

**University of Baltimore**  
**II-7.1 Sexual Misconduct Policy**  
**Updated on July 31, 2019**

**Policy Prohibiting Sexual Misconduct**

**I. POLICY PURPOSE**

In accordance with Title IX of the Education Amendments of 1971 (“Title IX”), the University of Baltimore (“University” or “UB”) is committed to creating a university setting that is safe from Sexual Misconduct, all types of which are forms of sex and gender-based discrimination. The University specifically prohibits Sexual Misconduct, which includes, but is not limited to, Sexual Violence, Dating Violence, Domestic Violence, Sexual Exploitation, Sexual Coercion, Sexual Intimidation, and Stalking. The University will investigate Complaints under this Policy, and as necessary, take steps to eliminate prohibited conduct, prevent its recurrence and address its effects. The University actively seeks to:

- Prevent issues of Sexual Misconduct by educating, training and providing resources to raise awareness of these issues;
- Recognize, respond and provide support to those who have experienced Sexual Misconduct to include the pursuit of formalized agreements with a State designated rape crisis center and local law enforcement. UB also endeavors to identify, respond and provide support in a way that eliminates Sexual Misconduct, prevents its recurrence and addresses its effects.

Retaliation for participating in any matter and in any process under this Policy is also a form of sex or gender-based discrimination prohibited by this Policy. UB Community Members are required at all times to participate in Good Faith in any proceeding or matter related to this Policy; this participation includes, but is not limited to: all activities in connection with filing, reporting, investigating, or resolving an alleged violations of this Policy. Good Faith activity does not include unlawful activities such as acts or threats of violence.

**II. OVERSIGHT OF SEXUAL MISCONDUCT POLICY & COMPLAINTS**

As part of UB’s commitment, and in compliance with applicable law and policy, the University has designated a Title IX Coordinator to provide oversight and coordination on issues surrounding compliance with Title IX and the Violence Against Women Reauthorization Act as amended from time to time. The Title IX Coordinator is responsible for ensuring that appropriate standards and requirements are met to afford the Complainant and Respondent prompt and equitable resolution of complaints under this Policy, and for educating the University community. The Title IX Coordinator will review all cases periodically to look for potential patterns or systemic concerns and will implement remedies when necessary. The Title IX Coordinator is:

Anita Harewood  
Vice President, Government and Public Affairs  
Office of Government and Public Affairs  
1420 N. Charles Street, Academic Center, Room 114  
410.837.4533  
[T9@ubalt.edu](mailto:T9@ubalt.edu)

There is a Title IX Compliance Coordinator who will assist with the processing of Title IX casework. The Title IX Compliance Coordinator is:

Suzanne Tabor  
Director, Government Relations and Public Policy  
Office of Government & Public Affairs  
1420 N. Charles St., Room 114  
410.837.4533  
[T9@ubalt.edu](mailto:T9@ubalt.edu)

The Office of Student Support manages the process to address complaints where the Respondent's primary status is a University Student. For reporting purposes, please contact the Office of Community Life:

Pavan Purswani  
Associate Director  
Office of Student Support  
1420 N. Charles Street, Academic Center, Room 112  
410.837.4755  
[T9@ubalt.edu](mailto:T9@ubalt.edu)

The Office of Human Resources manages the process to address complaints where the Respondent's primary status is a University Employee or any other UB Community Member excluding Students. For reporting purposes, please contact the Office of Human Resources:

Sally Reed  
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)

Individuals with inquiries or Complaints concerning the application of Title IX may also contact an external agency. Individuals who wish to file Complaints with the agencies that follow should make contact as soon as possible, to verify any applicable filing time limits and deadlines:

The Office of Civil Rights, Philadelphia Office  
U.S. Department of Education  
The Wanamaker Building, Suite 515  
100 Penn Square East  
Philadelphia, PA 19107-3323  
[OCR.Philadelphia@ed.gov](mailto:OCR.Philadelphia@ed.gov)

Equal Employment Opportunity Commission (EEOC)  
City Crescent Building  
10 S. Howard Street, Third Floor  
Baltimore, Maryland 21201  
Phone: 1.800.669.4000  
Fax: 410.962.4270  
TTY: 1.800.669.6820  
Website: [www.eeoc.gov](http://www.eeoc.gov)

Maryland Commission on Civil Rights (MCCR)  
William Donald Schaefer Tower  
6 St. Paul Street, Ninth Floor  
Baltimore, Maryland 21202  
Phone: 410.767.8600  
Fax: 410.333.1841  
TTY: 410.333.1737  
Website: [www.mccr.maryland.gov](http://www.mccr.maryland.gov)

### III. SCOPE OF THE POLICY

#### A. **Sexual Misconduct is Prohibited**

The University reaffirms the principle that its Students, faculty, and staff have a right to be free from all types of sex and gender-based discrimination. Sexual Misconduct generally represents a failure in ethical behavior and will not be condoned or tolerated as it subverts the mission of the University and may affect the careers, educational experience, and/or well-being of students, faculty, and staff.

The University of Baltimore prohibits all types of Sexual Misconduct, including, but not limited to, Stalking, Domestic Violence, Sexual Harassment, Sexual Assault, Sexual Coercion, Sexual Violence, Dating Violence, Sexual Exploitation, and Sexual Intimidation, and the University shall take appropriate measures to protect faculty, staff, Students and visitors from such actions. The University will process complaints of Sexual Misconduct to determine whether the conduct occurred in the context of an educational program or activity or had continuing effects on campus or in an off-campus educational program or activity.

#### B. **Jurisdiction and Scope of the Policy**

The University has jurisdiction over, and this Policy applies to, complaints of Sexual Misconduct in connection with any University office or regional center education programs or activities, including, but not limited to, Sexual Misconduct that occurs: (1) in any University facility or on any University property or location under University control; (2) in connection with any University sponsored, recognized or approved program, visit or activity, regardless of location; (3) that impedes equal access to any University education program or activity or adversely impacts the employment of a member of the UB Community; or (4) that otherwise threatens the health or safety of the UB Community. Nothing in this Policy is intended to supersede or conflict with any state or federal compliance obligations.

Even if the University does not have jurisdiction over the Respondent, the University will still take prompt action to provide for the safety and well-being of the Complainant and the broader campus community and will assist a Complainant in identifying the appropriate external reporting options and resources.

Allegations of Sexual Misconduct that are prohibited by state law, federal law, University System of Maryland Policy and/or University of Baltimore Policy that involve Students, faculty, staff and/or third parties that occur within the jurisdiction set forth above fall within the scope of this Policy. A Complainant's rights to a prompt and equitable resolution of complaints made under the University's procedure will not be affected if the Complainant also chooses to pursue other legal remedies, including those initiated by filing a complaint with the responsible federal department or agency. These procedures are intended to encourage the early and constructive consideration of concerns, while at the same time protecting the substantive rights of interested

persons, meeting appropriate due process standards, and assuring that the University complies with applicable state and federal regulations.

This Policy supersedes and replaces all prior policies related to Sexual Misconduct. To the extent that any University policy, procedure, protocol, handbook, faculty or employee bylaw, agreement, or process is inconsistent with this Policy, the Policy shall prevail. If a Complaint is received that includes allegations of Sexual Misconduct, as well as allegations that do not fall within the scope of this Policy, the Title IX Coordinator(s) or Investigator(s) has the option of applying the procedures set forth in this Policy to all allegations or referring the allegations that do not fall within the scope of this Policy to the appropriate University employee for investigation under applicable University policies so long as the allegations of Sexual Misconduct are resolved in accordance with this Policy.

**C. Definitions** – For purposes of this Policy, the following definitions apply:

1. **Complainant** means the person, group, or organization who reportedly experienced Sexual Misconduct regardless of whether that individual participates in the disclosure or review of that report by the University at any point.
2. **Consent** means a knowing, voluntary, and affirmatively communicated willingness to mutually participate in a particular sexual activity or behavior. It must be given by a person with the ability and capacity to exercise free will and make a rational and reasonable judgment. A person who is Incapacitated cannot give consent. *See* Incapacitation definition below. Consent may be expressed either by affirmative words or actions, as long as those words or actions create a mutually understandable permission regarding the conditions of sexual activity. Consent may be withdrawn at any time. Consent cannot be obtained by force, threat, coercion, fraud, manipulation, reasonable fear of injury, intimidation or through the use of the one's mental or physical helplessness or incapacity. Consent cannot be implied based upon the mere fact of a previous consensual dating or sexual relationship. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.
3. **Dating Violence** means any act of violence 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 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.
4. **Domestic Violence** means 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.
5. **Good Faith** means honesty and sincerity of intention when reporting acts of Sexual Misconduct. Allegations of Sexual Misconduct are very serious and could cause great harm. This Policy shall not be used to bring baseless, frivolous or malicious complaints or reports against a member of the UB community. Disciplinary action may be taken against any person who files a complaint or reports Sexual Misconduct under this Policy that is not made in Good Faith. Complaints made in Good Faith will not be considered baseless, even if they are not ultimately sustained

6. **Incapacitation** means a state where an individual cannot make an informed and rational decision to engage in sexual activity because the individual lacks conscious knowledge of the nature of the act (e.g., to understand who, what, when, where, why or how of the sexual interaction) and/or is physically helpless. An individual is incapacitated, and therefore, unable to give consent, if the individual is asleep, unconsciousness, intermittently unconsciousness, or any other state where the individual is unaware that sexual activity is occurring. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to Consent to sexual contact.

Incapacitation may result from the use of alcohol and/or drugs. Consumption of alcohol or other drugs alone is insufficient to establish incapacitation as it is a state beyond drunkenness or intoxication. Because the impact of alcohol or drugs varies from person to person, evaluating whether an individual is Incapacitated, and therefore, unable to give Consent requires an assessment of whether the alcohol or other drugs have rendered the individual physically helpless or substantially incapable of:

- a. Making decisions about the potential consequences of sexual contact;
- b. Appraising the nature of one's own conduct;
- c. Communicating Consent to sexual contact;
- d. Communicating unwillingness to engage in sexual contact;
- e. Making informed judgments; or
- f. Appreciating the nature and quality of the sexual contact.

Evaluating incapacitation also requires an assessment of whether a Respondent knew or should have known that the Complainant was incapacitated based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a reasonable person in the Respondent's position. Although every individual may manifest signs of incapacitation differently, typical signs of approaching incapacitation include slurred or incomprehensible speech, unsteady gait, combativeness, emotional volatility, vomiting, or incontinence.

7. **Interim Measures** means reasonably available accommodations that UB may take to protect the parties while a Sexual Misconduct investigation is pending. Interim Measures may include, but are not limited to, change in academic arrangements, or class section, escort services, changing office responsibilities, alternative work schedule or location for employees, administrative leave, and contact restrictions among the parties and others pending resolution.
8. **Investigator** means a Title IX trained individual appointed to receive and review a complaint in accordance with the established policy and procedures, conduct a partial or full inquiry into the complaint, assist with Interim Measures, as appropriate, handle the processing of matters related to the complaint, and participate in the issuance of the final outcome and decision. A trained Investigator(s) may be assigned on a case-by-case basis and may be any member of the UB Title IX Team.

9. **Reporting Party** means the person who initiated the filing of a report of Sexual Misconduct.
10. **Respondent** means an individual, group, or organization accused of Sexual Misconduct, as described herein.
11. **Responsible Employee** includes any employee who (1) has the authority to take action regarding Sexual Misconduct; (2) is an employee with the duty of reporting Sexual Misconduct; or (3) is someone another individual could reasonably believe has this authority or duty to report Sexual Misconduct. Responsible employees at the University of Baltimore include: the Title IX Coordinator(s) and Investigator(s), faculty and instructors, University administrators, all exempt employees, and non-exempt employees in supervisory roles, University law enforcement and other University first responders. Responsible employees must report allegations of Sexual Misconduct to the University's Title IX Coordinator(s) or Investigator(s) within 24 hours of receiving such information. If an individual reports an instance of Sexual Misconduct to a Responsible employee, confidentiality or anonymity cannot be guaranteed, although the Responsible employee can make a reasonable effort to disclose information on a need-to-know basis.
12. **Retaliation** means taking an adverse action against a University Employee or University Student because the employee or student engaged in a protected activity. An adverse action for an employee may include disciplinary actions, up to and including termination, changes in terms and conditions of employment, or otherwise harassing, intimidating, threatening, restraining, coercing, or discriminating against the employee. An adverse action against a student may include giving students failing grades, preventing students from participating in school activities, threatening expulsion or other disciplinary action against the student, or otherwise harassing, intimidating, threatening, restraining, coercing or discriminating against the student. Protected activities including making a report, testifying, assisting, or participating in any manner in an investigation or proceeding related to Sexual Misconduct.
13. **Sexual Assault**
  - a. **Sexual Assault I. – Non-Consensual Sexual Intercourse** means any act of sexual intercourse with another individual without consent. Sexual intercourse includes vaginal or anal penetration, however slight, with any body part or object, or oral penetration involving mouth to genital contact. Non-consensual sexual intercourse also includes statutory rape, which is defined as sexual intercourse with a person who is under the statutory age of consent.
  - b. **Sexual Assault II. – Non-Consensual Sexual Contact** means any intentional touching of the intimate parts of another person, causing another to touch one's intimate parts, 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 that is touched in a sexual manner. Sexual contact also includes attempted sexual intercourse.
14. **Sexual Coercion** means 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 coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Coercion includes but is not limited to intimidation, manipulation, threats of emotional or physical harm and blackmail. Examples of coercion include threatening to disclose another

individual's private sexual information or threatening to harm oneself if the other party does not engage in the sexual activity.

15. **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 Exploitation includes, but is not limited to, the following list of examples:

- Utilizing any electronics for the purpose of posting or publishing and/or capturing images of a sexual act without the Consent or knowledge of the involved parties;
- Publishing, recreating, or reproducing images of a sexual act without the knowledge or Consent of the parties involved;
- Secretly watching people undress or engage in sexual activity; voyeurism;
- Unwanted exposure to pornographic material;
- Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity regardless of whether the sexual activity actually takes place;
- Prostitution of another; or
- Knowingly exposing another individual to a sexually transmitted infection or virus without that individual's knowledge or Consent

16. **Sexual Harassment** is any unwelcome sexual advance, unwelcome request for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature when: (1) Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, evaluation of academic work, or participation in any aspect of a University program or activity (commonly referred to as "Quid Pro Quo Sexual Harassment"); (2) Submission to or rejection of such conduct by an individual is used as the basis for academic, employment, or activity or program participation related decisions affecting an individual (also Quid Pro Quo Sexual Harassment); or (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, i.e., it is sufficiently severe, persistent or pervasive to create an intimidating, hostile, humiliating, demeaning or sexually offensive working, academic, or social environment (commonly referred to as "Environmental Sexual Harassment").

Sexual Harassment can be committed by or against an individual of any sex, gender identity, gender expression, or sexual orientation. Allegations of Sexual Harassment shall be judged with attention to the facts particular to the case and the context in which the alleged incident(s) occurred. Environmental Sexual Harassment need not be directed at or to a specific person, but may include generalized unwelcome comments of a sexual nature based on sex or gender stereotypes, so long as it is sufficiently severe or pervasive. Harassment can occur between equals (e.g., student to student, staff to staff, faculty member to faculty member) or between persons of unequal power status (e.g., supervisor to subordinate, faculty member to student, student leader to first-year student). Although most often committed by persons perceived to be with greater power against those who appear to have less power, Sexual Harassment also can be committed by a person perceived to have less power (e.g., student harassing a faculty member). Sexual Harassment can be committed by or against an individual of any sex, gender identity, gender expression, or sexual orientation. A single incident of Sexual Harassment may create a hostile environment if the incident is sufficiently severe.

**a. Examples of "Quid Pro Quo" Sexual Harassment include:**

Unwelcome requests or demands for sexual favors accompanied by implied or overt threats or promised rewards, e.g., grades, references or awards (for students) or assignments, promotions, discipline (for employees).

**b. Examples of “Hostile Environment” Sexual Harassment, if Severe or Pervasive include, but are not limited to, the following:**

- Unwanted harassment through public or private insult, sexually suggestive comments concerning a person's body or behavior, and sexual demands.
- Undue and unwanted remarks about another person's clothing, body, sexual activities, sexual preferences, or sexual orientation; unwelcome flirting, teasing, jokes, or gestures that are sexual in nature.
- Unwanted touching, kissing, pinching, patting or brushing another’s body or clothing.
- Touching, kissing, pinching, patting, or indecent exposure of one’s own private body parts.
- Unwanted communications of a sexual nature in any form, over any medium, and in any media.
- Repetition of unwanted invitations for dates.

17. **Sexual Intimidation** means threatening to sexually assault another person or engaging in indecent exposure.
18. **Sexual Misconduct** is an umbrella term that includes Sexual Violence, Sexual Assault, Dating Violence, Domestic Violence, Sexual Exploitation, Sexual Coercion, Sexual Intimidation, Sexual Harassment, Stalking and related Retaliation.
19. **Sexual Violence** is a form of sexual harassment and refers to physical sexual acts perpetrated without Consent. Sexual violence includes rape, Sexual Assault, sexual battery, and Sexual Coercion.
20. **Stalking** means engaging in a sex and/or gender-based conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others, or suffer substantial emotional distress. Stalking behaviors may include, but are not limited to abusive and excessive contact and/or monitoring using telephone calls, voice mails, emails, instant messaging, text messages, and/or social media to one’s home or work; installing spyware on a person’s computer or phone without consent; trespassing; following and/or threatening an individual or a person’s friends and relatives; driving/walking by a person’s home, school, and/or work; or vandalizing property.
21. **Title IX Team** means a trained University employee that is part of a group designated by the UB Title IX Coordinator to be involved in the process of receiving inquires and managing the resolution of reported Sexual Misconduct incidents and complaints.
22. **UB Community Members** means all University Employees and includes all full-time, part-time, visiting and adjunct faculty and instructors, UB administrators and staff, UB regular and contractual employees, contractors, UB students, alumni, volunteers, and third parties (such as vendors and consultants) under UB control.
23. **University Employee** means all full-time, part-time, visiting and adjunct faculty and instructors, all UB administrators and staff, regular and contractual employees and contractors, student employees acting in their capacity as employees.

24. **University Student** means a person enrolled in courses at the University on a full-time, part-time or non-degree basis at the time the alleged violation occurred or an individual who may not be enrolled for a particular term at the time the alleged violation occurred but has a continuing relationship or interest with the University.

**D. Procedures for the Resolution of Sexual Misconduct Complaints**

The University of Baltimore has adopted procedures to provide prompt and equitable resolution of Sexual Misconduct complaints involving UB Community Members, as well as to take reasonable steps to prevent the recurrence of any Sexual Misconduct and remedy discriminatory effects on the reporting party and others, if appropriate.

A Complainant's rights to a prompt and equitable resolution of complaints made under the University's procedures will not be affected if the Reporting Party or Complainant also chooses to pursue other legal remedies, including those initiated by filing a complaint with the responsible federal department or agency. The rules governing this procedure are intended to encourage the early and constructive consideration of concerns, while at the same time protecting the substantive rights of interested persons, meeting appropriate due process standards, and assuring that the University of Baltimore complies with applicable state and federal regulations.

**1. Reporting**

The University will respond to claims of Sexual Misconduct. An individual who has experienced Sexual Misconduct is not required to try to resolve the matter themselves. A Complainant or Reporting Party with allegations involving a University Student Respondent(s) should contact the Office of Student Support. A Complainant or Reporting Party with allegations involving an Employee Respondent(s) or other UB Community Member should contact the Office of Human Resources. The Title IX Coordinator and Compliance Coordinator, located in the Office of Government and Public Affairs, can be contacted for any reported allegation and can direct a reporting party to the appropriate individual to provide assistance. *See Policy section, Oversight of Sexual Misconduct Complaints, for contact information.*

Any Complainant or Reporting Party of Sexual Misconduct 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 criminal assaults and the apprehension and prosecution of assailants. Through its concurrent Jurisdiction and Mutual Aid Agreement with the Baltimore City Police Department, the University of Baltimore Police Department may have access to the Baltimore City Police resources upon request and as appropriate.

The University accepts anonymous reports of alleged Sexual Misconduct and will appropriately follow up on such reports. The individual making the report is encouraged to provide as much detailed information as possible. The University may be limited in its ability to investigate an anonymous report unless sufficient information is furnished to enable UB to conduct a meaningful and fair investigation.

**2. Rights of the Parties Involved in an Investigation**

When a Sexual Misconduct complaint is brought, this policy assures the Respondent and the Complainant are provided an adequate, reliable and impartial investigation and resolution of the complaint, including the following rights:

- a. Treatment with dignity, respect, and sensitivity by institution officials during all phases of the disciplinary proceedings;
- b. A fair and impartial investigation;
- c. Proceedings and resolutions that are prompt and equitable and provide an opportunity for the parties to be heard;
- d. Timely written notice of:
  - i. The reported violation, including the date, time, and location of the alleged violation, and the range of potential sanctions associated with the alleged violation;
  - ii. The party's rights and responsibilities under these Sexual Misconduct policies and procedures and information regarding other civil and criminal options;
  - iii. The date, time, and location of each meeting, or interview that the party is required or permitted to attend;
  - iv. A final determination made by the adjudicating official regarding whether a policy violation occurred and the basis for the determination;
  - v. Any sanction imposed, as permitted by law; and
  - vi. The party's rights to appeal and a description of the appeal process;
- e. Participation in the proceedings, including:
  - i. Access to the case file and evidence regarding the incident obtained by the institution during the investigation or considered by the Investigator, with personally identifiable or other information redacted as required by applicable law;
  - ii. Offering testimony to the Investigator;
  - iii. Submitting evidence, witness lists, and suggested specific questions to be posed to the other party involved in the disciplinary proceedings by the Investigator;
  - iv. 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;
  - v. Reviewing and providing written responses to reports and proposed findings; and
  - vi. Appealing a determination or sanction;
- f. Assistance by a licensed attorney, an advocate supervised by an attorney, or a trained advocate throughout the proceedings, including by the attorney or advocate's:
  - i. Attendance at meetings, and interviews with the party;
  - ii. Private consultations with the party during meetings, and interviews;
  - iii. Assistance with the party's exercise of any right during the proceedings; and
  - iv. The presence of no more than two people, including a personal supporter of the party's choice, an attorney, or an advocate, at any meeting, or interview during the proceedings;
- g. **For students only:** Permit a current or former student who makes a complaint or responds to a complaint on which a formal Title IX investigation is initiated, and who was enrolled as a student at the institution at the time of the incident that is the basis of the complaint, to access counsel paid for by the Maryland Higher Education Commission (MHEC), unless the student knowingly and voluntarily chooses not to have counsel, and provide that in accordance with COMAR 13B.09.01:
  - i. A student may select and retain an attorney before the conclusion of the formal Title IX proceedings;
  - ii. Provide a student with the legal service organizations and referral services available to a student party;
  - iii. 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
  - iv. A student's attorney may seek reimbursement of certain legal costs and fees from MHEC's Legal Representation Fund for Title IX Proceedings.

- h. The University is not responsible for providing attorney representation to any individual involved in matters related to this Sexual Misconduct Policy.

### **Timeframe**

The University endeavors to conduct an informal resolution or a full investigation of a complaint, and to notify both parties of the outcome within 60 calendar days from the date a report is made to the University. This timeframe does not include the appeal process.

There may be circumstances under which the University is unable to meet the 60-day timeframe. In such cases, the University will notify the Complainant and the Respondent.

### **Standard of Proof**

A preponderance of the evidence standard (i.e., a finding that the Sexual Misconduct is more likely than not to have occurred) will be the standard of proof in Sexual Misconduct proceedings under this Policy.

***For more full information on Procedures, see Complaint Procedures.***

### **Amnesty Policy for Students**

The safety and security of the UB Community is the University's primary concern. Except for situations of mandatory intervention for substance abuse, a student conduct violation for alcohol and drug use will not apply to a student reporting party(s) or witness who report a Sexual Misconduct matter to the University or law enforcement, if the University determines that:

- the violation occurred during or near the time of the alleged Sexual Misconduct;
- the student reporting party or witness made the report of Sexual Misconduct in Good Faith; and
- the violation was not an act that was reasonably likely to place the health and safety of another individual at risk.

The University may initiate an educational discussion or pursue other educational assistance remedies regarding alcohol or other drugs, as necessary.

## **E. Confidentiality**

The University works collaboratively with a Reporting Party to establish the appropriate parameters of confidentiality, and in each case makes every effort to operate with discretion and maintain the privacy of individuals involved. Requests for confidentiality will be evaluated in the context of the institution's responsibility to provide a safe and secure environment. The Title IX Coordinator(s) and Investigator(s), where necessary, have the authority to evaluate and make decisions regarding requests for confidentiality.

The University cannot, in every case where it is requested, ensure confidentiality, nor can it ensure that it will not pursue and investigation or resolution of a case. All reports of Sexual Misconduct received, including confidential reports, are to be included in the University's annual disclosure of crime statistics (Annual Security Report), in accordance with the federal law, Crime Awareness and Campus Security Act of 1990 ("Clery Act"). In its Annual Security Report, the University can exclude identifying information about the parties as permitted by law.

A request for confidentiality will be weighed against the following factors: the seriousness of the alleged conduct; whether there have been other complaints about the same individual; the University's responsibility to provide a safe working and learning environment, the Respondent's right to receive information about the allegation(s), and other appropriate factors as set forth in guidance from the Office of Civil Rights.

If a Reporting Party requests confidentiality or fails to cooperate in an investigation and adjudication, reasonable steps to investigate and respond to the complaint will still need to be taken. However, the University's ability to issue certain Interim Measures, investigate the complaint and respond to the complaint may be limited by the request for confidentiality or the lack of cooperation. The University will maintain as confidential accommodations or protective Interim Measures provided to the parties, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the accommodation or protective Interim Measure.

#### **F. Confidential Resources**

The following professional counselors are exempt from the University's mandatory requirement to report alleged Sexual Misconduct that they become aware of in their official positions, other than to comply with federal crime reporting requirements as explained above.

Exceptions to a confidential resource's ability to maintain complete confidentiality may occur in certain situations where disclosure is required by law, for example, when an individual reports incidents of child abuse, or where there is an imminent health or safety threat.

**Confidential Resources**  
**Student Assistance Program**

1-800-327-2251

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

Username: UBALT

**INOVA Employee Assistance Program**

800.346.0110

877.845.6465 (ITD for hearing impaired)

#### **G. Record Keeping**

The University will keep records of actions taken under this policy including, but not limited to, records of any reports of Sexual Misconduct, proceedings, investigations, resolutions of complaints, training activities, and related surveys. Records of incidents and investigations shall be kept in accordance with the University's records retention schedule.

#### **H. Support for Parties Involved**

The University is aware that the parties involved, or witness to, a Sexual Misconduct incident may be uncertain, confused, or unaware of certain procedures or investigative processes available to them and possibly unfamiliar with the medical, emotional, trauma, and counseling support groups and services that are available. In addition, because Sexual Misconduct may constitute both a violation of UB Policy and a crime, a Reporting Party or Complainant may also report incidents of Sexual Misconduct to the University's police department or other appropriate law enforcement agency.

In order to provide resources and to help alleviate the concerns of involved individuals, services are available that can provide support to mentor individuals or witnesses through the various processes or services. An individual having the need for assistance or information may at any time contact:

Available On-Campus Services include:

**Office of Student Support**

1420 N. Charles Street, Academic Center, Room 112  
410.837.4755  
[T9@ubalt.edu](mailto:T9@ubalt.edu)

**Office of Human Resources**

1319 N. Charles Street, Charles Royal Building, Third Floor  
410.837.5410  
[T9@ubalt.edu](mailto:T9@ubalt.edu)

**University of Baltimore Police Department**

1319 N. Charles Street, Charles Royal Building, First Floor  
410.837.4444  
[T9@ubalt.edu](mailto:T9@ubalt.edu)

Available Off-Campus Services include:

Local Crisis Centers for Sexual Assault and Intimate Partner Violence with Hotlines and Trained Advocates Offer Confidential Support and Information

**TurnAround, Inc. (Rape Crisis Center)**

24-hour Helpline: 443.279.0379  
Website: [www.turnaroundinc.org](http://www.turnaroundinc.org)

**House of Ruth (Intimate Partner Violence)**

24-hour Legal Clinic: 1.888.880.7884  
24-hour Hotline: 410.889.7884

**National Domestic Violence Hotline**

1.800.799.SAFE (7233)

**Maryland Network Against Domestic Violence Statewide Helpline**

1.800.MD.HELPS (1.800.634.3577)

**Student Assistance Program**

1-800-327-2251  
Website: <http://portal.BHSONline.com>  
Username: UBALT

**INOVA Employee Assistance Program**

800.346.0110  
877.845.6465 (TDD for hearing impaired)

Medical Attention, Hospitals Offering a SAFE Exam (Sexual Assault Forensic Evidence):

Campus personnel will cooperate to assist a victim of Sexual Misconduct to obtain appropriate medical attention, including providing assistance to summon emergency personnel for transportation to the nearest designated hospital.

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

Criminal Reporting and Court Remedies:

University of Baltimore Police Department	410.837.4444
Baltimore City/County Police	911
Sexual Assault Legal Institute	877.496.7254
Baltimore City Protection Order Advocacy & Representation Project	410.783.0377
Baltimore County Protection Order Advocacy & Representation Project	410.887.3162

Individuals may also seek a protective order from the District Court in accordance with the provisions of Title 3, Subtitle 15 of the Courts and Judicial Proceedings of the Maryland Code, or a protective order or temporary protective order in accordance with Title 4, Subtitle 5 of the Family Law Article of the Maryland Code. Off-campus service providers’ views, opinions, representations, programs and services are solely the responsibility and obligation of the service provider. The University of Baltimore assumes no liability for services rendered through off-campus programs.

**IV. Agreements with Local Law Enforcement and Rape Crisis Program**

In accordance with state statute, the University has pursued formalized agreements with: (1) the local law enforcement agency that complies with the relevant provision of Title IX of the Education Amendments of 1972 and clearly states when a school will refer a matter to local law enforcement; and (II) a State Designate Rape Crisis Program, federally recognized sexual assault coalition, or both that formalizes a commitment to provide trauma-informed services to victims of Sexual Assault and improve the overall response to Sexual Assault by the institution of higher education.

## Complaint Procedures

The Complaint Procedures (the “Procedures”) specified herein apply to all Sexual Misconduct complaints against University Students and Employees. Complaint procedures herein replace and supersede any prior University procedures related to complaints, investigation and/or adjudication of any allegation of Sexual Misconduct against any University Student or Employee. All capitalized terms in these Procedures shall have the meanings set forth in the Policy Prohibiting Sexual Misconduct (the “Policy”).

### **I. Reporting Sexual Misconduct Complaints – General**

A Student or Employee who believes that they have experienced Sexual Misconduct should report the incident to the University as soon as possible. *See definition of Responsible Employee for more on reporting requirements.* Once the University knows, or reasonably should know, of possible Sexual Misconduct, it will take immediate and appropriate action to determine what occurred or to investigate. This obligation applies to Sexual Misconduct covered by this Policy regardless of whether a parallel law enforcement action is pending or regardless of whether a complaint has been filed. In certain circumstances, the University may need to delay temporarily the fact-finding portion of the investigation while the police are initially gathering evidence. 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.

### **II. Title IX Team**

The University has appointed and trained individuals to serve as Investigators for reported incidents of Sexual Misconduct. In certain circumstances, the University may decide to retain the services of an external Investigator who is trained on Sexual Misconduct matters, investigations, policies and procedures.

#### **A. Reporting Incident Where the Respondent is a University Student**

For reported incidents where the Respondent to the complaint holds primary status as a University Student, reports can be made to the Title IX Coordinator(s), Investigator(s) or any Responsible Employee, including:

Pavan Purswani  
Title IX Intake/Investigator  
Office of Student Support  
1420 N. Charles Street, Academic Center  
Room 112  
410.837.4755  
[T9@ubalt.edu](mailto:T9@ubalt.edu)

Llatetra Esters  
Title IX Investigator  
Office of Student Support  
1420 N. Charles Street, Academic Center  
Room 112  
410.837.4755  
[T9@ubalt.edu](mailto:T9@ubalt.edu)

#### **B. Reporting Incidents Where the Respondent is a University Employee or other member of the UB Community, excluding Students**

For reported incidents where the Respondent to the complaint holds primary status as a University Employee or other UB Community Member excluding Students, reports can be made to the Title IX Coordinator(s) and Investigator(s), or a Responsible Employee, including any of the following individuals:

Sally Reed  
Deputy Title IX Coordinator  
Office of Human Resources  
1319 N. Charles Street, Charles Royal Building, Room 337  
410.837.5410  
[T9@ubalt.edu](mailto:T9@ubalt.edu)

### C. Reporting Any Incident

The Title IX Coordinator and Compliance Coordinator serve as generalists and can receive any reported incident of Sexual Misconduct. These individuals, along with other UB Title IX Team Members manage the processing of complaints. The following individuals are the Title IX Coordinator and Compliance Coordinator:

Anita Harewood  
Title IX Coordinator  
Office of Government and Public Affairs  
1420 N. Charles Street, Room 114  
410.837.4533  
[T9@ubalt.edu](mailto:T9@ubalt.edu)

Suzanne Tabor  
Title IX Compliance Coordinator  
Office of Government and Public Affairs  
1420 N. Charles Street, Room 114  
410.837.4533  
[T9@ubalt.edu](mailto:T9@ubalt.edu)

An individual who is unsure of a Respondent's primary status can report an incident to any of the Coordinators and Investigators who will assist with communication to the appropriate individual. If it is determined that the Respondent is not a UB Community Member, a Title IX Coordinator(s) or Investigator(s) may take additional steps as necessary including, but not limited to, seeking the assistance of the University of Baltimore Police Department and denying a third party access to University buildings and grounds, if appropriate pursuant to Md. Code Annotated, Education Article, Sections 26-101 and 26-102.

The Coordinator(s) and Investigator(s) will review the initial complaint to determine the type of action needed, if any, based on the alleged conduct. The Title IX Coordinator will determine the assignment of the Coordinator(s) and Investigator(s) when processing a Sexual Misconduct complaint.

### D. Interim Measures & Resources

Upon receipt of a report, the University may impose reasonable and appropriate Interim Measures designed to eliminate the hostile environment and protect the parties involved while the investigation or resolution procedures are pending. The University will make reasonable efforts to communicate with the parties to ensure that all safety, emotional and physical well-being concerns are being addressed; namely, the University may offer protective measures or to change academic, transportation, and/or working situations, if such accommodation is reasonably available. Interim Measures may be imposed regardless of whether formal disciplinary action is sought by the Complainant or the University. The following Interim Measures are examples of actions that may be considered, if appropriate under the circumstances.

#### Examples of Potential Interim Measures for Students Include:

- Assistance in obtaining or enforcing a "No Contact" Order
- Moving a student to another lab/lecture section
- Allowing a student to take an incomplete or withdraw from a class

- Rescheduling of exams and assignments (in conjunction with appropriate faculty)
- Providing alternative course completion options (with the agreement of the appropriate faculty)
- Providing escort services
- Providing counseling services

**Examples of Potential Interim Measures for Employees Include:**

- Assistance in obtaining or enforcing a “No Contact” Order
- Changing an employee’s employment arrangements (hours, location, job placement, etc.)
- Allowing for authorized leave
- Modifying an employee’s reporting structure
- Referral to an Employee Assistance Program
- Providing escort services

**E. How to Request Interim Measures**

A Complainant or Respondent may contact the Coordinator(s) or Investigator(s) with any requests for Interim Measures. The Coordinator(s) or Investigator(s) are responsible for ensuring that appropriate policies and procedures are in place for responding to allegations of violations of this Policy, which includes coordinating the implementation of reasonable and appropriate Interim Measures in consultation with appropriate University offices.

**F. Interim Suspension**

**For Students**

The Dean of Students or designee are empowered to suspend a Student for an interim period pending disciplinary proceedings or medical evaluation. The interim suspension becomes effective immediately without prior notice. In determining whether to implement an interim suspension, the Coordinator(s) or Investigator(s) will consider whenever there is evidence that the continued presence of the Student on the University’s campus poses a substantial threat to anyone or to the stability and continuance of normal University functions. In such instances, the Student will be afforded an opportunity to meet with University officials to discuss the following issues:

- The reliability of the information concerning the Student’s conduct, including the matter of the Student’s identity.
- Whether the conduct and surrounding circumstances reasonably indicate that the continued presence of the Student on the University’s campus poses a substantial threat to anyone or the stability and continuance of normal University functions.

When interim suspension is imposed:

- An administrative meeting with the Dean of Students or designee will generally be scheduled within 10 working days or as soon as the Student’s condition permits.
- The Student must leave the campus immediately and may not participate in academic, extracurricular or other activities of the University except as may be authorized by the Dean of Students or designee. Possible opportunities for continued academic participation will be coordinated by the Dean of Students or designee.
- During the period of interim suspension, the Student is not permitted on the campus without prior written consent from the Dean of Students or designee.

- An interim suspension hold will be placed on the student record prohibiting any enrollment or student record activity.

The University reserves the right to expedite or amend proceedings for Students placed on interim suspension regardless of pending criminal charges and/or court schedule action. When a status of interim suspension is imposed, notification of this status is communicated to academic deans and relevant faculty by the Dean of Students or designee.

### **Interim Suspension for Employees**

The Coordinator(s) or Investigator(s) will consider whenever there is evidence that the continued presence of the Employee on the University's campus poses a substantial threat to anyone or to the stability and continuance of normal University functions. In such instances, the Employee will be afforded an opportunity to meet with University officials in order to be heard on the interim suspension.

The University will take any necessary steps pursuant to the USM and UB Appointment, Rank & Tenure Policies (USM II-1.00), applicable MOUs, or other applicable separate procedures to seek implementation of the suspension. Employees may have further rights to challenge interim suspensions pursuant to these policies, procedures or MOUs.

### **G. Request for Extensions**

Any party may request an extension of time for any deadline set forth in these procedures due to extenuating circumstances. To request an extension, the party must submit a request in writing to the assigned Investigator. If one party is granted an extension, the other party will be granted the same extension of time.

## **III. Process for Reporting and Reviewing Complaints against UB Community Members**

### **A. Process – General:**

Complainants who believe that they have experienced Sexual Misconduct should report the incident as soon as possible to a member of the UB Title IX Team, such as the Title IX Coordinator(s), Investigator(s), or to a Responsible Employee.

The Title IX Coordinator(s) or Investigator(s) has jurisdiction to investigate and resolve complaints alleging violations of the Sexual Misconduct Policy and is empowered to issue findings and impose sanctions for any violations of the Student Code of Conduct directly related to the alleged Sexual Misconduct or any alleged Policy violations. Determination of responsibility and sanctions for related violations will be issued in the same or a separate notice of decision, as permitted by applicable law or policy, or where no applicable law or policy exists, within the discretion of the University official investigating the complaint.

- 1. Preliminary Meeting with Complainant/Reporting Party:** The Title IX Coordinator(s) or Investigator(s) will hold a preliminary meeting with the Complainant or Reporting Party to gather relevant information from the Complainant and/or Reporting Party and may, at the meeting or thereafter, proceed with an investigation as requested by the Complainant or as directed by University practice. The purpose of this meeting is to provide the Complainant with general information, outline the University's policy and procedures, provide various options for pursuing a complaint, and identify forms of support, as appropriate.

2. **Initial Assessment:** Once the Coordinator(s) or Investigator(s) reviews a complaint, they will determine whether the alleged conduct would present a potential Sexual Misconduct violation under the Policy and will determine whether further University action is warranted based on the alleged conduct. During the assessment, the Coordinator(s) or Investigator(s) will work with relevant University officials to determine the risk of harm to the broader campus community and take steps necessary to address any risks, implement any Interim Measures (*see* Policy Section, Interim Measures & Resources), assess the nature and circumstances of the allegation, assess for pattern evidence or other similar conduct by the alleged Respondent, assess Complainant's expressed preference regarding resolution and any request for confidentiality.

If an initial assessment reveals that UB lacks jurisdiction over the alleged conduct or Respondent, the Coordinator(s) or Investigator(s) will, if warranted, forward the complaint to an appropriate body at the University or outside of the University for consideration and action, such as the Office of Student Support and Success Services, the UBPD, or any other appropriate entity for further action.

3. **Timeline:** Complaints of Sexual Misconduct should be initiated as soon as possible, but, there is no time limit for reporting or investigating a complaint. However, the University's ability to respond may be limited with the passage of time.
4. **Notice to parties:** Provide each party with notice, presented in an appropriate and sensitive format, before the start of the proceedings of:
  - a. The reported violation, including the date, time, and location of the alleged violation, and the range of potential sanctions associated with the alleged violation;
  - b. The parties' rights and responsibilities under these Sexual Misconduct policies and procedures and information regarding other civil and criminal options;
  - c. The date, time, and location of any preliminary meeting (notice of any subsequent meetings will also be appropriately provided to the parties);
  - d. The parties' rights to the assistance of an attorney or an advocate; and
  - e. The parties' rights to have a personal supporter of the party's choice at any meeting, or interview during the proceedings;
5. **Prohibitions regarding sexual history:** Questions or evidence regarding a party's prior sexual history with anyone other than the other party is prohibited, except to:
  - a. Prove the source of injury;
  - b. Prove prior Sexual Misconduct;
  - c. Support a claim that the party has an ulterior motive; or
  - d. Impeach a party's credibility after that party has put their own prior sexual conduct at issue;
6. **Prohibitions regarding mental health history:** Questions or evidence regarding a party's history of mental health counseling, treatment, or diagnosis are prohibited, unless the party consents.

## B. Reporting and Reviewing Complaints:

Once it is determined that the allegations of Sexual Misconduct fall within the scope and jurisdiction of the Policy, the Complainant may request (1) informal review and resolution, or (2) investigation and formal resolution.

### 1. Informal Review and Resolution

The University encourages informal resolution options when the Complainant and Respondent desire and agree to resolve the situation cooperatively, or when inappropriate behavior does not rise to the level of violation of University policy, as determined by the Title IX Coordinator(s) or Investigator(s), but nonetheless is adversely affecting the University or educational environment. The process may include an inquiry into the facts, but typically does not rise to the level of a full investigation.

**2. The Complainant is not required to attempt an informal resolution prior to pursuing an investigation.**

**a. Participation:** The informal review process requires that the Complainant requests an informal mechanism and the Respondent agrees to participate and the alleged action cannot be significantly severe or threaten the health, safety or welfare of the parties or members of the University community. Some reports of discrimination or harassment may not be appropriate for informal resolution. Complaints of Sexual Assault or Sexual Coercion are not permitted to be remedied with informal resolution processes. Any party may end the informal mechanism at any time in favor of a formal resolution. *See Policy section: Investigation and Resolution.*

**b. Notice:** If the terms for pursuing an informal resolution are appropriate as determined by the Title IX Coordinator(s) or Investigator(s), notice will be given to the Complainant and Respondent of the opportunity to participate in a meeting or other informal process on the matter.

**c. Terms:** The Title IX Coordinator(s) or Investigator(s) will set the terms of the interactions between parties to facilitate a resolution. If either party declines or fails to participate in the meeting or subsequent process, or an agreement cannot be reached, either party can elect to end the informal process or pursue an investigation. At any time, one of the parties or the University, when necessary to comply with its safety obligations, can elect to end the information review and proceed with a formal investigation.

**d. Resolution/Outcome:** Informal resolutions may include, but are not limited to, contact restrictions, separation of the parties, and training. Situations that are resolved through informal resolution are usually subject to follow-up after a period of time to assure that resolution has been implemented effectively. Steps taken by the Title IX Coordinator(s) or Investigator(s) to help the parties achieve informal resolution will be documented and sent to the parties concurrently, as a notice of outcome after resolution completion.

**3. Investigation and Formal Resolution**

In response to reports of Sexual Misconduct in cases where either party does not wish to engage in informal resolution, where informal resolution is not appropriate, or in cases where attempts at informal resolution are unsuccessful, the University or any party may initiate a full investigation and formal resolution.

**a. Requested Information:** When initiating a formal complaint and investigation, Reporting Party and Complainant are asked to provide information to the Title IX Coordinator(s) or Investigator(s), including, but not limited to the contact information of the person filing the complaint and a description of the alleged misconduct to include the following information:

- Reporting Party's and/or Complainant's full name, phone number, and UB email address for official communication (or other email if a UB account does not exist);
- when and where the alleged conduct occurred;
- the name(s) of the person(s) alleged to have violated the policy, if known;
- description of the complaint
- the names of any witnesses to the violation;
- any relevant documentation that is available at the time of the report; and
- any relief requested.

If the Complainant/Reporting Party does not submit a complaint in writing, the Coordinator(s) or Investigator(s) may document the Complainant/Reporting Party's statements and ask for the individual's signature on those notes to signify that the individual agrees with the description of the alleged Sexual Misconduct as recounted by the Title IX Coordinator. If the Complainant refuses to cooperate with the investigation or is reluctant to pursue the investigation, the Coordinator(s) or Investigator(s) may decide to go forward with the formal process anyway in an effort to end Sexual Misconduct or related Retaliation, prevent its recurrence, and remedy its effects.

- b. Notice:** The University will notify the Respondent and Complainant in writing of the initiation of the formal resolution process. The notice will comply with III.A.4 above, and will include a list of potential charges or policy violations (*i.e.* all alleged misconduct known at the time of the notice), the complaint or a summary of the complaint as set forth in III.B.4, and a range of potential sanctions for the violations.

The Respondent shall have ten (10) calendar days from the date of the notice to submit a written response or schedule a meeting with the Coordinator(s) or Investigator(s). During the meeting, the Coordinator(s) or Investigator(s) may document the Respondent's statements and ask for the individual's signature on those notes to signify that the individual agrees with the description. If, during the investigation, the Coordinator(s) or Investigation identifies additional misconduct or policy violations, they will issue a supplemental notice listing the additional charges and potential sanctions.

**c. Meeting with the Parties**

If the Investigator(s) or Coordinator(s) have not already met with the Respondent or Complainant, the Investigator will schedule a preliminary meeting with each. The purpose of this meeting is to provide the parties with general information, outline the University's policy and procedures, provide various options for responding to a complaint, and identify forms of support, as appropriate

- d. Investigation:** The Reporting Party, Complainant, Respondent, and Witnesses will be given the opportunity to submit relevant information during the investigation. The investigation ordinarily will include a discussion with the Reporting Party (if the Reporting Party is a different individual than the Complainant), a discussion with the Complainant, a discussion with the Respondent, interviews with relevant witnesses identified by the parties, witnesses or Investigator(s), in the discretion of

the Investigator(s), a review of any pertinent documents or material evidence, and any other actions deemed appropriate by the Investigator(s).

Both parties will have the opportunity to have notice of any evidence that will be considered by the Investigator(s). - Both parties will be given the same access to information to be considered during the investigation, and the same opportunity to present names of relevant witnesses and identify and provide evidence during the process. The parties will be permitted to ask questions of the other party through the Investigator. The Investigator shall have the right to decline a party's request to ask questions where such request would violate these policies or procedures or would not be relevant to the proceedings.

#### **e. Preliminary Report**

At the conclusion of the investigation, the Investigator(s) will prepare a written summary of the information gathered, including but not limited to, the names of the witnesses interviewed, summaries of the information provided by each party and each witness, and copies of all documents or physical evidence provided to the Investigator(s) (the "Preliminary Report"), findings of fact, and a credibility assessment.

#### **f. Parties' Response to the Preliminary Report**

All parties will have ten (10) calendar days after the date the Preliminary Report is emailed to the parties to review the Preliminary Report and all underlying documents. Within those ten (10) calendar days the parties may submit written comments, additional information, questions regarding the Preliminary Report, and questions that one party may request be asked of the other party and/or witnesses via email to the Investigator. If a party requests that an additional witness be interviewed or that a party or witness be interviewed again, the party must provide a statement regarding the information believed to be known to the party or witness and explain the relevance of the information to resolution of the Complaint. If a party submits documents, the party must explain the relevance of each document submitted.

#### **g. The Final Report and Standard of Proof**

All information submitted by the parties in response to the Preliminary Report will be carefully reviewed by the Investigator(s). The Investigator(s) may conduct additional interviews to the extent reasonable, based on the relevancy and materiality of the statement of information known by a witness.

The Coordinator(s) or Investigator(s) will make a decision regarding responsibility and include the decision in the Final Report. If there is a finding of responsibility the Coordinator(s) or Investigator(s) will also include the sanctions imposed. The standard of proof in all Sexual Misconduct cases initiated under the Policy shall be "preponderance of the evidence" i.e. that it is more likely than not that the Respondent is responsible for violation(s) of the Policy.

The Complainant and Respondent will receive a Final Report – a document summarizing the findings and conclusions. The Final Report shall also be shared

with the Title IX Coordinator. The findings will state one of the following conclusions:

- No violation of University policy has occurred, and the Respondent is found to be not responsible for the allegations made.
- There has been a violation of University policy, and the Respondent is found responsible for one or more of the allegations made.

If a conclusion is reached after a comprehensive investigation that there has been a violation of University policy, the Title IX Coordinator(s) or Investigator(s) will then make a determination of an appropriate sanction(s), and will notify the parties of that sanction, unless such disclosure is prohibited by law.

### **C. Sanctions:**

#### **Student Sanctions:**

The range of student sanctions for those found responsible for Sexual Misconduct includes, but is not limited to: reprimand, probation, temporary loss of privilege, permanent loss of privilege, removal from a University activity, withdrawal from a University course, reflection experience, completion of a reflection paper/project, completion of a service learning project, completion of a personal development experience, contact restrictions, deferred sanctions, suspension, dismissal, expulsion, or other sanctions as appropriate. Sanctions may be issued individually or a combination of sanctions may be imposed. The Respondent's disciplinary history may be considered by the Title IX Coordinator(s) or Investigator(s).

If a Student is found responsible, the Dean of Students may be given a copy of the final report.

#### **Employee Sanctions:**

Sanctions that may be imposed against UB Employees and vendors/contractors under this Policy include, but are not limited to, warning, reprimand restriction, work sanctions, mandated assessments, disciplinary probation, demotion, suspension without pay or recommendation for termination, termination of contract and/or other sanctions as appropriate. Sanctions may be issued individually or a combination of sanctions may be imposed. The Respondent's disciplinary history may be considered by the Title IX Coordinator(s) or Investigator(s)

If an employee is found responsible, the employee's supervisor and any other appropriate University administrators will be notified, if necessary to implement the sanctions.

When a tenured or tenure-track faculty member is found responsible for Sexual Misconduct, or when further University action is required prior to implementing any discipline for any employee, per applicable policies or agreements, any final report should indicate that the University will take necessary steps to proceed with the specified sanction. The University will take steps pursuant to the USM and UB Appointment, Rank & Tenure Policies (USM II-1.00), applicable MOU, or other applicable separate procedures to seek implementation of the sanction.

Employees may have further rights to challenge sanctions issued for findings of Sexual Misconduct, pursuant to the USM and UB Appointment, Rank & Tenure Policies, applicable MOU, and/or other applicable separate procedures giving employees a right to challenge implementation of or further appeal a disciplinary action.

If a contractor is found responsible, the vendor and any other appropriate University administrators will be notified, if necessary to implement the sanctions.

- D. Appeal:** The outcome of an investigation may be appealed by either party to the Appeals Officer in accordance with the appeal procedure outlined in these procedures.

## II. PROCESS FOR APPEAL

The Outcome of an investigation may be appealed by either party.

- A. Submitting:** A party wishing to appeal the outcome of an investigation must submit a written request to the Appeals Review Officer, William Schnirel, located in the Academic Center, Room 113 ([wschnirel@ubalt.edu](mailto:wschnirel@ubalt.edu); 410-837-5592) within five (5) business days after the date the notice of decision is electronically transmitted to the parties. If no appeal is submitted within the five-day period, the University's finding(s), sanction(s), disciplinary action(s), or corrective action(s) will be final.
- B. Grounds for Appeal:** The appeal shall consist of a plain, concise, and complete written statement outlining the grounds for appeal. A written request for an appeal must include an explanation of how one or more applicable conditions for appeal have been met. The sole conditions for an appeal are limited to the following:
1. Specified procedural errors or omissions in the investigation or adjudication of the allegations of Sexual Misconduct or errors in interpretation of University policies that were so substantial as to effectively deny a Complainant or Respondent notice or a fair opportunity to be heard and the error or omission significantly impacted the outcome of the investigation. The written request for appeal must specify the error or omission and its potential impact on the outcome;
  2. Consideration of certain new evidence, unknown or unavailable during the original investigation, which if considered would have substantially impacted the outcome of the investigation. The written request for appeal must include a copy of the new evidence and provide an explanation of the evidence's potential impact on the outcome;
  3. Specified violations of substantive due process (i.e., the decision was based on an illegal or constitutionally impermissible consideration such as race, gender, exercise of First Amendment freedoms, etc.). The written request for appeal must specify the violation and its potential impact on the outcome; and/or
  4. The sanction imposed was not appropriate to the violation for which the Respondent was found responsible. The written request for appeal must provide an explanation of why the sanction imposed was not appropriate.
- C. Notice:** The Appeals Review Officer will review the appeal and provide notice of the appeal to the non-appealing party, allowing the non-appealing party to respond within five (5) business days of receiving delivery of the appeal. The non-appealing party's response, if provided, will be shared with the appealing party, which will complete the notice of appeal to parties.
- D.** In any request for an appeal, the burden of proof, the obligation on the appealing party to provide sufficient evidence for their position, lies with the appealing Party, as the original outcome (and sanction, if assigned) are presumed to have been decided reasonably and appropriately.

- E. Outcome:** The Appeals Review Officer may affirm or alter the outcome and/or sanctions or send the matter back to the Investigator(s) for further consideration of relevant material and previously unknown evidence, depending on the basis of the requested appeal.

The Appeals Review Officer will render a written decision on the appeal (“Appeal Decision”) and send it to the parties and the Title IX Coordinator.

Appeal Decisions are final, unless the matter is returned to the Investigator for reconsideration. If the Appeals Review Officer remands the case, the Appeal Decision will state what actions the Investigator(s) must take, as appropriate. Any additional investigation and revisions should be completed as promptly as practicable. If the case is remanded, a party may appeal only the portions of the Final Report that were changed on remand.

- F. Conflict of Interest:** If a conflict of interest exists for the Appeals Review Officer, the Title IX Coordinator will designate an alternative individual to review the appeal and issue a decision. In this circumstance, additional time may be taken to issue the decision.

- G. Sanctions during Appeal:** Sanctions will typically be postponed pending the outcome of any appeal process. If a party is suspended on an interim basis prior to the conclusion of the Investigation and is suspended or expelled as a result of the Investigation, the interim suspension will continue pending the outcome of any appeal.

- H. Timeline:** The Appeals Review Officer will attempt to provide the written decision within fifteen (15) business days from the date that the Appeals Review Officer receives either a response by the non-appealing party, or the response period has lapsed. This time frame may be extended by the Appeals Review Officer as necessary to ensure the integrity and completeness of the appeal process. The Appeals Review Officer will notify the parties if additional time is required to complete the appeal process.

### III. REQUEST FOR EXTENSION

Any party may request an extension of time to submit a request for an appeal due to demonstrated extenuating circumstances only. To do so, the request must be submitted to the Appeals Review Officer as soon as possible and prior to the deadline for submitting an appeal. All other requirements for the appeal process apply.

Policy and Procedures approved by Kurt L. Schmoke, President: November 21, 2014  
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