questionnaires will be collected and summarized by the office of the Academic Associate Dean, who can also solicit information from other members of the College. Results will be given to the chairperson, the Academic Associate Dean and the Dean. Anonymity of respondents will be maintained. At this time, the election of the chairperson for the next three-year term also takes place. In the event of a vacancy at any time, the Dean will consider the

appointment of a new chairperson based on an updated advisory balloting of the tenure-track and tenured faculty members of the area.

The performance of the Dean and Academic Associate Dean will be formally reviewed every five and three years, respectively, in the Fall by a committee of three tenure-track faculty members elected by the College Assembly. The purpose of the review is to ensure that the deans are executing their academic and administrative duties in a fashion consistent with the mission of the College. The review should entail a survey of College Assembly members, similar to that described for area chairpersons. The survey shall be summarized by the review committee members, who will discuss their findings and recommendations with the Academic Associate Dean and the Dean. One question on the survey should ask respondents to rate each of the Deans' performances as acceptable or unacceptable. If fifty-one percent, or more, of the entire faculty rate a Dean's performance as unacceptable, this must be reported to the Provost and Vice President for Academic Affairs. The Deans will make an oral report regarding the performance evaluations to the faculty at a College Assembly meeting by the end of the Fall semester. This oral report may include suggestions on measures for improving performance.

IV. Committees

(1) Small College Advisory Committee:

OBJECTIVE: To initiate and review College administrative and academic matters.

Authority and Duties

- a. To advise and assist the Dean, Associate Deans and Assistant Deans on both academic and administrative matters.
- b. To play a role in initiating and developing academic policy, and in monitoring its implementation.
- c. To coordinate faculty hiring and to recommend faculty appointment priorities to the Dean.
- d. Ordinarily the Dean shall call College Assembly meetings. However, the small College Advisory Committee, after consultation with the Dean, may call Assembly meetings.

- e. To identify critical committees at the university level and request or recommend that specific faculty members in the College serve on them or be nominated for election to them.
- f. To assign chairpersons and members of Task Forces as needed to handle College matters and review their reports before submission for approval to the Dean's Office and/or College Assembly as appropriate.
- g. To serve as the nominating committee for the College's representatives to the Campus Senate.
- h. To approve reports and recommendations of the Undergraduate and Graduate Oversight Committees before submission to the Dean and/or College Assembly as appropriate.
- I. To initiate and/or review any future developments or projected programs directly related to academic policy.
- j. To spearhead strategic planning in the College.

Composition and Term of Office

The committee shall consist of eight voting members: the chairpersons of the seven faculty areas in the College, and the Dean or Dean-designate, usually the Academic Associate Dean, who will chair the committee. At the first College Assembly in the Fall of each year, an approval vote of the eight members of the committee will take place.

In the event that a faculty chairperson cannot attend a particular College Advisory Committee meeting, he/she may appoint a substitute with voting powers from his/her faculty.

The chair shall be responsible for constructing an agenda for each meeting. The committee will meet on a regular basis at a set time during the Fall and Spring semester. Minutes shall be taken at each meeting and approved in the following meeting of the committee. The minutes shall then be distributed to all Faculty, Directors and Deans.

Each of the voting members of the committee shall possess one vote on any issue under consideration. For a motion to carry, there must be at least five votes in favor of it.

(2) Large College Advisory Committee:

OBJECTIVE: To initiate and review College administrative matters and to offer advice on academic matters.

The committee shall consist of the Small College Advisory Committee, the various Associate and Assistant Deans, and the Directors of College Centers.

Authority and Duties

- a. To advise and assist the Dean, Associate Dean(s) and Assistant Dean(s) on both academic and administrative matters.
- b. To play a role in initiating and developing administrative policy, and in monitoring its implementation.
- c. To be actively involved in strategic planning in the college.

(3) Tenure and Promotion Committees.

OBJECTIVE: To seek the retention and promotion of faculty members of high quality as measured by their teaching, scholarship, and service to the University, professional organizations, and the community.

Authority, Duties and Composition

All procedures applying to these committees are found

in the document entitled: ``College of Business and Management Appointment, Promotion and Tenure Procedures'' (attached as Appendix A).

(4) MBA Oversight Committee.

OBJECTIVE: To recommend and review academic policy concerning the MBA programs of the College.

Authority and Duties

- a. To establish academic policy, subject to approval of the small College Advisory Committee and the College Assembly, regarding the MBA program and its relationship to the strategic mission of the College. Critical areas of focus include admissions, curricula, placement of graduates, and the national visibility of the program.
- b. To assist the Office of the Dean and the Director of the Master's Programs in matters concerning MBA students and MBA programs.
- c. To report at least annually to the College Assembly.

Composition and Term of Office

The Committee shall consist of three voting members from the tenure-track faculty, to be appointed by the Dean upon consultation with the small College Advisory Committee. The Director of the Master's Programs and the president of the MBA Association, or their designated representatives, are also welcome to attend meetings, but shall have no vote. The Dean may appoint a student, nonvoting member.

Faculty members of the Committee shall serve three-year terms. Members shall be eligible to succeed themselves.

The chairperson shall be elected by and from the voting members of the Committee and shall serve a one-year term with optional re-election. The chairperson shall be responsible for calling the meetings and preparing the agenda. Meetings may also be called by written request of at least two Committee members or at the written request of the small College Advisory Committee and/or Dean.

(5) MS Oversight Committee.

OBJECTIVE: To recommend and review academic policy concerning the MS programs of the College.

Authority and Duties

- a. To establish academic policy, subject to approval of the small College Advisory Committee and the College Assembly, regarding the MS program and its relationship to the strategic mission of the College.
- b. To assist the Office of the Dean and the Director of the Master's Programs in matters concerning M.S. students and M.S. programs.

Composition and Term of Office

The Committee shall consist of three voting members from the tenure-track faculty, to be appointed by the Dean upon consultation with the small College Advisory Committee. The Director of the Master's Programs, or his/her designated representative, is also welcome to attend meetings, but shall have no vote.

Faculty members of the Committee shall serve three-year terms. Members shall be eligible to succeed themselves.

The chairperson shall be elected by and from the voting members of the Committee and shall serve a one-year term with optional re-election. The chairperson shall be responsible for calling the meetings and preparing the agenda. Meetings may also be called by written request of at least two Committee members or at the written request of the small College Advisory Committee and/or Dean.

(6) PhD Oversight Committee.

OBJECTIVE: To recommend and review academic policy concerning the Ph.D. programs of the College.

Authority and Duties

- a. To establish academic policy, subject to approval of the College Advisory Committee and the College Assembly. Among areas to be included are admissions, retention, dismissal, curricula, fellowships, assistantships, examination of candidates, theses supervision, and placement of graduates.

- b. To assist the Office of the Dean and the Director of the Ph.D. Program in matters concerning Ph.D. students and Ph.D. programs.
- c. To report at least annually to the College Assembly.

Composition and Term of Office

The Committee shall consist of three voting members, who shall be associate or regular members of the Graduate Faculty, to be appointed by the Dean upon consultation with the small College Advisory Committee. The Director of the Ph.D. Program, and the president of the Association of Doctoral Students, or their designated representatives, are also welcome to attend meetings, but shall have no vote.

Faculty members of the Committee shall serve three-year terms. Members shall be eligible to succeed themselves.

The chairperson shall be elected by and from the voting members of the Committee and shall serve a one-year term with optional re-election. The chairperson shall be responsible for calling the meetings and preparing the agenda. Meetings may also be called by written request of at least two Committee members or at the written request of the small College Advisory Committee and/or Dean.

(7) Undergraduate Oversight Committee

OBJECTIVE: To recommend and review academic policy concerning the undergraduate programs of the College.

Authority and Duties

- a. To establish academic policy, subject to approval of the College Advisory Committee and the College Assembly. Among areas to be included are admissions, retention, dismissal, curricula, financial aid, assistantships, internships, special programs, extra-curricular activities, and placement of graduates.
- b. To assist the Office of the Dean and the Director of Undergraduate Studies in matters concerning undergraduate students and undergraduate programs.
- c. To report at least annually to the College Assembly.

Composition and Term of Office

The Committee shall consist of three voting members from the tenure-track faculty, to be appointed by the Dean upon consultation with the College Advisory Committee. One undergraduate student, elected by the Dean's Undergraduate Student Advisory Council, will serve as a nonvoting member. The Director of Undergraduate Studies shall also serve on the Committee but shall have no vote.

Members of the Committee shall serve three-year terms. Members shall be eligible to succeed themselves.

The chairperson shall be elected by and from the voting members of the Committee and shall serve a one-year term with optional re-election. The chairperson shall be responsible for calling the meetings and preparing the agenda. Meetings may also be called by written request of at least two Committee members or at the written request of the small College Advisory Committee and/or Dean.

8) Teaching Enhancement Committee -

OBJECTIVE: To review, develop and implement programs designed to enhance teaching effectiveness in the College.

Authority and Duties

- a. To assist the Office of the Dean in improving the quality of teaching in the College in five teaching-related areas:

development and improvement activities;
delivery-related activities;
monitoring and evaluation activities;
rewarding and recognition activities; and
publicizing activities.

- b. To develop and monitor techniques for evaluating teaching performance, to review teaching evaluations submitted to the Committee, and to inform individual faculty members of the Committee's interpretation of those results where appropriate. This would include making constructive suggestions for improvement as well as acknowledging outstanding performance. The Teaching Committee will take the information from

the teaching evaluation forms and disseminate it publicly by display in some manner to be agreed upon by the faculty. The results of the teaching evaluations will be published by a method to be approved by a majority of the faculty.

- c. To report at least annually to the College Assembly.

Composition and Term of Office

The Committee shall consist of three voting members from the tenure-track faculty, to be appointed by the Dean upon consultation with the College Advisory Committee.

Faculty members of the Committee shall serve three-year terms. Members shall be eligible to succeed themselves.

The chairperson shall be elected by and from the voting members of the Committee and shall serve a one-year term with optional re-election. The chairperson shall be responsible for calling the meetings and preparing the agenda. Meetings may also be called by written request of at least two Committee members or at the written request of the College Advisory Committee and/or Dean.

- (9) Merit Pay Review Committee.

All procedures applying to these committees are found in the document entitled: ``College of Business and Management Merit Pay Distribution Procedures'' (attached as Appendix B).

- (10) The Role of Centers in the College.

The Directors of Centers shall be appointed by the Dean. Each Center shall establish some form of communication or advisory structure between the Center and the faculty. In addition, each Center shall provide an annual written report to the Dean. The written report will be reviewed by the College Advisory Committee and shared with the faculty.

V. AMENDMENTS

Amendments to this constitution will be presented in writing to the College Assembly members at least five days in

advance of being proposed before an Assembly meeting.

No vote will be taken on a proposal during the meeting when it is proposed.

A vote on a proposed amendment will be taken at another Assembly meeting held not less than ten (10) days after the meeting when it is proposed. A three-fifths (3/5) majority of those present and eligible to vote is required for adoption, provided that there is a quorum. Amendments, once adopted, become effective immediately.

VI. REVIEW OF THE CONSTITUTION

Every five years, there shall be a review of the College Constitution in such a manner as the College Assembly shall determine.

Approved by the College Assembly
May 1, 1987

Amended December 1987
Revised September 1990
Revised April 1993
Revised October 1995

APPENDIX A
COLLEGE OF BUSINESS AND MANAGEMENT
APPOINTMENT, PROMOTION AND TENURE PROCEDURES

The following Procedures supplement the UMCP Policy on Appointment, Promotion and Tenure of Faculty (as approved by the Chancellor, March 26, 1993) which, in case of conflict, is the governing document.

1. It is the policy of the College of Business and Management that the College faculty shall formally review the candidates for promotion and tenure during the year in which the candidate is to be considered for promotion and/or promotion and tenure in the College of Business and Management.
2. The promotion and tenure process may be initiated either by the candidate or the candidate's area chairperson.¹ The area chairpersons will consult with either tenured faculty (for associate decisions) or full professors (for full decisions) from the candidate's area.
3. The area review committee (see #4) selects at least six reviewers (external to the College and/or the University) and the area chair solicits evaluation letters. These reviewers shall be widely-recognized authorities in the candidate's field. At least three of these reviewers, but no more than half, may be named by the candidate. Reviewers should possess recognized expertise in the candidate's area. Reviewers receive vita, the candidate's personal statement (if the candidate chooses to write one) and research materials selected by the candidate.
4. After the outside letters are received, the candidate will first be reviewed by faculty in his or her area. This area review committee will serve as an advisory committee of the College Appointment, Promotion and Tenure Committee. The area review committee, in the case of assistant professors, shall consist of all tenured faculty in the area. In the case of associate professors, the committee shall consist of all full professors in the faculty area. If there are not enough individuals with sufficient rank within an area to make up a committee of not less than three individuals, then the Dean of the College, or his/her designee, shall appoint a sufficient number of individuals from other faculty areas to create a committee of not less than three. An effort shall be made to select individuals with knowledge of the candidate's field.

¹ In the special case where the area chairperson is an associate professor and is a candidate for full professor, or has a colleague who is a candidate for full professor, the Dean will appoint an acting area chairperson, with the candidate's consent. The acting chairperson will be a full professor from the same area, or closely related area, who will perform all of the area chairperson duties enumerated herein.

5. The area review committee meets to elect a chairperson (who shall not be the area chair) to discuss and vote on the candidate. The area vote is by secret ballot. After this meeting of the area review committee, the chairperson of the committee shall write a letter to the Dean with a copy to be included in the file established by the candidate for the College Appointment, Promotion and Tenure Committee ("P&T Committee"). The letter shall set forth the vote of the area committee as well as a statement of the reasons given by committee members for or against the promotion of the candidate. Dissenting faculty may write their own statements which become part of the file. The area vote shall be reported to the candidate.
6. After reviewing the candidate's file, including the letter written by the area review committee to the Dean, the area chairperson (or the acting area chairperson as referred to in footnote 1) shall write a separate letter to the Dean giving his or her recommendations with respect to promotion of the candidate. This letter will include the reasons for the recommendation or lack thereof and shall become part of the promotion and tenure file.
7. The P&T case shall go forward to the College P&T Committee regardless of the area vote and of the recommendations of the area review committee chair and of the area chair.
8. Acting for the College P&T Committee, the area review committee shall prepare a descriptive report on the candidate describing, in a factual way, all the candidate's activities and achievements in teaching, advisement, research, scholarship and service. This descriptive report shall be shown to the candidate. The candidate has the right to disagree with the descriptive report and to append a personal statement to the report indicating any such disagreements and the reasons for them. The descriptive report, including any appendices, becomes part of the candidate's file.
9. The area chairperson assembles the candidate's file containing: (a) candidate's vita and personal statement, (b) outside reviewer letters, (c) copies of papers, articles, books, etc. (d) teaching evaluations, (e) area chairperson's letter, (f) the letter from the area review committee chairperson, and (g) the descriptive report. Items (a), (b), (e) (f) and (g) will be distributed to the College P&T Committee by the Dean's Office prior to meeting. Items (c) and (d) will be available in the office of the Associate Dean for Academic Affairs. The above file will be ready at least two weeks before the scheduled P&T meeting. The area chairperson will insure that the candidate assembles all information required by the campus P&T transmittal form.

10. The College P&T Committees consists of: (a) all tenured faculty (for associate decisions) or (b) all full professors (for full decisions), except that the Dean is not eligible for membership in a College P&T committee. The Dean may, if he/she chooses, attend a P&T meeting, but cannot vote. The Dean, or his/her designee, nominates a chair for each P&T committee. The chair appointments are approved or disapproved through mail ballot (majority vote) of the membership of the relevant P&T committee.
11. The College Appointment, Promotion and Tenure Committee chairs select a Candidate Review Committee (CRC) for each candidate. A Candidate Review Committee consists of two members of the candidate's area and two members from outside the candidate's area. Selection of CRC members is made in consultation with the candidate and the candidate's area chairperson and may include emeritus professors from the College of Business and Management. The CRC Committee will elect a chairperson.
12. The Candidate Review Committee will conduct an intensive review of all materials in the candidate's file. Each CRC Committee must meet at least once formally after the intensive review but before the presentation of the oral report. The CRC Committee members in attendance will present an oral report to the College P&T Committee.
13. Based on individual review of candidate's file and the CRC oral report, the relevant College P&T Committee votes on the candidate by secret ballot. In order to obtain a positive recommendation of the faculty, two-thirds of those faculty members voting on promotion and tenure must vote in favor of the candidate. An abstention will not be included in the calculation of the two-thirds majority but will be reported. Following this vote, the candidate's CRC members who attended the College P&T Committee meeting jointly write a letter to the Dean, to be completed within fifteen days of the P&T meeting, summarizing the College P&T discussion and vote and highlighting the candidate's strengths and weaknesses. The letter shall be reviewed and approved by the Associate Dean for Academic Affairs and the Chair of the College P&T Committee.
14. The candidate's file, containing the CRC summary letter, and the items described in (9) above, are sent to the Dean. The Dean writes an evaluation letter. The Dean's letter is added to the candidate's file, which is forwarded to the next level, unless both the P&T Committee and the Dean vote against promotion. In the latter case, the file shall go forward to the Provost only to insure that proper procedures were followed. In the letter, the Dean will report the results of the area vote and the P&T vote. The Dean's and College P&T

Committee's decisions on a candidate shall be reported to the candidate's area chair, the chair of the candidate's area review committee and the candidate. In the case where either the P&T Committee or the Dean fail to vote for promotion, the candidate will also receive a letter indicating in general terms the reasons for the negative vote(s). The area chair will review this letter for accuracy.

15. The same procedures as above shall apply to external candidates.
16. The Dean or his/her appointee will nominate the College member of the Campus Appeals Committee.

APPENDIX B

MERIT PAY DISTRIBUTION PROCEDURES COLLEGE OF BUSINESS & MANAGEMENT

1. The Dean's Office receives a general estimate of the amount of merit money available for the year. The Dean, in consultation with the Executive Committee and Faculty Salary Review Committee (SRC) determine(s) the percentage of merit money to be withheld by the Dean for her/his own allocation to address special salary problems, but in no event shall this amount exceed 25% of the total merit salary allocation for lines attributable to the instructional program of the College less any administrative positions funded within that program.

2. (a) The Faculty Salary Review Committee (SRC) shall be composed of five (5) voting members: one assistant professor, one associate professor and two full professors. The Associate Dean for Academic Affairs will be a voting member of the SRC. At the first meeting of the SRC the voting members of the Committee shall elect one of their number to be chairperson.

(b) The membership of the SRC shall rotate from year to year so that all faculty areas have representation at least once every two years. The rotation among areas shall be made according to the procedure set forth at Appendix A.

(c) The individual members of the SRC from each participating faculty area shall be selected according to the following procedure. Each faculty area shall select the individual from their area who will serve on the SRC by secret ballot of the tenure track members of the area. The Chairperson of the faculty area shall not serve on the SRC. In the event that a faculty area has a shortage of faculty of the appropriate rank, they may nominate another tenure-track member from inside or outside the group to fill that position. It shall be made clear by the Chairman of the faculty area to the individuals named by the faculty areas participating in the SRC for any particular year that they are members of a College committee in determining equitable salary adjustments for the year in question and are not advocates of their groups.

(d) The College will strive across several years to achieve adequate representation in ethnicity/gender among the members of the SRC. If in the Dean's opinion any group within the College has been systematically under represented on the committee, then he/she may appoint a member of that group as an additional member of the SRC.

3. The Associate Dean (or other designated representative of the Dean) will provide a list of all individuals that need to be evaluated to the SRC.

4. The SRC meets briefly with the Dean and the Executive Committee prior to reviewing any performance reports in order for the Dean and Executive Committee to relate any information relevant to decisions regarding salary for that year.
5. The evaluation will give significant recognition to excellence in scholarship, teaching, including advising, and service, including outreach efforts. In general, evaluation should reflect performance over the last several years and give consideration to the stage of the faculty member's career.
6. The SRC members individually review the relevant material concerning the faculty eligible for salary increases for the year. The SRC then meets as a committee with the individual area chairperson in order for the chair to present to the SRC his or her views and relevant information concerning the allocation of merit money among eligible faculty members in the area and cross allocation among College faculty in general. The SRC then meets and makes its initial ranking giving consideration to the view expressed by the chairpersons. Rankings should be made across the College rather than solely within faculty areas.
7. After the SRC makes its initial ranking, it meets with the Dean to review the rankings. After receiving the Dean's input, the SRC may revise its ranking based upon the input received from the Dean.

8. The distribution of merit pay to individual faculty members, as determined by the SRC, shall be the final allocation of the merit pay assigned to the SRC and shall not be disturbed by the Dean or the faculty chairpersons. Although it is intended that the SRC's salary allocation shall be final, the Dean, for good cause, may change the salary allocated by the SRC for 5.0% percent of the faculty members who were evaluated by the SRC. The Dean will explain the rationale for any changes to the SRC and the department chairs and must reallocate to faculty any merit monies altered under this provision.
9. The final distribution of merit money by the SRC shall be reported in dollar amounts for each faculty member rather than as a percentage of salary.
10. The SRC shall report to the faculty as to what factors were taken into consideration in making salary decisions. Summary statistics of interest, such as the average merit raise, may be reported by the SRC but individual salaries shall not be published.
11. After receiving the decision of the SRC, the chairs meet with the Dean and make recommendations for the salaries of their individual faculty members. The Dean will take the recommendations into consideration in the distribution of her/his share of the merit money to address special salary problems.

12. The Dean then allocates her/his share of the merit money and salary is determined for each faculty member.

13. The Dean meets with the Chairs to discuss the Dean's allocation of his/her share of the merit dollars. The Dean then decides on any revised salaries based upon these discussions.

14. The final salary recommendations are forwarded from the College, and the chairs and members of the SRC are informed of the recommendations for merit money.

15. The chairs meet with each individual faculty member, tell him/her the anticipated salary for the coming year and explain to the individual faculty member the basis for the merit money award.

16. The Dean will be available to discuss salary with any faculty member who so requests.

17. If any material change in the available merit money is imposed by forces external to the College, the SRC will reconvene to decide on an equitable redistribution of the merit pool.