

**University of Baltimore**  
**II-7.1 Sex Discrimination Interim Policy**  
**Updated on August 1, 2024**

**Sex Discrimination Interim Policy**  
**(Formerly Sexual Harassment and Other Sexual Misconduct)**

**I. Purpose**

This policy (the Policy) and the accompanying procedures (the Procedures) are established as the formal implementation of USM VI-1.60 Policy on Sex Discrimination. The University of Baltimore (“University” or “UBalt”) is committed to providing a working and learning environment free from Sex Discrimination, including Sex-Based Harassment, Sexual Exploitation, Sexual Coercion, and Sexual Intimidation. The University prohibits and will not tolerate Sex Discrimination in any form. Sex Discrimination is prohibited by state and federal laws, including Title IX of the Education Amendments of 1972 as amended (Title IX) and Title VII of the Civil Rights Act of 1964, and may also constitute criminal activity.

The University endeavors to foster a climate free from Sex Discrimination and Retaliation. The University accomplishes this through training, education, prevention programs, through procedures that promote prompt reporting, prohibit retaliation, and provide for timely, fair, and impartial investigation and resolution of Sex Discrimination and Retaliation cases in a manner that eliminates the conduct, prevents its recurrence, and addresses its effects. All University community members are subject to this policy, regardless of sex, sexual orientation, gender identity, or gender expression. This includes all students, faculty, and staff of the University, as well as third Parties and contractors. Nothing in this policy is intended to supersede or conflict with any federal compliance obligation.

**II. Applicability and Scope**

This Policy prohibits Sex Discrimination, Other Sexual Misconduct and Retaliation under federal and state discrimination laws, including Title IX of the Education Amendments of 1972 (Title IX) and Title VII of the Civil Rights Act (Title VII). This Policy applies to all members of the campus community, including Students, faculty, and staff. It also applies to contractors and other third Parties who are engaged in any University Education Program or Activity, or who are otherwise interacting with the University, including, but not limited to volunteers, vendors, and visitors. All University members are prohibited from engaging in or assisting or abetting another’s engagement in Sex Discrimination, Other Sexual Misconduct, or Retaliation.

This Policy applies to Prohibited Conduct committed by or against students, faculty, staff and third Parties when:

1. Conduct occurs on University premises, in any University facility, or on property owned or controlled by the University, including but not limited to, a building

- owned or controlled by a student organization that is officially recognized by the University, and conduct that is subject to the University's disciplinary authority;
2. Conduct occurs in the context of a University Education Program or Activity (as defined herein), including, but not limited to, University-sponsored academic, athletic, extracurricular, study abroad, research, online, or internship programs or activities; or
  3. Conduct occurs outside the context of a University Education Program or Activity or outside the United States, but has continuing adverse effects on or creates a hostile environment for students, employees or third Parties while on premises or other property owned or controlled by the University or in any University Education Program or Activity.

The University has no authority to investigate reported incidents involving members of the campus community that occurred prior to the individual being enrolled at or employed by the University when the incident did not occur on campus or otherwise in connection with a University Education Program or Activity. The University may, however, be able to assist individuals with Supportive Measures.

### III. Definitions

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

- A. **Advisor** means a person chosen by a Party to provide advice and consultation to that Party, in accordance with this Policy and Procedures. An Advisor may be an attorney or another individual. An Advisor cannot be a witness or provide evidence in a case.
- B. **Appellate Officer** means an individual designated to review and decide appeals of Written Determinations and dismissals of Complaints. Appellate Officers shall have had no previous involvement with the substance of the Complaint.
- C. **Complainant** is an individual who is alleged to have been subjected to Sex Discrimination who is a student or employee or who was participating or attempting to participate in the Education Program or Activity at the time of the alleged Sex Discrimination, whether or not that individual initiated the Complaint.<sup>1</sup>
- D. **Complaint** means an oral or written request to the University that objectively can be understood as a request to investigate and make a determination about alleged Sex Discrimination.

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<sup>1</sup> A parent, guardian, or other authorized legal representative with the legal right to act on behalf of the Complainant may also file a Complaint on behalf of a Complainant.

**E. Confidential Employees** are (1) employees whose communications are privileged<sup>2</sup> or confidential under Federal or State law; (2) employees whose communications are specifically designated as confidential for the purpose of providing services related to potential Sex Discrimination; or (3) employees who are conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination—but the employee’s confidential status is only with respect to information received while conducting the study.

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

- 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 or Sexual Coercion.
- An individual who is Incapacitated is unable to give Consent.

**G. Dating Violence** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

**H. Domestic Violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the Complainant, by a person

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<sup>2</sup> The employee’s confidential status is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies.

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.

- I. Education Program or Activity** of the University includes all operations of the University in the United States, including, but not limited to, all conduct<sup>3</sup> over which the University exercises disciplinary authority and all conduct that occurs in any building owned or controlled by a student organization that is officially recognized by the University. The University must address a sex-based hostile environment under its Education Program or Activity even when some conduct alleged to be contributing to the hostile environment occurred outside the University's Education Program or Activity or outside the United States.
- J. Employees with Authority** are employees, other than Confidential Employees, who have authority to institute corrective measures or who are responsible for administrative leadership, teaching, or advising.
- K. Hearing** means a live, formal proceeding attended by the Parties in which evidence is presented, witnesses are heard and cross-examination occurs, prior to the Hearing Officer's decision concerning responsibility and Sanctions, if applicable.
- L. Hearing Officer** means an individual designated to preside over the Hearing and has decision-making and sanctioning authority within the adjudication process.
- M. Incapacitated** mean means an individual's decision-making ability is impaired such that the individual is incapable of understanding the "who, what, where, why, or how" of their sexual interaction/encounter. A person may be Incapacitated if they are asleep, unconscious, coming in and out of consciousness, being physically restrained by another person or device (e.g., handcuffs, rope, tape), or any other state where the individual is unaware that sexual contact is occurring. Incapacitation may also exist because of a temporary or permanent mental or developmental disability that impairs the ability to Consent to sexual contact. Alcohol or drug use is one of the primary causes of Incapacitation. Being "drunk" or "high", by most individuals' understanding, is not the same as being Incapacitated. Because the impact of alcohol or other drugs varies from person to person, evaluating whether an individual is

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<sup>3</sup> Such conduct may occur in-person or through the use of technology such as e-mail, texts, social media applications, etc.

Incapacitated, and therefore unable to give Consent, requires an assessment of whether the consumption of alcohol or other drugs results in a person being unable to:

1. make decisions about the potential consequences of sexual contact;
2. evaluate one's own conduct;
3. communicate to another person, Consent to sexual contact; or
4. communicate an unwillingness to another person to engage in sexual contact.

**N. Investigator** means a trained University faculty or staff member or third-Party contractor designated to conduct an impartial, fair, and unbiased investigation into an alleged violation of this Policy.

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

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

1. **Sex-Based Harassment prohibited by Md. Code Ann., State Gov't § 20-601**<sup>4</sup> means unwelcome and offensive conduct, which need not be severe or pervasive, when the conduct is based on sex, sexual orientation, or gender identity or consists of unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature; and
  - a. Submission to the conduct is made either explicitly or implicitly a term or condition of the employment of an individual;
  - b. Submission to or rejection of the conduct is used as a basis for employment decisions affecting the individual; or
  - c. Based on the totality of the circumstances, the conduct creates a working environment that a reasonable person would perceive to be abusive or hostile.
2. **Sexual Coercion:** The use of unreasonable pressure in an effort to compel another individual to initiate or continue sexual activity against the individual's will. A person's words or conduct are sufficient to constitute Sexual Coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Sexual Coercion includes but is not limited to intimidation, manipulation, express or implied threats of emotional or physical harm, and/or blackmail. Examples of Sexual Coercion include but are

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<sup>4</sup> This definition applies only to sex-based harassment of employees that does not constitute Sex-Based Harassment prohibited by Title IX. *See* Md. Code Ann., State Gov't §§ 20-601 through 20-611.

not limited to causing the deliberate Incapacitation of another person; conditioning an academic benefit or employment advantage on submission to the sexual contact; threatening to harm oneself if the other Party does not engage in sexual contact; or threatening to disclose an individual's sexual orientation, gender identity, gender expression, or other personal sensitive information if the other Party does not engage in the sexual contact.

3. **Sexual Exploitation:** Taking non-consensual or abusive sexual advantage of another person for one's own advantage or benefit or for the advantage or benefit of anyone other than the person being exploited.
4. **Sexual Intimidation:** Threatening behavior that is verbal and/or physical of a sexual nature directed at another person, such as threatening to sexually assault another person or engaging in indecent exposure.
5. **Attempted Sexual Assault:** An attempt to commit Sexual Assault.

**Q. Parental Status** means the current, potential, or past status of an individual who is, with respect to any person under the age of 18 or over the age of 18 but incapable of self-care because of a disability: (1) a biological, step, adoptive, or foster parent; (2) a legal custodian or guardian; (3) in loco parentis; or (4) actively seeking legal custody, guardianship, visitation, or adoption .

**R. Party** means either Complainant or Respondent or collectively "Parties."

**S. Pregnancy or Related Conditions** means the current, past, or potential presence of any of the following conditions:

1. Pregnancy, childbirth, termination of pregnancy, or lactation;
2. Recovery from pregnancy, childbirth, termination of pregnancy, or lactation; or
3. Medical conditions related to pregnancy, childbirth, termination of pregnancy or lactation.

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

**U. Prohibited Conduct** means conduct listed in Section IV of this Policy.

**V. Relevant** means related to the allegations of Sex Discrimination under investigation as part of these Procedures. Questions are Relevant when they seek evidence which may aid an Investigator in determining whether the alleged Sex Discrimination occurred. Evidence is Relevant when it may aid an Investigator in determining whether the alleged Sex Discrimination occurred.

- W. Remedies** means actions designed to restore or preserve the Complainant's equal access to the University's Education Program or Activity. Remedies are similar to Supportive Measures but may be punitive and burden the Respondent.
- X. Respondent** means an individual alleged to be the perpetrator of conduct that could constitute Sex Discrimination.
- Y. Retaliation** means intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because an individual has reported information, made a Complaint, testified, assisted, participated or refused to participate in any manner in an investigation, proceeding, or hearing related to Sex Discrimination. Retaliation includes bringing charges against an individual for violations of other University policies that do not involve Sex Discrimination but arise out of the same facts or circumstances as a Complaint, for the purpose of interfering with any right or privilege secured by Title IX.
- Z. Sanctions** mean disciplinary and other consequences imposed on a Respondent who is found to have violated this Policy.
- AA. Sexual Assault** means an offense classified as a sex offense in the uniform crime reporting system of the Federal Bureau of Investigation. Sex offenses are sexual acts directed against another person and include:
1. **Non-Consensual Sexual Penetration**— Penetration, no matter how slight, of the genital or anal opening of the body of another person with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
  2. **Fondling**—The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
  3. **Incest**—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  4. **Statutory Rape**—Nonforcible sexual intercourse with a person who is under the statutory age of consent.<sup>5</sup>

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<sup>5</sup> See Md. Code Ann., Crim. Law §§ 3-301 through 3-307.

**BB. Sex-Based Harassment** means Sex Discrimination prohibited by Title IX that satisfies one or more of the following:

1. **Quid pro quo harassment**— An employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the University’s Education Program or Activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct.
2. **Hostile Environment Harassment**— Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the University’s Education Program or Activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
  - i. The degree to which the conduct affected the complainant’s ability to access the University’s Education Program or Activity;
  - ii. The type, frequency, and duration of the conduct;
  - iii. The Parties’ ages, roles within the University’s Education Program or Activity, previous interactions, and other factors about each Party that may be Relevant to evaluating the effects of the conduct;
  - iv. The location of the conduct and the context in which the conduct occurred; and
  - v. Other sex-based harassment in the University’s Education Program or Activity.

**3. Sexual Assault, Dating Violence, Domestic Violence, or Stalking.**

**CC. Sex Discrimination** means exclusion from participation in or being denied the benefits of any Education Program or Activity on the basis of sex, including sex stereotypes, sex characteristics, sexual orientation, gender identity, and Pregnancy or Related Conditions. Sex-Based Harassment is a form of Sex Discrimination.

**DD. Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

**EE. Student** means a person who has gained admission to the University.<sup>6</sup>

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<sup>6</sup> Other University policies may define the term “student” differently. The definition of “student” in this Policy applies only to this Policy.



**FF. Supportive Measures** are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

1. Restore or preserve that Party's access to the University's Education Program or Activity, including measures that are designed to protect the safety of the Parties or the University's educational environment; or
2. Provide support during the University's grievance procedures.

Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, restrictions on contact applied to one or more Parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, training and education programs related to Sex-Based Harassment, and other similar measures.

**GG. Written Determination** means a written report which summarizes the allegations, the policies and procedures applicable to the allegations, all evidence reviewed, and interviews conducted, and provides the Hearing Officers' determination as to whether the alleged Prohibited conduct occurred and any sanctions or remedies. The Written Determination memorializes the outcome of the case and is subject to appeal.

#### **IV. Prohibited Conduct**

This Policy prohibits Sex Discrimination, Other Sexual Misconduct, and Retaliation as defined in this Policy. Prohibited Conduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Prohibited Conduct can occur between people of the same or different sex, sexual orientation, or gender identity.

#### **V. Title IX Administration**

##### **A. Title IX Coordinator**

The Title IX Coordinator is responsible for monitoring the Education Program or Activity for barriers to reporting information about conduct that reasonably may constitute Sex Discrimination and must take steps reasonably calculated to address such barriers. The Title IX Coordinator leads, coordinates, and oversees the University's efforts regarding compliance, training, prevention programming, and educational programs. The Title IX Coordinator is available to meet with any student, employee, or third Party to answer any questions about this Policy. The Title IX Coordinator may delegate appropriate responsibilities under this Policy to other members of the Title IX Team or any other qualified representative under the Title IX Coordinator's supervision. The use of the term "Title IX Coordinator" in this Policy and Procedures will include any person to whom the

Title IX Coordinator has delegated any responsibilities under this Policy or the accompanying Procedures.

Individuals can contact the Title IX Coordinator to seek resources under this Policy at:

Tiwana Barnes  
Title IX Coordinator  
Title IX Coordinator and Director of DEI  
Office of Government Relations  
1420 N. Charles St., Room 337  
410.837.5020  
[tbarnes@ubalt.edu](mailto:tbarnes@ubalt.edu)

## **B. Title IX Team**

The Title IX Coordinator may delegate responsibilities under this Policy and Procedures to members of the Title IX Team, or other individuals as appropriate. The Title IX Team includes:

Llatetra Esters  
Title IX Deputy Coordinator  
Dean of Students  
Office of Student Support  
1420 N. Charles St., AC, Room112  
410.837.5429  
[T9@ubalt.edu](mailto:T9@ubalt.edu)

Sally Reed  
Title IX Deputy Coordinator  
Associate Vice President and Chief Human Resources Officer  
Office of Human Resources  
1420 N. Charles Street, Academic Center, Room 337  
410.837.4088  
[T9@ubalt.edu](mailto:T9@ubalt.edu)

David Elliott  
Title IX Investigator  
Employee Relations Specialist  
Office of Human Resources  
third floor Baltimore, MD 21201  
410.837.5746  
[T9@ubalt.edu](mailto:T9@ubalt.edu)

Pavan Purswani  
Title IX Investigator  
Associate Director

## **C. Training**

### **1. All Students and Employees – Preventative Education**

The University will develop and implement preventative education, for all employees and students, to help identify and reduce the occurrence of Sex Discrimination. The training will contain information regarding what constitutes Sex-Based Harassment, definitions of Consent and Prohibited Conduct, the University's Procedures, bystander intervention, risk reduction, and the consequences of engaging in Sex-Based Harassment. These educational initiatives shall be for all incoming students and new employees. The University will also develop ongoing prevention and awareness campaigns for all students and employees addressing the same information. Educational initiatives for employees shall comply with Md. Code Ann., State Pers. & Pens. § 2-203.1.

### **2. Employee Training**

The University will develop and implement training for all employees regarding the University's obligation to address Sex Discrimination. All employees shall be trained upon hire, upon change of position that alters their duties under Title IX or this Policy, and annually thereafter. Training materials must not rely on sex stereotypes. Training materials will not rely on sex stereotypes. The training will include: the scope of conduct that may constitute Sex Discrimination, the definition of Prohibited Conduct, and all applicable notification requirements and responsibilities that apply to each employee's specific designation.

## **VI. Reporting Information to University Employees**

All University employees must notify the Title IX Coordinator or provide Students or other persons with the contact information of the Title IX Coordinator under the following circumstances:

- A. Pregnancy or Related Conditions** – If a Student, or a person who has the legal right to act on behalf of the Student, informs any employee of the Student's Pregnancy or Related Conditions, the employee must provide that person with the Title IX Coordinator's contact information and inform them that the Title IX Coordinator can coordinate specific actions to ensure equal access and prevention of discrimination. Employees need not provide the Title IX Coordinator's contact information if the employee reasonably believes that the Title IX Coordinator has been notified.

**B. Prohibited Conduct** – When an employee becomes aware of information about conduct that reasonably may constitute Prohibited Conduct, they are required to take the following action based on their designation:

1. **Confidential Employees** must inform any person who communicates information about conduct that may reasonably constitute Prohibited Conduct that they are Confidential Employees, circumstances in which they are not required to notify the Title IX Coordinator about conduct that reasonably may constitute Prohibited Conduct, how to contact the Title IX Coordinator, and how to initiate a Complaint, and that the Title IX Coordinator may be able to offer and coordinate Supportive Measures as well as initiate an informal resolution process or investigation under the procedures.
2. **Employees with Authority** must notify the Title IX Coordinator when they obtain information about conduct that may reasonably constitute Prohibited Conduct.
3. **All Employees** who are not Confidential Employees or Employees with Authority shall either (1) notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute Prohibited Conduct or (2) provide the contact information of the Title IX Coordinator and information about how to make a Complaint to any person who provides the employee with information about conduct that may reasonably constitute Prohibited Conduct.

Any person may also directly report Prohibited Conduct at any time by contacting the Title IX Coordinator or any member of the Title IX team at any time regardless of whether the reporting person is the Complainant.

Any person may also report Prohibited Conduct online using the [Sexual Harassment and Sexual Misconduct Report Form](#).

## **VII. Parental, Family and Marital Status**

The University prohibits any policy, practice, or procedure, or any employment action, concerning the current, potential, or past Parental Status, family status, or marital status of a student, employee, or applicant (for admission or employment), that treats persons differently on the basis of sex.

## **VIII. Pregnancy and Related Conditions**

- A. Nondiscrimination.** The University shall not discriminate on the basis of current, past, or potential Pregnancy or Related Conditions. The University will not require any Student to provide certification that they are physically able to participate in a class, program, or activity, unless:

1. The certified level of physical ability or health is necessary for the class, program, or activity;
2. The University requires such certifications of all students participating in the class, program, or activity; and
3. The information obtained through the certification is not used as a basis for prohibited discrimination.

**B. Student Accommodations.** The University will provide reasonable accommodations to policies, practices, or procedures for students experiencing Pregnancy or Related Conditions.

1. **Requesting Reasonable Accommodations.** Students may request accommodations for Pregnancy or Related Conditions by contacting the Title IX Coordinator (see Section V of this Policy). The Title IX Coordinator may request documentation from the Student's medical provider which is necessary and relevant to determining what accommodations are appropriate for the Student's needs. The Title IX Coordinator will initiate the interactive process, in consultation with the Student, Faculty members, and any other necessary parties to determine reasonable modifications based on the Student's individualized needs.
2. **Consideration of Reasonable Accommodations.** An accommodation that would fundamentally alter the nature of the University's Education Program or Activity is not reasonable and will not be granted under this Policy. Depending on the unique needs of the Student and their particular program of study, reasonable accommodations may include, but are not limited to:
  - Excusing absences, including as an exception to any existing classroom attendance policies.
  - Making modifications to the physical environment (limiting access to hazardous chemicals, providing a chair with back support, providing a larger desk)
  - Offering remote learning options when available.
  - Extending deadlines and/or allowing the student to make up tests or assignments missed.
  - Offering alternative assignments for missed work or extending deadlines.
  - Implementing incomplete grades for classes that will be resumed at a future date.
  - Allowing Lactating students reasonable time and a designated space, which is not a bathroom, to pump milk in a location that is private, clean, and reasonably accessible.
  - An academic leave of absence, as set forth below.

3. **Leaves of Absence.** Students qualifying for Reasonable Accommodations under this Policy may choose to take a leave of absence because of Pregnancy as deemed medically necessary by the student’s physician or other healthcare provider. If the Student’s school or college has its own leave of absence policy, Students should first seek a leave of absence under that policy. If the Student’s school or college leave policy is insufficient to meet their medical needs, the Student may request an accommodation for leave under this Policy. Students may request intermittent leave in instances when it is medically necessary. Intermittent leave will require advance approval from the Title IX Coordinator and the student’s academic program, to the extent possible in consideration of the student’s individualized circumstances. To the extent possible, the University will take reasonable steps to ensure that upon return from leave, students will be reinstated to their program in the same status as when the leave began. For the purposes of this policy, “same status” refers to academic standing, i.e., Making Satisfactory Progress, and without fees to re-enroll. Continuation of students’ scholarship, fellowship, or similar University sponsored funding during the leave term will depend on the students’ registration status and the policies of the funding program regarding registration status. Students will not be negatively impacted by or forfeit their future eligibility for their University-sponsored scholarship, fellowship, or University supported funding by exercising their rights under this policy.

**C. Employee Accommodations.** The University will provide reasonable accommodations for qualified employees, including faculty and staff, with known limitations related to Pregnancy or Related Conditions.

1. **Requesting Reasonable Accommodations.** Employees may request accommodations for Pregnancy or Related Conditions by submitting a request form located on the Human Resources page on the University website at [Human Resources](#). The form will be submitted to the Employee Relations Department who will work in conjunction with the Title IX Coordinator, as needed. The Employee Relations Specialist may request documentation from the employee’s medical provider which is necessary and relevant to determining what accommodations are appropriate for the employee’s needs. The Employee Relations Specialist will initiate the interactive process, in consultation with the Employee, Supervisor, Department Head, and any other necessary parties to determine reasonable accommodations based on the Employee’s individualized needs.
2. **Consideration of Reasonable Accommodations.** An accommodation which causes an undue hardship on the part of the University is not reasonable and will not be granted under this Policy. Depending on the unique needs of the Employee, reasonable accommodations may include, but are not limited to:
  - Changes to the physical environment (e.g., accessible seating, stools)
  - Allowing eating or drinking during University activities

- Parking access and/or mobility support
  - Larger uniforms
  - Extra breaks for restroom use
  - Extension of probationary period for tenure-track faculty
  - Schedule changes, including reduced hours or accommodating morning sickness
  - Light duty or temporary reassignment to a light-duty position
  - Work from home or telework
  - Redistributing or altering marginal/nonessential job functions
  - Modifying workplace policies (e.g., more frequent breaks, keeping a water bottle at the workstation)
  - Leave, including additional leave beyond sick leave policy
3. **Employee Leave.** The University shall consider Employee Leave if there is no other reasonable accommodation which will enable the Employee to perform their essential job functions for the duration of a known limitation based on Pregnancy or a Related Condition. Employees who meet the eligibility criteria for the Family & Medical Leave Act (FMLA) will be permitted to take job-protected leave that is paid through the concurrent use of leave accrued under the University's policies and procedures. If an employee does not meet FMLA requirements and has no remaining paid leave pursuant to the University's employee leave Policy on Annual, Holiday, Personal, and Sick Leave, the University will consider: (1) Advanced Sick Leave under USM Policy VII-7.45; or (2) Unpaid leave, as possible accommodations.

**D. Lactation Space.** The University provides a lactation space for all members of the campus community which may be used for expressing milk or breastfeeding as needed. Rooms do not require reservations and are available on a first-come, first-serve basis for up to 30 minutes. The University currently has two locations:

William H. Thumel Sr. Business Center, (3<sup>rd</sup> floor), Room 315  
 11 W Mt Royal Ave  
 Baltimore, MD 21201

John and Frances Angelos Law Center (Lower Level), Room 032  
 1401 N Charles St

## **IX. Interim Measures**

### **A. Emergency Removal**

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

1. Undertakes an individualized safety and risk analysis;

2. Determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of Sex Discrimination justifies removal; and
3. Provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

The University will not remove a Respondent based solely on an accusation. The Respondent will be offered an opportunity to meet with the Title IX Coordinator to review the reliability of the information within five (5) days from the effective date of the emergency removal. However, there is no guarantee that the Student Respondent will be permitted to return to campus.

### **B. Administrative Leave - Employee Respondents**

The University in consultation with the Title IX Team, Public Safety, and any other necessary campus department may take interim measures for employee Respondents such as changing an employee's work responsibilities or work location or placing the Respondent on administrative leave during the resolution process. Such action may be appropriate when there is a legitimate concern that without interim measures: 1) the employee will engage in Prohibited Conduct while the investigation is ongoing, or 2) the employee would be unduly disruptive to University community members or the University's Education Programs or Activities.

### **X. Amnesty**

The University recognizes that a Student who is under the influence of alcohol and/or drugs when an incident of Prohibited Conduct occurs may be reluctant to report the Prohibited Conduct out of concern that the Student may face disciplinary actions for engaging in prohibited alcohol or drug use. As such, a Student who provides information about conduct which may constitute Prohibited Conduct to the University or law enforcement, or who participates in an investigation either as a Complainant or witness, will not face disciplinary action for violating University drug and alcohol policies. This Amnesty provision applies only when the University determines that: (1) the drug/alcohol violation occurred during or near the time of the alleged Prohibited Conduct; (2) the Student acted in good faith in reporting or participating as a witness; and (3) the violation was not likely to place the health or safety of another individual at risk.

### **XI. Recordkeeping**

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

- A. Each Complaint of Sex Discrimination, records documenting the informal resolution process or grievance procedure, and the resulting outcome.
- B. For each notification the Title IX Coordinator or designee receives of information about conduct that reasonably may constitute Sex Discrimination, records documenting any action taken.
- C. All materials used for Title IX training of students or employees.



## **XII. Reporting to Law Enforcement**

Prohibited Conduct, particularly Sexual Assault may be a crime. Any Complainant is encouraged to report the incident and may also choose to contact law enforcement and/or medical personnel, as needed and as soon as possible following the incident to receive guidance on the preservation of evidence needed for proof of sexual assaults and the apprehension and prosecution of assailants. Through its concurrent Jurisdiction and Memorandum of Understanding with the Baltimore City Police Department, the University of Maryland Baltimore Police Department may have access to the Baltimore City Police resources upon request and as appropriate. To report to UMBPD, please call 410-837-4444. Regardless of where the incident occurred **call 911** in an emergency.

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

UMBPD are Employees with Authority under this Policy and are required to notify the Title IX Coordinator of any report of Prohibited Conduct.

- A. Preservation of Evidence.** In addition to prompt reporting, the preservation of physical and other evidence may be important to prove criminal conduct or to obtain a civil or criminal order of protection. For instances of Sexual Assault, the nearest hospitals equipped with the Maryland Department of State Police Sexual Assault Evidence Collection Kit are:

Greater Baltimore Medical Center – Emergency Room 443.849.2225

Mercy Hospital Mercy Medical Center’s Forensic Nurse Examiner (FNE) and Sexual Assault Forensic Examiner (SAFE) 410.332.9494

Mercy Hospital – Emergency Room Ask for FNE/SAFE Nurse 410.332.9477

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

However, at the request of law enforcement, the Title IX Coordinator may defer its fact-gathering until the initial stages of a criminal investigation are complete. If such

a request is made by UMBPD, then UMBPD 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 UMBPD, Baltimore City Police, or the local prosecutor's office, the Title IX Team will work collaboratively and supportively with each respective agency within the parameters outlined above. The Title IX Team will communicate any necessary delays in the University's investigative process to both Parties in the event of a deferral.

**C. Counseling and Mental Health Services.** The University offers counseling and mental health services at:

Student Assistance Program

1-800-327-2251

Website: <http://portal.BHSONline.com>

Username: UBALT

Individuals who experience a sexual assault or other sexual violence can also seek services at

TurnAround, Inc. (Rape Crisis Center) 24-hour Helpline: 443.279.0379 Website:  
[www.turnaroundinc.org](http://www.turnaroundinc.org)

### **XIII. Rights of the Parties**

The University will ensure Procedures which provide the Parties with a fair, prompt, equitable and impartial investigation and resolution of the complaint, including the following rights:

- A. Treatment with dignity, respect, and sensitivity by University officials during all phases of the disciplinary proceedings;
- B. A fair and impartial investigation;
- C. Disciplinary proceedings and resolutions that are prompt and equitable and provide an opportunity for the parties to be heard;
- D. Timely written notice of:
  1. The reported violation, including the date, time, and location of the alleged violation, and the range of potential sanctions associated with the alleged violation;
  2. The Party's rights and responsibilities under the University's policies and procedures and information regarding other civil and criminal options;
  3. The date, time, and location of each hearing, meeting, or interview that the party is required or permitted to attend;

4. A final determination made by the adjudicating official or body regarding whether a policy violation occurred and the basis for the determination;
  5. Any sanction imposed, as permitted by law; and
  6. The Party's rights to appeal and a description of the appeal process;
- E. Participation in the disciplinary proceedings, including:
1. Access to the case file and evidence regarding the incident obtained by the University during the investigation or considered by the adjudicating official or body, with personally identifiable or other information redacted as required by applicable law;
  2. Offering testimony at a hearing;
  3. Submitting evidence, witness lists, and suggested specific questions to be posed to the other Party involved in the disciplinary proceedings by investigators or the adjudicating official or body;
  4. Providing and reviewing testimony electronically or in a way in which the Parties are not required to be in the physical presence of one another;
  5. Reviewing and providing written responses to reports and proposed findings; and
  6. Appealing a determination or sanction;
- F. Assistance by a licensed attorney, an advocate supervised by an attorney, or a trained advocate throughout the disciplinary proceedings, including by the attorney or advocate's:
1. Attendance at hearings, meetings, and interviews with the Party;
  2. Private consultations with the Party during hearings, meetings, and interviews, except during questioning of the Party at a hearing; and
  3. Assistance with the Party's exercise of any right during the disciplinary proceedings;
- G. Notwithstanding whether a student accesses counsel paid for by the Maryland Higher Education Commission (MHEC), the presence of no more than two people, including a personal supporter of the Party's choice, an attorney, or an advocate, at any hearing, meeting, or interview during the disciplinary proceedings;
- H. Notice to a Student Party, presented in an appropriate and sensitive format, before the start of the disciplinary proceedings, of:
1. The Student's right to the assistance of an attorney or an advocate;
  2. The legal service organizations and referral services available to the Student; and

3. The Student's right to have a personal supporter of the Student's choice at any hearing, meeting, or interview during the disciplinary proceedings;
- I. Access to counsel paid for by Maryland Higher Education Commission (MHEC)<sup>7</sup> for a current or former Student who makes a Complaint or responds to a Complaint on which a Title IX investigation is initiated, and who was enrolled as a student at the University at the time of the incident that is the basis of the Complaint, unless the Student knowingly and voluntarily chooses not to have counsel, in accordance with COMAR 13B.09.01:
    1. A Student may select and retain an attorney before the conclusion of the formal Title IX proceedings;
    2. A Student may obtain from MHEC, through MHEC's website, a list of licensed attorneys who have indicated that they will represent such students in Title IX proceedings on a pro bono basis or for reduced legal fees; and
    3. A Student's attorney may seek reimbursement of certain legal costs and fees from MHEC's Legal Representation Fund for Title IX proceedings, subject to the availability of funding.

#### **XIV. Campus Sexual Assault Climate Survey**

At least every two (2) years, the University will (1) develop an appropriate Sexual Assault campus climate survey using nationally recognized best practices for research and climate surveys; and (2) administer the Sexual Assault campus climate survey to students in accordance with the procedures set by MHEC. The University will submit to MHEC a report in accordance with the requirements set forth in Md. Code Ann., Educ. § 11-601(g).

#### **XV. Clery Act Compliance**

The University remains responsible for complying with the requirements of the Crime Awareness and Campus Security Act of 1990 (Clery Act) and its amendments. The University must comply with Clery Act requirements, including crime recording and reporting requirements, where compliance is not otherwise achieved by actions under this Policy.

If a report of Prohibited Conduct discloses a serious and ongoing threat to the campus community, the University may issue a timely warning of the conduct in compliance with the Clery Act in the

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<sup>7</sup> More information is available on MHEC's website. A request of MHEC is the responsibility of the student, please see their website for more information. <https://mhec.maryland.gov/Pages/Title-IX-Campus-Sexual-Assault-Proceedings.aspx>

interest of the health and safety of the campus community. This notice will not contain any personally identifying information related to the Parties.

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## **Interim Procedures Applicable to Complaints Under University of Baltimore Policy on Sex Discrimination**

### **I. Applicable Policy and Procedures**

These procedures (the Procedures) apply to all complaints and reports of information received under the Policy on Sex Discrimination (the Policy).<sup>8</sup> However, some Prohibited Conduct may also be prohibited by other University policies, such as the [Non-Discrimination Policy for Complaints Against Non-Students](#) and [Non-Discrimination Policy for Complaints Against Non-Students](#). When a complaint is initiated under another policy or procedure which may involve Prohibited Conduct under this Policy, the Title IX Coordinator will be informed and reach out to the Complainant to initiate these Procedures. The Complainant may make a request, in writing to the Title IX Coordinator, that the matter be adjudicated under other applicable procedures. Upon receipt of such a request, the Title IX Coordinator will consider this Policy, as well as the factors outlined in Section IV. of these Procedures. If the Title IX Coordinator determines that the matter can be effectively and equitably remedied by the requested process, the Title IX Coordinator will not initiate a Complaint under these Procedures, and the matter will proceed under the other process and be closed by the Title IX Coordinator. Complainants experiencing Prohibited Conduct may seek Supportive Remedies under this Policy and Procedures at any time but may not initiate a Complaint arising out of the same allegations once a matter has been dismissed under these Procedures or has been adjudicated by another University policy or procedure.

When the University has information about conduct which may reasonably constitute Prohibited Conduct, it must take prompt and appropriate action, in accordance with these Procedures, to review the information and protect the Complainant and campus community from continued Prohibited Conduct. This obligation applies to Prohibited Conduct covered by the Policy regardless of whether a parallel law enforcement investigation or action is pending, and regardless of whether a complaint is filed. The Title IX Coordinator is responsible for investigating and resolving allegations of Prohibited Conduct. The Title IX Coordinator is not an advocate for any Party in these Procedures.

### **II. General Principles**

These general principles will apply to all stages of these Procedures:

- A. Right to Advisor.** A Party, at their own election, may be accompanied at any meeting or proceeding under these Procedures by an Advisor. The Party must notify the Title IX Coordinator or Title IX Team in advance. Parties may select an Advisor at any point before the conclusion of the resolution process. Throughout the process, the Title IX Coordinator will communicate and correspond directly with the Parties, not indirectly through an Advisor.

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<sup>8</sup> These Procedures incorporate all definitions included in the Policy.

- B. Right to Support Persons.** A Party, at their own election, may be accompanied by a support person to any meeting or proceeding under these Procedures. Support persons do not participate in any meetings or proceeding under these Procedures. The Title IX Coordinator may remove any support person from any meeting or proceeding if they are disruptive or otherwise attempting to participate in any meeting or proceeding.
- C. Equitable Treatment.** Complainants and Respondents will be treated equitably by:
1. Providing Remedies to a Complainant where a determination of responsibility for Prohibited Conduct has been made against the Respondent, and by using procedures that comply with Title IX when investigating and adjudicating allegations of Prohibited Conduct before the imposition of any Sanctions or other actions that are not Supportive Measures against a Respondent;
  2. Providing an equal opportunity for the Parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence; and
  3. Applying any provisions, rules, or practices used to investigate and adjudicate Complaints under Title IX equally to both Parties.
- D. Objective Evaluation of Evidence.** The University will objectively evaluate all Relevant evidence—including both inculpatory and exculpatory evidence—and provide that credibility determinations may not be based on a person’s status as a Complainant, Respondent, or witness.
- E. No Conflict or Bias.** The Title IX Coordinator, Investigator, or any person designated to facilitate an Informal Resolution process or appeal, will not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.
- F. Presumption of Non-Responsibility.** Respondents are presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the process.
- G. Privacy.** University procedures will take reasonable steps to protect the privacy of the Parties and witnesses during the process, provided that those steps do not restrict the ability of the Parties to obtain and present evidence, consult with Advisors, or otherwise prepare for or participate in the process.
- H. Extensions of Time.** Reasonable extensions of the time limits provided for in these Procedures will be granted by the Title IX Coordinator on a case-by-case- basis. In the event of an extension, written notice will be given to all Parties stating the basis for the delay and the extension period.

### **III. Notification of Information**

Any person may report Prohibited Conduct (whether or not the person reporting is the person alleged to be the subject of conduct that could constitute Prohibited Conduct) to the Title IX

Coordinator in person, by telephone, or by email, or by any other reasonable means by using the contact information listed in Section V.A. of the Policy at any time.

Upon receipt of information about conduct which may reasonably constitute Prohibited Conduct, the Title IX Coordinator will provide written acknowledgment of receipt of the report to the Complainant, if known, and include (1) a copy of the Policy and Procedures, (2) options under the resolution process, including how to initiate a Complaint, and (3) Notice of the rights of the parties under this Policy. The Parties will be informed of available community and campus resources and services; Supportive Measures as specified in Section III.FF of the Policy; their right to an Advisor; their right to file a report with law enforcement; and the University prohibition against Retaliation.

#### **IV. Initiation of Complaint**

Upon notification of information about conduct that reasonably may constitute Prohibited Conduct, the Title IX Coordinator will:

- A. Initiate these procedures in response to a Complaint; or
- B. In the absence of a Complaint or the withdrawal of any of the allegations in a Complaint, determine whether to initiate a Complaint in consideration of, at a minimum, the following factors:
  1. Whether the Complainant has requested not to proceed with the Complaint;
  2. The Complainant's reasonable safety concerns regarding initiating a Complaint;
  3. The risk that additional acts of Prohibited Conduct would occur if a Complaint is not initiated;
  4. The severity of the alleged Prohibited Conduct, including whether the Prohibited Conduct, if established, would require the removal of the Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent recurrence;
  5. The age and relationship of the Parties, including whether the Respondent is an employee;
  6. The scope of the alleged Prohibited Conduct, including information suggesting a pattern, on-going Prohibited Conduct, or if Prohibited Conduct alleged to have impacted multiple individuals;
  7. The availability of evidence to assist an Investigator in determining whether Prohibited Conduct occurred; and
  8. Whether the University could end the alleged Prohibited Conduct and prevent its recurrence without initiating grievance procedures.
- C. If, after considering these and other Relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct, as alleged, prevents the University from ensuring equal access on the basis of sex to its Education Program or Activity, the Title IX Coordinator may initiate a Complaint.
- D. If the Title IX Coordinator initiates a Complaint, the Title IX Coordinator will notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing Supportive Measures.



- E. The Title IX Coordinator need not initiate a Complaint or consider the factors outlined above if the Title IX Coordinator reasonably determines that the conduct as alleged could not constitute Prohibited Conduct.

## **V. Dismissal of Complaints**

- A. The University may dismiss a Complaint for any of the following reasons:
  - 1. The University is unable to identify the Respondent after taking reasonable steps to do so;
  - 2. The Respondent is not participating in the Education Program or Activity or is not employed by the University;
  - 3. The Complainant voluntarily withdraws, in writing, any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint on behalf of the University, and the University determines that without the Complainant's withdrawn allegations any conduct that remains would not constitute Prohibited Conduct, if proven.
  - 4. The University determines that the conduct alleged, if proven, would not constitute Sex Discrimination and/or Other Sexual Misconduct, after taking reasonable steps to clarify the allegations with the Complainant.
- B. Upon dismissal, the University will promptly notify the Complainant of the basis of the dismissal and the opportunity to appeal.
- C. Upon dismissal, if the dismissal occurs after the Respondent has been notified of the allegations, the University will promptly notify the Respondent of the basis of the dismissal and the opportunity to appeal.
- D. If a dismissal is appealed, the University will:
  - 1. Notify the Parties, including providing notice of the allegations to the Respondent if not previously notified.
  - 2. Implement appeal procedures equally for the Parties;
  - 3. Ensure that the Appellate Officer has received training and did not participate in the investigation or dismissal;
  - 4. Provide the Parties a reasonable and equal opportunity to make a statement in support of or challenging the outcome; and
  - 5. Notify the Parties of the result of the appeal and the basis for the result.
- E. Upon dismissal, the Title IX Coordinator will offer Supportive Measures to Complainant or Respondent, as appropriate.
- F. Upon dismissal, the Title IX Coordinator will take appropriate and prompt steps to ensure that the Prohibited Conduct does not continue or recur.

## **VI. Consolidation of Complaints**

At the discretion of the Title IX Coordinator, Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, may be consolidated where the allegations arise out of the same facts or circumstances.

## **VII. Informal Resolution Process**

At any time after the initiation of a Complaint but prior to reaching a determination regarding responsibility, the Parties may elect to participate in the informal resolution process. The informal resolution process is not available for Complaints involving allegations of Sexual Assault or Sexual Coercion.

Informal may include mediation, negotiated interventions and remedies, and/or other restorative justice practices. The Informal process can include mediation or negotiations with all Parties virtually or in-person or asynchronously through virtual means. The Title IX Coordinator will the possible methods of informal resolution with the Parties and determine by mutual agreement which may be relevant to the circumstances of the individual case.

- A. Election and Voluntary Consent.** The parties can elect to participate in the informal resolution process by notifying the Title IX Coordinator, in writing, of their preference to proceed with informal resolution. Upon notification in writing, the Title IX Coordinator will reach out to the other Party to obtain their consent to proceed with information resolution. The University may not require either party to participate in the informal resolution process nor may it require, as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of Complaints of Prohibited Conduct.
- B. Notice.** Upon written consent of both parties to proceed with the Information Resolution Process, the Title IX Coordinator will provide the parties with written notice of:
  - a. the requirements of the Informal Resolution process including that at any time prior to the Parties' agreement to a resolution, any Party may withdraw from the Informal Resolution process and initiate grievance procedures;
  - b. that the Parties' agreement to a resolution at the conclusion of the informal resolution process precludes the Parties from initiating or resuming grievance procedures arising from the same allegations; and
  - c. the potential terms that may be requested or offered in an informal resolution agreement, including a notice that the agreement is binding only on the Parties;
  - d. what information will be maintained by the Title IX Office and how the office could disclose such information for use in grievance procedures, if initiated or resumed.
- C. Informal Resolution Facilitator.** The University will not use the same facilitator for Informal Resolution to investigate or decide a matter under the grievance procedures. Any designated facilitator must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.
- D. Sanctions and Remedies.** The informal resolution process will not result in any Sanctions set forth under this Policy and Procedures, unless the Parties agree to accept Sanctions and/or appropriate Remedies. If agreed to by the Parties and determined

appropriate by the Title IX Coordinator and Facilitator, Sanctions and Remedies may include, but are not limited to:

- a. Increased monitoring, supervision, and/or security at locations or activities where the Prohibited Conduct occurred or is likely to reoccur;
- b. Targeted or broad-based educational programming or training for relevant Parties, individuals, or groups;
- c. Academic or workplace modifications for either Party;
- d. Compliance with a No Contact Order or Denial of Access;
- e. Separation from the University.

**E. Completion of Informal Resolution Process.** When the Parties have consented to implement Sanctions and Remedies, or otherwise agree that the informal resolution process is complete, the facilitator will issue a written informal resolution agreement which states the responsibilities of all Parties after the process.

**No Agreement.** In cases where an agreement is not reached and the Title IX Coordinator determines that further action is necessary, or if either Party fails to comply with the terms of the informal resolution agreement, the Title IX Coordinator may reopen the matter and reinstate the informal resolution process (if there is consent from both parties) or refer the matter to the investigation and hearing procedures in Section VIII of these Procedures.

**F. Appeals.** Informal resolution agreements are not subject to appeal.

## **VIII. Investigation**

**A. Notice of Allegations.** Upon initiation of a Complaint, the University will provide written notice to known Parties of the following:

1. The investigation and adjudication process;
2. The allegations, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. “Sufficient details” include the identities of the Parties involved in the incident, if known, the allegedly Prohibited Conduct and the dates and locations of the alleged incidents, if known;
3. A statement that Retaliation is prohibited;
4. A statement that the Parties are entitled to equal opportunity to access Relevant and not otherwise Impermissible Evidence or an accurate summary of that evidence. A statement that the Respondent is presumed not responsible until a determination is made;
5. A statement that the Parties will have an opportunity to present Relevant and not otherwise Impermissible Evidence to a trained, impartial Investigator;
6. A statement that an Advisor is permitted, and that the Advisor is not required to, but may be, an attorney.

7. A statement that the Respondent is presumed not responsible until a determination is made; and
8. Any University policy that prohibits knowingly making false statements or submitting false information during grievance procedures.

In the event the University decides to investigate additional allegations of Prohibited Conduct by the Respondent against the Complainant, the University must provide additional written notice to all known Parties.

To the extent the University has reasonable concerns for the safety of any person as a result of the University providing such notice, the University may reasonably delay providing written notice in order to address safety concerns appropriately. Reasonable concerns must be based on an individualized safety and risk analysis and not mere speculation or stereotypes.

**B. Impermissible Evidence.** the University may not elicit, consider, require, rely upon, allow, disclose, or otherwise use any of the following as evidence (Impermissible Evidence), regardless of whether they are Relevant:

1. Information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege;
2. Records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the treatment of a Party or witness, unless the University obtains that Party's or witness's voluntary, written consent to do so.
3. A Student's history of mental health counseling, treatment, or diagnosis, unless the Student consents.
4. Evidence relating to a Complainant's sexual interests or prior sexual conduct, except the following is permitted:
  - a. Evidence about the Complainant's prior sexual conduct that is offered to prove that someone other than the Respondent committed the alleged conduct; or
  - b. Evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to alleged Sex-Based Harassment. The fact of prior consensual sexual conduct between Complainant and Respondent does not by itself demonstrate or imply that the Complainant's consent occurred in the events alleged.
5. Evidence relating to a Respondent's prior sexual history with an individual other than a party to the proceedings, except to prove prior sexual misconduct; support a claim that an individual has an ulterior motive; or impeach an individual's credibility after that individual has put his or her own prior sexual conduct at issue.

**C. Role of the Investigator.** The Title IX Coordinator will designate an Investigator(s) to conduct a prompt, thorough, fair, and impartial investigation and draft an investigation report, to be considered by the Parties and Hearing Officers at the hearing.

**D. Investigation Procedure.** Upon initiating an investigation, the Investigator will undertake the following steps:

1. The Parties may submit evidence (both inculpatory and exculpatory) and the names of witnesses Relevant to the allegations of Prohibited Conduct to the Investigator. The Parties shall submit the evidence via email, or in any other practical form in consideration of the type of evidence.
2. The Investigator will affirmatively investigate the allegations of Prohibited Conduct and seek additional evidence and witnesses not provided by the Parties.
3. The Investigator will interview all Parties and Relevant witnesses.
4. The Investigator will review and consider all Relevant and not otherwise Impermissible Evidence and provide the Parties with an investigation report, which summarizes all evidence including interviews of all Parties and witnesses no later than seven (7) days prior to the live hearing.
5. The Investigator will provide all Parties with all Relevant and not otherwise Impermissible Evidence gathered during the investigation (including Relevant and not otherwise Impermissible Evidence submitted by the Parties) no later than seven (7) days prior to the live hearing.

## **IX. Live Hearing**

All Complaints under these Procedures will proceed to a live hearing after the investigation, unless all Parties consent to the informal resolution process set forth in Section VII of these Procedures.

1. **Hearing Notice.** The Title IX Coordinator will send the Parties a Notice of Hearing with sufficient time for the Parties to prepare for the hearing, generally at least five (5) business days prior to the hearing. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The hearing notice will include:
  - a. A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result.
  - b. The time, date, and location of the Hearing.
  - c. A description of any technology that will be used to facilitate the Hearing.
  - d. Instructions on how to submit questions to be asked of any party or witness in advance of the hearing.
  - e. Relevant information regarding hearing logistics, pre-hearing meetings, the Final Investigation Report, the identity of the Hearing Officers, details related to questioning, the role of Advisors and Support Persons, impact/mitigation statements, and how to request disability accommodations or other assistance.
2. **Live Hearing and Hearing Officers.** The Title IX Coordinator will designate Hearing Officer(s) to conduct the Hearing.

The Hearing Officers must not have a bias for or against Complainants or Respondents generally or the individual Complainant or Respondent in particular. The Parties may raise challenges that a Hearing Officer is biased or has a conflict of interest. The Parties must raise challenges with the Title IX Coordinator within two (2) business days of receiving the hearing notice. The Title IX Coordinator will only remove and replace a Hearing Officer in situations of demonstrated bias or conflicts of interest. Perceptions of bias or conflict are not sufficient to cause removal.

3. **Hearing Format.** The live hearing may occur in person or via video technology. All hearing formats must allow Parties to simultaneously see and hear a Party or witness while that person is speaking. Alternative arrangements may also be made at the Title IX Coordinator's discretion. The Parties may make a request to the Title IX Coordinator that the Hearing occur in person or via video technology, but they must do so at least three (3) business days prior to the Hearing. The Title IX Coordinator retains discretion to determine whether the Hearing will occur in person or via video technology.
4. **Hearing Recordings.** All Hearings will be recorded. Parties may request a copy of the recording from the Title IX Coordinator following the live hearing.<sup>9</sup> No unauthorized recording or disclosure, including sharing, copying, or distribution of the recording or transcript, is permitted. The University records Hearings (but not deliberations) for purposes of review in the event of an appeal. The Hearing Officers, the Parties, Advisors, Appellate Hearing Officers, and other appropriate University officials will be permitted to review the recording upon request to the Title IX Coordinator.
5. **Hearing Participants.** Persons who may be present for a Hearing include the Hearing Officers, Investigator(s), the Parties and their Advisors and support persons, anyone providing authorized accommodations, interpretation, and/or assistive services, and anyone else deemed necessary by the Hearing Officers. Witnesses may be present only during their testimony. If any Party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Title IX Coordinator may reschedule the hearing. Parties and Advisors may choose to bring phones, laptops, or tablets to the hearing, and all devices must be used consistent with this Policy.
6. **Advisors and Support Persons.** The Parties may have the assistance of one (1) Advisor and one (1) Support Person of their choosing at the Hearing. A party may choose an attorney as their Advisor. No Advisors, including attorney-Advisors, will be paid for, prearranged or otherwise provided by the University.

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<sup>9</sup> Hearings are generally recorded by audio and may include video. If the hearing occurs virtually, and auto-generated transcript may be provided upon request of any Party. There will be no "official" transcript of the proceedings by a licensed court reporter. If any Party has a disability-related need for a certain method of recording, that Party should contact the Office of Disability Access Services prior to the hearing in order to request these services in advance.

An Advisor or a Support Person may not be called as a witness at a Hearing to testify to what their advisee has told them during their role as an Advisor or Support Person. During the pre-hearing meeting and live hearing, Parties may only be accompanied by their Advisor and Support Person. No other persons (e.g., additional Support Persons, Advisors, friends, family) may accompany, attend, or listen in on the Hearing unless explicitly authorized by the Title IX Coordinator, with each Party being provided the same opportunity.

7. **Evidence.** The Hearing Officers will be provided electronic copies of the investigation report and all Relevant but not Impermissible Evidence, including the names of all Parties, witnesses, and Advisors and Support Persons, in advance of the Hearing. The Parties will be provided with electronic copies of all the materials provided to the Hearing Officers as part of the hearing notice, unless those materials have already been provided.
  - a. A description of the alleged violation(s), a list of all Policy provisions allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result.
  - b. The time, date, and location of the Hearing.
  - c. A description of any technology that will be used to facilitate the Hearing.
  - d. Instructions on how to submit questions to be asked of any party or witness in advance of the hearing.
  - e. Relevant information regarding hearing logistics, pre-hearing meetings, the investigative report, the identity of the Hearing Officers, details related to questioning, the role of Advisors and Support Persons, impact/mitigation statements, and how to request disability accommodations or other assistance.
8. **Joint Hearings.** In Complaints involving more than one Respondent and/or involving more than one Complainant accusing the same person of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or Hearings pertinent to each Respondent or Complaint to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each Complaint with respect to each alleged Policy violation.

9. **Witness Participation.** Witnesses are encouraged to participate in and make themselves reasonably available for the hearing. Witnesses are not permitted to be accompanied by an Advisor or Support Person. At the discretion of the Hearing Chair, a witness may join by phone if no other reasonable alternative is available.

Any witness scheduled to participate in the hearing must be first interviewed by the Investigator(s), unless:

- a. All Parties and the Hearing Officers assent to the new witness's participation in the Hearing without remanding the Complaint back to the Investigator; and
- b. The Hearing Officers deem the evidence presented by the new witness to be relevant, not impermissible, and not information already established in the record; and
- c. The witness's late involvement was not the result of bad faith by the witness, the Parties, or others.

The Title IX Coordinator will notify all witnesses of their requested participation in the hearing at least five (5) business days prior to the hearing. Witnesses will be present for the hearing only during their testimony. The hearing may proceed in the absence of any Witness if the Witness fails to attend the hearing or if the Witness's testimony is determined by the Investigator to constitute Impermissible Evidence.

The Title IX Coordinator will work with the Hearing Officers and Parties to finalize a witness list for the Hearing, and the Title IX Coordinator will notify any witnesses of the Hearing's logistics.

10. **Hearing Procedures.** Hearings will be generally conducted in the following order unless the Hearing Officer(s) determine good cause exists to alter the order of the proceedings.
  - a. **Introductions and Procedure.** The Hearing Chair will explain the hearing procedures and introduce the participants. The Hearing Chair will answer any procedural questions prior to and as they arise throughout the Hearing.
  - b. **Opening Statements.** The Complainant may give the first opening statement, if any, followed by the Respondent's.
  - c. **Testimony and Questioning.** All questions during the Hearing will be asked by the Hearing Officer(s). Parties may submit questions to be posed by the Hearing Officer(s) in advance of the hearing pursuant to the instructions in the Hearing Notice and during the Hearing.

No questions which constitute Impermissible Evidence under these Procedures will be posed. The Hearing Officer(s) will limit or disallow questions they deem inappropriate on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), seek or pertain to Impermissible Evidence, or are abusive or harassing in nature. The Hearing Officer(s) may consult with the Title IX Coordinator on any questions of admissibility. The Hearing Officer(s) will explain any decision to exclude a question and Parties and Advisors will be allowed the opportunity to rephrase any excluded question.



The Hearing Chair poses the questions deemed Relevant and not otherwise Impermissible to the party and/or witness. Parties may submit follow-up questions to the Hearing Officer(s) after the initial testimony of any Party or witness.

- d. **Closing Statements.** Both parties are permitted to give closing statements at the conclusion of all questioning, beginning with the Complainant and ending with the Respondent.
- e. **Deliberation.** The Hearing Officer(s) will deliberate in closed session to determine whether the Respondent is responsible for the alleged Policy violation(s) based on the Preponderance of the Evidence standard of proof. If a panel is used, a simple majority vote is required to determine the finding. Deliberations are not recorded.

**X. Written Determination.** At the conclusion of the deliberations after a live hearing, the Hearing Officer(s) will issue a Written Determination to all Parties. The Written Determination will include:

1. A description of the allegations;
2. Information about the policies and procedures used to evaluate the allegations;
3. The Hearing Officer's evaluation of Relevant and not otherwise Impermissible Evidence and determination whether the alleged Prohibited Conduct occurred;
4. If the Hearing Officer finds that the alleged Prohibited Conduct occurred, any disciplinary sanctions that will be imposed and any remedies that will be provided; and
5. The procedures for appeal.

## **XI. Sanctions**

Sanctions for violation of this Policy are imposed based on the on the circumstances and nature of the violation and Complaint. Sanctions may be implemented after the Written Determination is issued and the time for appeal has expired, or at the conclusion of the appeals process, if any appeal is filed. Sanctions for violation of the Policy include the following:

- A. **Students.** Students found in violation of this Policy are subject to a range of Sanctions such as separation from the University (through suspension, dismissal or expulsion), disciplinary probation, disciplinary warning, loss of privileges, denial of access to campus grounds and/or buildings, fines, restitution, contact orders, and educational sanctions such as community service and mandatory and continuing participation in training and education programming on Prohibited Conduct.

- B. **Employees.** Employees found in violation of this Policy are subject to a range of Sanctions including counseling, verbal reprimand, written reprimand, suspension without pay, denial of a pay increase, demotion to a lower pay grade/classification, no contact orders, and training, denial of access to campus grounds and/or buildings, reassignment, and separation from employment.

## **XII. Appeal**

- A. **Bases for Appeal.** The following are permitted bases for appeal:

1. Procedural irregularity that would change the outcome;
2. New evidence that would change the outcome that was not reasonably available when the determination was made; and
3. The Title IX Coordinator or Investigator had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

- B. **Notice of Appeal.** Either Party may initiate this appeal process. Parties will have five (5) business days from receipt of any dismissal or Written Determination to submit a written appeal statement challenging the decision on the bases above (in Section XII.A of these Procedures). The other Party will be notified if one Party seeks appeal, and the written statement for appeal will be provided to the other Party. The other Party will be given five (5) business days from receipt of the other Party's written statement to submit a written appeal statement in support of the dismissal or Written Determination.

- C. **Review of Appeals.** There will be no hearing. Appeals will be reviewed by an Appellate Officer designated by the Title IX Coordinator. The Appellate Officer shall be free from conflict of interest or bias and shall not be the same person who reached the determination regarding the dismissal or the Written Determination, the Investigator, or the Title IX Coordinator. The Appellate Officer will have had no previous involvement with the case that the Appellate Officer is assigned to review. The appeal deliberation is closed to the Parties. The Appellate Officer will review only the written statements submitted by the Parties.

- D. **Written Decision.** The Appellate Officer will issue a written decision including its rationale for the decision within thirty (30) calendar days from the submission of the last written appeal statement, which may be reasonably extended for good cause. One written decision will be issued for a matter, even if both Parties filed appeals. The written decision by the Appellate Officer is final and is not subject to further appeal. In the written decision, the Appellate Officer may: (1) affirm the dismissal or Written Determination; (2) overturn the dismissal or Written Determination; or (3) remand the case to the original Investigator to remedy procedural errors, conflicts or bias issues, or to consider new evidence.

**E. Final Decision.** After the adjudication process is concluded or when the time for filing an appeal has expired and neither Party has submitted an appeal, the Title IX Coordinator shall notify the Parties simultaneously of the final outcome of the adjudication process. The Written Determination for a violation of the Policy becomes final either on the date that the University provides the Parties with the written decision of the result of the appeal if an appeal is filed, or if an appeal is not filed, on the date after which an appeal would no longer be considered timely, subject to any remanded proceedings.

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