University of Baltimore
II-7.1 Sexual Harassment and Other Sexual Misconduct Policy
Updated on August 14, 2020

Sexual Harassment and Other Sexual Misconduct Policy

I. Policy Purpose

The University of Baltimore ("University" or "UB") is committed to providing a working and learning environment safe from Sexual Harassment, Sexual Misconduct and Retaliation. The University accomplishes this through training, education, prevention programs, and policies and procedures that promote prompt reporting, prohibit Retaliation, and implement timely, fair and impartial investigations and resolutions that ensure due process and remedy Policy violations.

Sexual Harassment, Other Sexual Misconduct, and Retaliation will not be tolerated in any form. This Prohibited Conduct corrupts the integrity of the educational process and work environment and violates the core mission and values of the University. Creating an environment safe from this Prohibited Conduct is the responsibility of all members of the University community. The entire University community plays an important role in maintaining a respectful, inclusive, and safe working and learning environment. The University encourages bystander intervention amongst members of the campus community to help prevent harmful situations from occurring or escalating.

The University's comprehensive response includes responding to complaints under this Policy and taking appropriate steps to eliminate Prohibited Conduct, prevent its recurrence, and address its effects. The purpose of this Policy and Procedures is to describe the Prohibited Conduct, describe how to file a complaint, articulate the procedures for investigating and resolving complaints, and identify the available resources and educational training programs.

Nothing in this Policy and Procedures should be interpreted to abridge academic freedom or principles of free speech. The University will not condone behavior that violates the freedom of speech, choice, assembly, or movement of other individuals or organizations. In short, responsible dissent carries with it sensitivity for the civil rights of others. This Policy applies to all reports of Prohibited Conduct occurring on or after the effective date of this Policy.

II. Applicability

This Policy prohibits Sexual Harassment, Other Sexual Misconduct and Retaliation. This Prohibited Conduct may be a form of sex discrimination prohibited by 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).

Title IX provides, "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." Federal regulations implementing Title IX require that the University follow certain procedures when the University obtains Actual Knowledge of Sexual Harassment in its Education Program or Activity against a person in the United States. The University's requirement not to discriminate extends to admission and employment.

This Policy also addresses allegations of Other Sexual Misconduct, which includes Sexual Harassment that occurred against a person outside of the United States or not within an Education Program or Activity; Sexual Coercion; Sexual Exploitation; Sexual Intimidation; Attempted Sexual Assault; and Other Sex-based Offenses. Retaliation is also addressed.

This Policy applies to all members of the University 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, guests, and visitors. All University members are prohibited from engaging in, assisting or abetting another's engagement in Sexual Harassment, Other Sexual Misconduct, and Retaliation.

This Policy satisfies the University's obligations under Maryland law and University System of Maryland Policy VI-1.60. To the extent any provision of this Policy conflicts with any other University policy, this Policy controls, This Policy and Procedures apply to incidents occurring on or after August 14, 2020. The previous Sexual Misconduct Policy will apply to incidents that occurred prior to August 14, 2020.

III. Oversight of Sexual Harassment Policy & Compliance

As part of UB's commitment, and in compliance with applicable law and policy, the University has designated a Title IX Coordinator. The Title IX Coordinator has the primary responsibility for coordinating the University's efforts related to the intake, investigation, resolution, and implementation of Supportive Measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy. The Title IX Coordinator manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest. Inquiries about the application of Title IX to the University may be directed to the Title IX Coordinator, the Department of Education, Office of Civil Rights (see section III below), or both. The Title IX Coordinator is:

Pavan Purswani
Title IX Coordinator
Assistant Dean of Students
Office of Student Support, RLB 309
410.837.4755
T9@ubalt.edu

The Title IX Coordinator may delegate responsibilities under this Policy and Procedures to members of the Title IX Team, or other individuals as appropriate. UBalt's Title IX Team and contact information on the website.

IV. External Complaints

Individuals with inquiries or complaints concerning Prohibited Conduct may also contact an external agency. Students and employees may contact the Office of Civil Rights and employees may contact the Equal Employment Opportunity Commission and the Maryland Commission on Civil Rights. 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 OCR office for Maryland is located at:

Atlanta Office
Office for Civil Rights
U.S. Department of Education
61 Forsyth St. S.W., Suite 19T10
Atlanta, GA 30303-8927

Telephone: 404-974-9406
FAX: 404-974-9406; TDD: 800-877-8339
Email: OCR.Atlanta@ed.gov

The OCR National Headquarters is located at:

U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Bldg
400 Maryland Avenue, SW
Washington, DC 20202-1100

Telephone: 800-421-3481
FAX: 202-453-6012; TDD: 800-877-8339
Email: OCR@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

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

V. Scope of the Policy

A. **Sexual Harassment and Retaliation are Prohibited –** The University is committed to providing a workplace and environment that are free from discrimination, harassment and retaliation. The University strictly prohibits Sexual Harassment in its Education Program or Activity. Likewise, the University strictly prohibits Other Sexual Misconduct and Retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of its Education Program or Activity, the University has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of Prohibited Conduct.

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

1. **Actual Knowledge** means notice of Sexual Harassment or allegations of Sexual Harassment to UB's Title IX Coordinator or any official of UB who has authority to institute corrective measures on behalf of UB.

2. **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. A Party's Advisor also conducts cross-examination on behalf of that Party at a Hearing, if applicable, in accordance with this Policy and Procedures. An Advisor shall not be an active participant or speak on behalf of a Party except for the purpose of providing cross-examination at a Hearing. If a Party does not have an Advisor at a Hearing, the University will provide without fee or charge to that Party, an Advisor of the University's choice, to conduct cross-examination on behalf of that Party. An Advisor appointed by the University acts in a confidential capacity on behalf of the Party and is not otherwise involved in the proceedings.

3. **Appellate Hearing Officer** means an individual designated to review decisions concerning responsibility and sanctions. An Appellate Hearing Officer shall have no previous involvement with the substance of the Formal Complaint.

4. **Complainant** means an individual who is alleged to be the victim of conduct that could constitute a violation of this Policy.

5. **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. Examples of applicability of 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.

6. **Day** means a business day when the University is not closed.

7. **Education Program or Activity** means all of the University's operations (including but not limited to employment); which includes locations, events, or circumstances over which the University of Baltimore exercised substantial control over both the Respondent and the context in which the Prohibited Conduct occurs; and also includes any building owned or controlled by a student organization that is officially recognized by the University of Baltimore.

8. **Formal Complaint** means a document filed by a Complainant or signed by the Title IX Coordinator alleging Prohibited Conduct against a Respondent and requesting that the University proceed with the resolution process. A Formal Complaint may be filed with the Title IX Coordinator or Title IX Team member in person, by mail, by e-mail, or any additional method designated by the University.
    a. "**Document filed by a Complainant**" means a document or electronic submission that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party.

9. **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.

10. **Hearing Officer** means an individual designated to preside over the Hearing and has decision-making and sanctioning authority within the adjudication process.

11. **Incapacitation** means an individual's decision-making ability is impaired such that the individual lacks the capacity to understand the "who, what, where, why, or how" of their sexual interaction. Incapacitation may result from sleep, unconsciousness, intermittent consciousness, physical restraint, 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. Where alcohol or drug use is involved, Incapacitation is a state beyond intoxication, impairment in judgment, or "drunkenness." Because the impact of alcohol or other drugs varies from person to person, evaluating whether an individual is Incapacitated, and therefore unable to give Consent, requires an assessment of whether the consumption of alcohol or other drugs has rendered the individual physically helpless or substantially incapable of:
    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; or
    d. Communicating unwillingness to engage in sexual contact;

12. **Informal Resolution** means a broad range of conflict resolution strategies, including, but not limited to, mediation, Respondent acknowledgement of responsibility and/or negotiated interventions and remedies.

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

14. **"Party"** means the Complainant or the Respondent (collectively, the "Parties").

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

16. **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.

17. **Respondent** means the individual alleged to have engaged in Prohibited Conduct under this Policy.

18. **Responsible University Employee** means all University administrators, supervisors, faculty members, and UBPD, who are not confidential resources.

19. **Sanctions** mean disciplinary and other consequences imposed on a Respondent who is found to have violated this Policy.

20. **Support Person** means a person chosen by the Complainant or Respondent to provide emotional, logistical, or other kinds of assistance. The Support Person is a non-participant who is present to assist a Complainant or Respondent by taking notes, providing emotional support and reassurance, organizing documentation, or consulting directly with the Party in a way that does not disrupt or cause any delay. A Support Person shall not be an active participant or a witness, and the Parties must speak for themselves.

21. **Supportive Measures** are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Parties before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the Education Program or Activity without unreasonably burdening the other Party, including measures designed to protect the safety of all Parties or the institution's educational environment, or deter Prohibited Conduct. Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the Parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

22. **Title IX Coordinator** is at least one official designated by the University to ensure compliance with Title IX and this Policy and Procedures. References to the Title IX Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.

23. **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 incidents and complaints reported pursuant to this Policy and Procedures.

C. Prohibited Conduct – This Policy prohibits Sexual Harassment, Other Sexual Misconduct, and Retaliation as set forth below. Prohibited Conduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Prohibited Conduct can be committed by any person, regardless of gender identity, and can occur between people of the same or different sex, sexual orientation or gender expression.

1. **Sexual Harassment** means conduct on the basis of sex that satisfies one or more of the following:

a. **Quid Pro Quo**: An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct.

b. **Hostile Environment**: Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's Education Program or Activity.

c. **Sexual Assault**: An offense classified as a sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Sex Offenses are any sexual act including Rape, Sodomy, Sexual Assault With An Object, or Fondling directed against another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent; also, unlawful sexual intercourse (Incest or Statutory Rape).
   i. **Rape**: (Except Statutory Rape) The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;
   ii. **Sodomy:** Oral or anal sexual intercourse with 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.
   iii. **Sexual Assault With An Object**: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body 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.
   iv. **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.
   v. **Incest:** Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
   vi. **Statutory Rape:** Nonforcible sexual intercourse with a person who is under the statutory age of consent.

d. **Dating Violence:** 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 following factors: (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship.

e. **Domestic Violence**: Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Maryland, or by any other person against an adult or youth Complainant protected from that person's acts under the domestic or family violence laws of Maryland.

f. **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for their own safety or the safety of others; or (2) suffer substantial emotional distress.

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

a. **Other Sexual Harassment** that occurred against a person outside of the United States.

b. **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 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.

c. **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.

d. **Sexual Intimidation:** Threatening behavior of a sexual nature directed at another person, such as threatening to sexually assault another person or engaging in indecent exposure.

e. **Attempted Sexual Assault:** An attempt to commit Sexual Assault.

f. **Other Sex-Based Offenses:** (1) Unwelcome sexual advances; (2) unwelcome requests for sexual favors; or (3) other behavior of a sexual or gender-based nature where: (i) 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 a University-sponsored educational program or activity; (ii) submission to or rejection of such conduct by an individual is used as the basis for an academic, employment, or activity or program participation decision affecting that individual; or (iii) such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance, i.e., it is sufficiently severe or pervasive to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment.

3. **Retaliation** means intimidating, threatening, coercing, or discriminating against, or otherwise taking an adverse action against an individual for the purpose of interfering with any right or privilege secured by law or University policy relating to Prohibited Conduct, or because an individual has made a report, filed a complaint, testified, assisted, participated or refused to participate in any manner in an investigation, proceeding, or hearing related to Prohibited Conduct. Adverse actions include but are not limited to impeding an individual's academic advancement; terminating, refusing to hire, or refusing to promote an individual;

or transferring or assigning an individual to a lesser position in terms of wages, hours, job classification, or job security. Retaliation includes retaliatory harassment. Adverse actions, including charges against an individual for violations of other University policies that do not involve sex discrimination or Prohibited Conduct, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or complaint of Prohibited Conduct, for the purpose of interfering with any right or privilege secured by law, constitutes Retaliation. However, charging an individual with a violation of other University policies for making a materially false statement in bad faith in the course of a proceeding does not constitute Retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any Party made a materially false statement in bad faith. The exercise of rights protected under the First Amendment does not constitute Retaliation. The University will keep confidential, to the extent permitted by the Family Educational Rights and Privacy Act (FERPA), the identity of any individual who has made a report of Prohibited Conduct.

D. **Jurisdiction –** This Policy applies to reported acts of Prohibited Conduct committed by or against students, faculty, staff and third parties, where the:

- conduct occurred on University premises, in any University facility, or on property owned or controlled by the University;
- conduct occurred in the context of a University Education Program or Activity, including, but not limited to, University-sponsored academic extracurricular, study abroad, research, online or internship programs or activities;
- conduct occurred outside the context of a University Education Program or Activity, but has continuing adverse effects on or creates a hostile environment for students, employees or third parties while on University premises or other property owned or controlled by the University or in any University Education Program or Activity; or
- conduct otherwise threatens the health and/or safety of University members

The University does not have jurisdiction to investigate reported incidents involving members of the University 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.

This Policy supersedes and replaces all prior policies related to Sexual Misconduct. If a Complaint is received that includes allegations of Sexual Harassment, as well as allegations that do not fall within the scope of this Policy, the Title IX Coordinator(s) or Investigator(s) should refer 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 Prohibited Conduct are resolved in accordance with this Policy.

E. **Sanctions –** As further explained in the Procedures, Sanctions for Respondents determined to have violated this Policy include, but are not limited to, the following:

Students. Students found in violation of this Policy are subject to Sanctions such as dismissal from the University (suspension or expulsion), disciplinary probation, and other sanctions such as community service and mandatory and continuing participation in training on Prohibited Conduct and education programming, depending on the circumstances and nature of the violation.

Employees. Employees found in violation of this Policy are subject to Sanctions ranging from a written reprimand up to and including separation from employment, depending on the circumstances and nature of the violation.

F. Procedures for the Resolution of Sexual Harassment Complaints– A Complainant's rights to a prompt and equitable resolution of complaints made under the University's procedures 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. The rules governing 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 of Baltimore complies with applicable state and federal regulations.

1. Reporting

Reporting to the University

The University will respond to claims of Prohibited Conduct. A Complainant should contact the Title IX Coordinator or a member of the Title IX Team.

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

A Responsible University Employee must promptly notify a Title IX Team Member of any report of Prohibited Conduct brought to their attention.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the President of the University via email at president@ubalt.edu. The President will evaluate the concern and determine if another trained individual needs to be appointed in the place of the Title IX Coordinator. Concerns of bias or a potential conflict of interest by any other member involved in the resolution process should be raised with the Title IX Coordinator.

Reporting to the Police

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 ("UMBPD") may have access to the Baltimore City Police resources upon request and as appropriate. To report to UMBPD, please call 410.706.6882. 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

Commented [JP1]: May need to be updated because this is the Campus Safety phone number.

Commented [ST2R1]: Maybe we should refer to it as Campus Safety. It is my understanding that unless it is an emergency, this is the number students should use.

Commented [PP3R1]: If the intent here is to contact UMBPD this is not the accurate number. This will only reach campus safety and the student would then be referred or transferred. The non emergency UMBPD numnber is 410-706-6882. Feel free to confirm with Tyrell or Jason but I would reocmmend utilizing this number.

Conduct and related internal University processes may occur prior to, concurrent with, or following criminal proceedings off campus.

Preservation of Evidence for Other Proceedings

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.

Clery Act Timely Warnings

If a report of Prohibited Conduct discloses a serious and ongoing threat to the University community, UMBPD may issue a timely warning of the conduct in compliance with the Clery Act in the interest of the health and safety of the University community. This notice will not contain any personally identifying information related to the Parties.

Co-Occurring Criminal Proceeding

Proceeding with a University resolution of Prohibited Conduct under this 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 Formal 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.

2. **Rights of the Parties Involved in an Investigation –** When a Prohibited Conduct complaint is brought, this Policy assures the Parties are provided a fair, prompt, equitable 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, if known, of the alleged violation, and the range of potential Sanctions associated with the alleged violation;
        ii. The Party's rights and responsibilities under this Policy and information regarding other civil and criminal options;
        iii. The date, time, and location of each Hearing, meeting, or interview that the Party is required or permitted to attend;

iv. A final determination made by the Hearing Officer regarding whether a Policy violation occurred and the basis for the determination;
v. Any Sanction imposed, as required by law; and
vi. The rights to appeal and a description of the appeal process;

e. Participation in the investigation and adjudication of the Formal Complaint in accordance with the Procedures, including:
   i. Access to the case file and evidence regarding the incident obtained by the University during the investigation or considered by the Hearing Officer, with personally identifiable or other information redacted as required by applicable law;
   ii. An opportunity to be heard through the process;
   iii. An opportunity to offer testimony at a Hearing;
   iv. Submitting evidence, witness lists, and suggest specific questions to be posed to the other party during the investigation, or to the other party at a Hearing through the Party's Advisor;
   v. 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;
   vi. Reviewing and providing written responses to draft and final investigation reports; and
   vii. Appealing a determination or sanction
f. Notice, presented in an appropriate and sensitive format, before the start of the resolution process, of:
   i. The Party's right to the assistance of an Advisor, including an attorney or advocate;
   ii. The legal service organizations and referral services available to the Party; and
   iii. The Party's right to have a Support Person of the Party's choice at any Hearing, meeting, or interview.
g. Assistance by an Advisor, which may be a licensed attorney, an advocate supervised by an attorney, or a trained advocate throughout the proceedings, including by the Advisor's:
   i. Attendance at Hearings, meetings, and interviews with the Party;
   ii. Private consultations with the Party during Hearings, meetings, and interviews;
   iii. Assistance with the Party's exercise of any right during the proceedings
h. **For students only:** Student Complainants and Respondents may elect to retain an attorney to serve as their Advisor, though assistance by an attorney is not required. The Maryland Higher Education Commission (MHEC) has developed resources to assist students in retaining an attorney to serve as an Advisor at no or low cost to the student. MHEC provides a list of licensed attorneys who have indicated that they may represent students in Title IX proceedings on a pro bono basis or for reduced legal fees. 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. 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.

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 who reports a Prohibited Conduct matter to the University or law enforcement or a witness who participates in a Prohibited Conduct matter, if the University determines that:

a. the violation occurred during or near the time of the alleged Prohibited Conduct;
b. the student made the report of Prohibited Conduct or is participating in the investigation as a witness in good faith; and
c. 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.

G. False Statements – Knowingly making false statements or knowingly submitting false information under this Policy and Procedures is prohibited.

H. Emergency Removals and other interim measures

1. Student Respondents

An emergency removal (which may take the form of an interim suspension) is for the purpose of addressing imminent threats posed to any person's physical health or safety, which might arise out of reported Prohibited Conduct. The University may undertake emergency removal of a student Respondent for reasons arising from the alleged Prohibited Conduct when the University: 1) undertakes an individualized safety and risk analysis; 2) concludes that there is an immediate threat to the physical health or safety of any student or other individual arising from the alleged Prohibited Conduct; and 3) provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal. The University will not remove a student from the University based solely on an accusation. The University will consider the appropriateness of Supportive Measures in lieu of emergency removal. The University will also consider the applicability of disability laws to the removal decision. The student will be offered an opportunity to meet with the Title IX Coordinator or designee 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 will be permitted to return to campus.

The University may impose an interim disciplinary suspension on a student Respondent in accordance with the Code of Student Conduct for reasons not arising from the alleged Prohibited Conduct.

2. Staff and Faculty Respondents

The University in consultation with the Title IX Coordinator, UBPD, an employee's supervisor and applicable campus or departmental Human Resource office may take interim measures such as changing a Respondent's work responsibilities or work location or placing the Respondent on leave during the resolution process. Such action may be appropriate when there is a legitimate concern that without interim measures: 1) the Respondent will engage in Prohibited Conduct while the investigation is ongoing, or 2) the Respondent would be unduly disruptive to University members or University activities or programs.

3. Third-Party Respondents

University members who are neither students nor employees may be removed from their University role or a University program as an interim measure during the adjudication process at the discretion of the University and in consultation with the Title IX Coordinator.
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I. **Confidentiality –** The University will work collaboratively with the Complainant and Respondent to establish the appropriate parameters of confidentiality, which shall include the following:

1. Formal investigations must not restrict the ability of either Party to discuss allegations or gather and present relevant evidence;
2. Institutions must maintain as confidential any Supportive Measures provided to the parties, to the extent that maintaining confidentiality would not impair the ability to provide Supportive Measures; and
3. Institutions must keep confidential the identity of anyone who has made a report or filed a Formal Complaint of Sexual Harassment, anyone who has been reported as perpetrator, any Respondent, and any witness, except as permitted by FERPA or required by law or to carry out the purposes of the Title IX regulations or this Policy and Procedures.

J. **Confidential Resources –** Unless there is a lawful basis for disclosure, such as reported child abuse or an imminent risk to health or safety, confidentiality applies when persons seek services from the following resources:

Confidential Resources
Student Assistance Program
1-800-327-2251
Website: http://portal.BHSonline.com
Username: UBALT

Guidance Resources (For Employees)
855-410-7628
www.guidanceresources.com
Organization ID: USMEAP

K. **Support for Parties Involved –** The University is aware that the parties involved, or witness to, a Prohibited Conduct 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 order to provide resources and to help alleviate the concerns of involved individuals, services are available that can provide support to individuals or witnesses through the various processes or services. An individual having the need for assistance or information may at any time contact:

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

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 Coalition Against Sexual Assault(MCASA)
Statewide Sexual Assault Information and Referral Helpline 1-800-983-RAPE (4673)
https://mcasa.org/

RAINN National Sexual Assault Crisis Hotline
800-656-HOPE (4673) - 24 hour Hotline or 24 hours/7 days a week
https://www.rainn.org/

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

Guidance Resources (For Employees)
855-410-7628
www.guidanceresources.com
Organization ID: USMEAP

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

Campus personnel will cooperate to assist a victim of Prohibited Conduct 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

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. Please be sure to visit the website for Off-Campus Services for the most updated availability.

L. Training

1. **Prevention and Awareness Education** The University will develop and implement preventive education, directed toward both employees and students, to help reduce the occurrence of Prohibited Conduct. At a minimum, these educational initiatives must contain information regarding what constitutes Sexual Harassment, definitions of consent and Prohibited Conduct, the institution's procedures, bystander intervention, risk reduction, and the consequences of engaging in Prohibited Conduct. 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, at a minimum, the same information. Educational initiatives for employees shall comply with Md. Code Ann., State Pers. & Pens. § 2-203.1.

2. **Training for Persons Involved in Sexual Harassment Cases** All persons involved in responding to or resolving Prohibited Conduct reports will participate in training in handling complaints of Prohibited Conduct under this Policy. The University will make these training materials publicly available on its website. The University will ensure that Title IX Coordinators, Investigators, Hearing Officers, Appellate Hearing Officers, and any person who facilitates an Informal Resolution process, receive training on the following: the definition of Prohibited Conduct; the scope of the University's Education Program or Activity; how to conduct a resolution process including investigation, hearings, appeals, and Informal Resolution, as applicable; how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; technology to be used at a live hearing; and issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant. Any materials used to train the individuals will not rely on sex stereotypes and will promote impartial resolutions of Formal Complaints under this Policy.

M. Record Keeping for Sexual Harassment Cases – The University must maintain, for seven years, records of:

1. Each Sexual Harassment investigation, including any determination regarding responsibility and any audio or audiovisual recording, any disciplinary sanctions imposed on the Respondent, and any Remedies provided to the Complainant designed to restore or preserve equal access to the Education Program or Activity
2. Any appeal and the result thereof;
3. Any Informal Resolution and the result therefrom; and

4. All materials used to train Title IX Coordinators, Investigators, decision-makers, and any person who facilitates an Informal Resolution process. The University must make the most recent training materials publicly available on its website.
5. The University must create and maintain for seven years records of any actions, including any Supportive Measures, taken in response to a report or Formal Complaint of Sexual Harassment. In each instance, the University must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to its Education Program or Activity. If the University does not provide a Complainant with Supportive Measures, then it must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the University in the future from providing additional explanations or detailing additional measures taken.

Interim Procedures for Investigating and Resolving Allegations of Sexual Harassment and Other Sexual Misconduct

These Procedures are part of the University of Baltimore II-7.1 Policy and Procedures on Sexual Harassment and Other Sexual Misconduct and are the exclusive procedures that govern the handling of all reports or complaints of Prohibited Conduct under the Policy.

I. Anticipated Timelines

The University's goals are to provide equal educational opportunities, promote campus safety, and remedy the effects of Prohibited Conduct. Good faith efforts will be made to complete Informal Resolutions, investigations and the adjudication process, if any, in a prompt, fair, and impartial manner. The Title IX Team will conduct any investigation as promptly as possible under the circumstances, taking into account the complexity of the allegations, the complexity of the investigation and resolution, the severity and extent of the alleged misconduct, the number and availability of witnesses, the University's calendar, and/or other unforeseen circumstances. The University seeks to take appropriate action, including investigation and resolution of Formal Complaints, generally within (120) Days. An extension of the referenced timeframe may be required for good cause to ensure the integrity and thoroughness of the investigation.

The Title IX Coordinator or designee may extend the time frames set forth in this Policy and Procedures for good cause, with written notice of the extension to both Parties and the reason(s) for the delay. Written requests for delays by Parties may be considered. Factors considered in granting or denying an extension may include considerations such as, but not limited to, the following: the absence of a Party, a Party's Advisor, or a witness; concurrent law enforcement activity; and/or the need for language assistance or accommodations of disabilities.

II. Right to Support Person and Advisor

A Party may be accompanied at any meeting held by the Title IX Coordinator or designee under these Procedures by up to two (2) people, including one (1) Support Person, and one (1) Advisor. When a Party wishes to be accompanied by a Support Person or Advisor to a meeting, the Party must notify the Title IX Coordinator(s) or designee. Parties may select a Support Person or Advisor at any point before the conclusion of the resolution process.

Throughout the process, the Title IX Coordinator or designee will communicate and correspond directly with the Parties, not indirectly through a Support Person or Advisor.

III. Report Intake and Formal Complaint

A. Receipt of Report of Prohibited Conduct – Upon receipt of a report alleging Prohibited Conduct from a Complainant, a Title IX Team member will provide written acknowledgement of receipt of the report to the Complainant, if known, and include (1) a copy of the Policy and Procedures and (2) options under the resolution process. The Complainant will be informed of available community and campus resources and services; Supportive Measures; their right to a Support Person and the Support Person's role;

their right to an Advisor and the Advisor's role; their right to file a report with law enforcement; and the University's prohibition against Retaliation.

If the report is received from a third party, meaning someone who is not the Complainant or the Respondent, a Title IX Team Member will provide written acknowledgement of receipt of the report and take appropriate action as the information provided allows.

Receipt of a report alleging Prohibited Conduct shall not constitute the filing of a Formal Complaint under this Policy.

As explained more fully below, the Complainant may: (1) ask the Title IX Team Member to take no further action beyond offering Supportive Measures; or (2) file a Formal Complaint.

B. **Intake and Initial Assessment of Report –** A Title IX Team Member will contact the Complainant to conduct an intake and initial assessment, which will determine whether the reported conduct, if substantiated, would potentially constitute a violation of this Policy. The Complainant can choose whether or not to participate with the intake and initial assessment process. If the Complainant opts not to participate, the Title IX Team may be limited in its ability to assess the report. The Complainant will have an opportunity to ask questions about options and resources and seek additional information. The Title IX Team will attempt to gather information that will enable the Title IX Team, in consultation with other appropriate University offices, to:

    a. Assess a complainant's request for Supportive Measures;
    b. Assess the nature and circumstances reported;
    c. Assess jurisdictional concerns regarding each Party;
    d. Assess the safety of the Complainant and of the University community;
    e. Implement any appropriate Supportive Measures;
    f. Assess for pattern evidence or other similar conduct by the Respondent as relevant to the safety assessment;
    g. Assess the Complainant's expressed preference regarding resolution, including any request that no further action be taken;
    h. Assess any request by the Complainant for confidentiality or anonymity; and
    i. Assess the reported conduct for possible referral to UBPD for a timely warning under the Clery Act.

    When the initial assessment determines the alleged conduct would not constitute a potential violation under this Policy if substantiated, but may violate other University policies, the report may be referred to another University process and/or office.

C. Supportive Measures – The Title IX Coordinator or designee facilitates Supportive Measures, which are available to the Parties upon receiving a report or Formal Complaint alleging Prohibited Conduct. A Title IX Team member will consider the Parties' wishes with respect to planning and implementing the Supportive Measures. The Title IX Team will maintain the reasonable confidentiality of the Supportive Measures, provided that this does not impair the ability to provide the Supportive Measures. The Title IX Team will

act to ensure as minimal an academic and employment impact on the Parties as possible and implement Supportive Measures in a way that does not unreasonably burden either Party.

Supportive Measures may include, but are not limited to:

Academic Accommodations

a. assistance in transferring to another section of a lecture or laboratory
b. assistance in arranging for incompletes
c. assistance with leave of absence
d. assistance with withdrawal from coursework
e. rearranging class schedules
f. re-scheduling exams
g. extensions of academic deadlines
h. dropping a course
i. facilitating adjustments so Complainants and Respondents do not share the same classes

Employment Accommodations

a. Arranging different work shifts temporary assignment, if appropriate, to other work duties and responsibilities, or other work locations, or other work groups/teams or alternative supervision/management
b. Extensions of work deadlines
c. Arranging for the use of leave, a leave of absence or advance leave if appropriate.

Safety Measures

a. Providing campus safety escorts
b. Increased security and monitoring of certain areas of the campus
c. Transportation and parking arrangements
d. Guidance in making a report to law enforcement or obtaining a protective order

Other

a. No Contact Order
b. Denial of Access to campus grounds and/or buildings
c.

The Title IX Team will promptly inform the parties of any Supportive Measures that will directly impact either party. The Title IX Coordinator or designee retains discretion to impose and/or modify any Supportive Measures based on all available information. Supportive Measures will remain in effect as necessary.

D. Filing of a Formal Complaint

A Formal Complaint alleging a Prohibited Conduct against a Respondent may be filed with a Title IX Team member in person, by mail, or by electronic mail, by using the contact information listed in Section IV of the Policy.

Should the Complainant decide to file a Formal Complaint, a Title IX Coordinator or designee will review the Formal Complaint and determine whether it should be dismissed or move into the resolution process.

E. Special Considerations: Requests for Anonymity and to Not Proceed

If a Complainant does not wish to disclose their personally identifiable information (i.e. wishes to remain anonymous) and/or does not wish to file a Formal Complaint, the Complainant may make such a request to the Title IX Coordinator or their designee. Regardless of their choice, the Title IX Coordinator or designee will still offer Supportive Measures to the Complainant as appropriate. The Complainant retains the ability to file a Formal Complaint at any time.

In the event a Complainant does not wish the proceed, the Title IX Coordinator or designee has ultimate discretion over whether the University proceeds, and the Title IX Coordinator or designee may sign a Formal Complaint to initiate the resolution process when appropriate. The Title IX Coordinator or designee's decision to sign a Formal Complaint will be based on whether:

1. an investigation is needed to comply with legal anti-discrimination requirements or is otherwise the most appropriate and effective response;
2. the effect that non-participation by the Complainant may have on the availability of evidence and the ability to pursue the resolution process fairly and effectively; and/or
3. a violence risk assessment shows a compelling risk to health and/or safety which requires the University to pursue formal action to protect the University community. A compelling risk to health and/or safety may result from any combination of the following:
    a. Evidence of patterns of misconduct;
    b. Predatory conduct, threats, abuse of minors;
    c. Allegations that the Prohibited Conduct was committed by multiple persons; and/or
    d. Use of weapons and/or violence.

When the Title IX Coordinator or designee signs the Formal Complaint, the Title IX Coordinator does not become the Complainant and is not otherwise a Party.

Overall, the University's ability to remedy and respond to the Formal Complaint and/or to designate the Formal Complaint as Title IX-based Prohibited Conduct may be limited if the Complainant does not want the University to proceed with the resolution process. The goal is to provide the Complainant with the opportunity to file a Formal Complaint.

F. Designation of Prohibited Conduct and Dismissal of Formal Complaint

Upon receipt of a Formal Complaint, the Title IX Coordinator or designee will promptly send a *Written Notice of Designation* simultaneously to both Parties of:

1. Its decision about whether to designate the alleged conduct as Title IX-based Prohibited Conduct, and the reasons for this decision;
2. Its decision to proceed with the resolution process or to dismiss the Formal Complaint as described below (Dismissal under this Policy and Procedures does not preclude a referral to another University process and/or office, as appropriate); and
3. The Parties' rights to appeal the designation and/or dismissal decision.

Title IX-based Prohibited Conduct – The Title IX Coordinator or designee ***must*** designate the alleged conduct as Title IX-based Prohibited Conduct if:

a. The alleged conduct would constitute Sexual Harassment within an Education Program or Activity against a person in the United States if substantiated; and
b. The Complainant is participating or attempting to participate in an Education Program or Activity at the time the Complainant files a Formal Complaint, or the Title IX Officer files a Formal Complaint because the alleged conduct meets the above definition.

Mandatory Dismissal – The Title IX Coordinator or designee ***must*** dismiss a Formal Complaint or any allegations therein if, at any time during the Resolution Processes it is determined that:

a. The conduct alleged in the Formal Complaint, if substantiated, would not constitute Prohibited Conduct; or
b. The allegations in the Formal Complaint do not fall within the University's jurisdiction.

Permissive Dismissal – The Title IX Coordinator or designee ***may*** dismiss a Formal Complaint or any allegations therein if, at any time during the Resolution Processes:

a. A Complainant notifies the Title IX Coordinator or designee in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; or
b. The Respondent is no longer enrolled in or employed by the University; or
c. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

G. Appeal of Designation and/or Dismissal

Either Party may appeal the *Written Notice of Designation*. The bases for appeal are limited to procedural irregularity, new evidence, and conflict of interest as explained in Section IV.D.5.a of these Procedures. The process for the appeal is set forth in Section IV.D.5.b of these Procedures.

IV. **Resolution Processes**

A. Consolidation of Complaints – At the discretion of the Title IX Coordinator or designee, multiple reports may be consolidated into one Informal Resolution and/or investigation if the information related to each incident is relevant in reaching a resolution. Matters may be consolidated where the matters involve multiple Complainants, multiple Respondents, or related facts and circumstances involving the same Parties, including those arising out of the same or different events(s).

B. Informal Resolution Process – Informal Resolution may serve to address the alleged Prohibited Conduct as an alternative to proceeding to an investigation and Hearing. Informal Resolution can encompass a variety of approaches agreed to by the Parties including, but not limited to, mediation, Respondent acknowledgement of responsibility, and/or negotiated interventions, Sanctions and Remedies facilitated by the Title IX Coordinator or designee.

The purpose of Informal Resolution is to take appropriate action by imposing individual and community interventions and Remedies designed to maximize the equal access

to the Education Program and Activity, as well as to address the effects of the conduct on the larger University community.

1. **Request for Informal Resolution –** Either Party may request Informal Resolution, including their preferred approach of reaching a resolution, such as mediation, Respondent acknowledgement of responsibility, and/or negotiated interventions, Sanctions and Remedies. Both Parties and the Title IX Coordinator or designee must agree to the process in writing. Either Party may terminate an ongoing Informal Resolution at any time prior to reaching an agreement.

   The Title IX Coordinator or designee has the discretion to determine whether a Formal Complaint is appropriate for Informal Resolution and which resolution approach is best utilized given the specifics of the Formal Complaint. The Title IX Coordinator or designee retains discretion to terminate an ongoing Informal Resolution process at any time, at which point the Title IX Coordinator or designee will determine appropriate next steps. The Title IX Coordinator or designee will inform both Parties simultaneously in writing of the reason(s) for terminating an Informal Resolution process.

2. **Informal Resolution Not Permitted –** Although the Title IX Coordinator or designee retains discretion to determine whether a Formal Complaint is appropriate for Informal Resolution in other cases, Informal Resolution is not permitted under the following circumstances:

   i. Formal Complaints by a student alleging Sexual Harassment against an employee (staff or faculty); or
   ii. Formal Complaints alleging Sexual Assault or Sexual Coercion.

3. **Informal Resolution Permitted –** Where Informal Resolution is utilized, the process is be voluntary and not a requirement or condition of continued enrollment or employment at the University.

   In such case, Parties will receive a written *Notice of Informal Resolution* containing the following:

   i. Summary of the allegations;
   ii. Notice that neither Party is required to accept responsibility for the alleged Prohibited Conduct, unless a Respondent chooses to do so;
   iii. Notice that there is no finding of a Policy violation or Sanction unless agreed to by the Respondent;
   iv. Notice that agreement to Informal Resolution is not a waiver of right to proceed with an investigation and Hearing;
   v. Notice that until an Informal Resolution agreement is finalized, the Parties may, at any time, opt out of Informal Resolution, at which point the Formal Complaint would proceed or resume to investigation and Hearing, as appropriate;

vi. Notice of any potential consequences resulting from participating in the Informal Resolution process, including that records will be maintained or could be shared;
vii. Notice about the reasonable confidentiality restrictions of the Informal Resolution process;
viii. Notice that if an Informal Resolution agreement is finalized and implemented, it precludes the Parties from resuming investigation and adjudication of a Formal Complaint arising from the same allegations; and
ix. Notice that the results of Informal Resolution are not eligible for appeal.

4. Mediation and Other Informal Resolution

Informal Resolution, including mediation, must be conducted by a trained facilitator who guides the Parties in a confidential dialogue to reach an effective resolution, if possible. The trained facilitator may be internal or external to the University depending on the needs of the specific case as determined by the Title IX Coordinator or Designee. Sanctions are not possible as a result of Informal Resolution unless the Parties agree to accept Sanctions and/or appropriate Remedies.

5. Negotiated Informal Resolution Interventions, Sanctions and Remedies

If agreed to by the Parties and determined appropriate by the Title IX Coordinator or designee, the following Informal Resolution interventions, Sanctions, and Remedies may be utilized, including but 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 individuals or groups;
c. Academic modifications for either Party;
d. Workplace modifications for either Party;
e. Completion of projects, programs, or requirements designed to help the Respondent manage behavior, refrain from engaging in Prohibited Conduct, and understand why the Prohibited Conduct is prohibited;
f. Compliance with No Contact Orders;
g. Compliance with a Denial of Access;
h. Completion of community service hours over a specific period of time
i. Probation;
j. Suspension; and
k. Separation from the University.

6. Completion of Informal Resolution

When an Informal Resolution agreement is reached, the matter is resolved and closed. Appeals by either Party are not permitted. The Title IX Coordinator or designee is responsible for ensuring compliance with the agreement.

In cases where an agreement is not reached and the Title IX Coordinator or designee determines that further action is necessary, or if either Party fails to comply with the terms

of the Informal Resolution, the matter may be referred for an investigation and adjudication under these Procedures, as appropriate.

The Parties will be provided with a written copy of the terms of the Informal Resolution agreement. The Title IX Coordinator or designee will maintain all records regarding Informal Resolution.

7. Respondent Acceptance of Responsibility

The Respondent may accept responsibility for all or part of the alleged Policy violation(s) at any point during the resolution process. If the Respondent wishes to accept responsibility, the Title IX Coordinator(s) or Investigator(s) may initiate the Informal Resolution process if permitted, after obtaining both Parties' voluntary, written consent, and after providing the required *Notice of Informal Resolution* if it has not already been provided.

Any remaining allegations that are not resolved through the Informal Resolution process may proceed to investigation or Hearing, as appropriate.

C. Investigation Process

When investigating a Formal Complaint, the below procedures will be utilized. However, at any time prior to reaching a determination regarding responsibility, an Informal Resolution may occur if appropriate conditions are satisfied (see Section IV.B of these Procedures).

1. Presumption of Not Responsible

Respondents are presumed not responsible for any and all allegations until the conclusion of the investigation and resolution process. The University provides the parties with the written determination following any appeal if an appeal is filed, or if an appeal is not filed, on the date on which an appeal would no longer be considered timely.

2. Notice of Policy and Procedures

The Complainant and Respondent are required to receive the Policy and Procedures. The Investigator will verify that the Parties have been provided with a copy of the Policy and Procedures to ensure the Parties have adequate information about the investigation and resolution. The Investigator will also ensure that both Parties have had an opportunity to ask and receive answers to any questions. This will be provided by the Title IX Coordinator or designee.

The Parties should also be aware of their Rights and Responsibilities which include but are not limited to the following:

a. Right to be treated with dignity and respect by all University officials;
b. Right for information to only be shared with others on a need-to-know basis in order to facilitate a resolution;
c. Right to be informed of available Supportive Measures;

d. Right to be informed of available community and campus resources and services;
e. Right to a Support Person and/or an Advisor;
f. Right to regular updates on the status of the investigation and/or resolution; and
g. Prohibition against Retaliation and guidance about reporting any retaliatory conduct.

3. Notice of Investigation

The Parties will be provided a written *Notice of Investigation*, which will include the following:

a. The University's complete Policy and Procedures as set forth herein;
b. The allegations of Prohibited Conduct as defined by the Policy;
c. Identities of the Parties involved, if known;
d. Date(s) and location(s) of the alleged incident(s), if known;
e. Statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the adjudication process;
f. Parties may have an Advisor of their choice, who may be an attorney;
g. If Parties do not select an Advisor of their choice, the University will provide a trained Advisor for purposes of performing cross-examination on behalf of that Party at the Hearing;
h. Parties may have a Support Person of their choice;
i. Parties may inspect and review evidence consistent with Section IV.C.5.c & d below
j. Advisement that knowingly making false statements or knowingly submitting false information during the investigation and adjudication process is prohibited;
k. If the University decides to investigate additional allegations about either Party that are not in the original notice, the Parties will receive an amended notice containing the additional allegations; and
l. The range of potential Sanctions associated with the alleged Prohibited Conduct.

4. **Role of the Investigator**

The Title IX Coordinator will designate an Investigator from the Title IX Team and/or an external Investigator to conduct a prompt, thorough, fair, and impartial investigation.

5. **Overview of the Investigation**

a. **Standard of Proof –** The standard of proof for a determination of responsibility under this Policy is Preponderance of the Evidence. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility remain with the University and not on the Parties.

b. **Evidence –** The investigation is an impartial fact-gathering process. It is an important stage of the process in which both Parties have an opportunity to be

heard regarding the Formal Complaint. During the investigation, the Investigator will speak separately with both Parties and any other individuals who may have relevant information. No audio or video recording of any kind is permitted during such interviews. The Parties will each have an equal opportunity to present witnesses (including fact and expert witnesses, at their own expense) and any other relevant evidence.

Evidentiary materials, regardless of relevance, may be provided by a Party; however, the Investigator will determine whether and how the evidence and witnesses submitted by the Parties are directly related to the allegations and whether and how that information will be factored into the investigation. The Investigator will also gather any available physical evidence or documents, including prior statements by the Parties or witnesses, communications between the Parties, email messages, text messages, social media materials, and other records, as appropriate and available.

The University does not restrict the ability of Parties to discuss allegations that have been reported or to gather and present evidence. Parties and witnesses are cautioned not to discuss the allegations in a manner that constitutes Retaliation or unlawful conduct.

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

The University cannot access, consider, disclose, or otherwise use a Party's record(s) that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the capacity thereof or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the Party. However, a Party can provide voluntary, written consent to use the above-mentioned material for the investigation and adjudication. Consent shall be specifically limited to the information provided. At no time shall consent be construed as consent to access any other information in the Party's records.

The Investigator will not use require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally

recognized privilege, unless the person holding such privilege has waived the privilege.

d. **Preliminary Draft Investigation Report –** At the conclusion of the investigation, the Investigator will provide a written investigation report (the *Preliminary Draft Investigation Report*) that provides a case timeline, appropriately summarizes the information gathered (including, but not limited to, the names of witnesses and summaries of their statements), and evidence that is directly related to the Formal Complaint.

e. **Notice of Opportunity to Review the Draft Investigation Report –** Before the investigation report is complete, the Parties will be given an equal opportunity to review and meaningfully respond to the *Preliminary Draft Investigation Report*. The Investigator will also send to the Party, and the Party's Advisor if applicable, all evidence obtained that is directly related to the Formal Complaint, including evidence upon which the University does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence, whether obtained from a Party or other source, for inspection and review. Parties will have ten (10) Days to review the *Preliminary Draft Investigation Report* and all evidence and to submit a written response, including comments, information, and/or questions to the Investigator. If there is any new or additional information to be provided by either Party, it must be presented to the Investigator at this time.

If further investigation is warranted based on the Parties' written responses, the Investigator will continue the investigation, as needed. The Investigator will consider the Parties' written responses prior to completing the *Final Investigation Report*.

f. **Final Investigation Report –** Upon timely receipt of the Parties' written responses and any related further investigation, or after the ten (10) Day review period has lapsed with no written responses, the investigation ends. The Investigator will complete the *Final Investigation Report*. The *Final Investigation Report* will contain summaries of all relevant information obtained throughout the course of the investigation.

The *Final Investigation Report* will be submitted to the Hearing Officer.

D. Hearing Process

1. Review of Final Investigative Report

a. Following completion of the *Final Investigation Report*, the Title IX Coordinator or designee will communicate separately with each Party.
b. The Title IX Coordinator or designee will provide each Party with a confidential copy of the *Final Investigation Report*, including all attachments, and explain the next steps in the process.
c. Each Party will be allowed ten (10) Days to submit a written response to the *Final Investigation Report*, which will be considered by the Hearing Officer.

Exceptions may be made during times when the University is not open or in other circumstances. All written responses will be shared with the other Party prior to the Hearing.

d. In order to protect the privacy of all individuals involved, all materials shared with the Parties are considered confidential and should not be publicly disclosed or released.

2. Hearing Procedures

a. A Hearing date will be provided to the Parties at least five (5) Days in advance of the Hearing. Hearing dates are scheduled in consultation with the Parties whenever possible.

b. If a Party does not have an Advisor present at the Hearing, the University will provide one free of charge for the purpose of conducting cross-examination on behalf of that Party. When able, Parties must notify the Title IX Coordinator or designee at least 48 hours prior to the hearing if an Advisor is needed from the University.

c. The Hearing Officer has the right to remove any participant from a hearing after giving a warning that the behavior is unacceptable. Continued disruptive behavior may result in additional disciplinary action.

d. The University will notify all witnesses interviewed during the investigation of the date and time of the Hearing. The Hearing Officer may also request the presence of witnesses.

e. The Hearing Officer may conduct the Hearing with all Parties and witnesses physically present in the same geographic location or, with any or all Parties, witnesses, and other participants present at the Hearing virtually, with technology enabling participants simultaneously to see and hear each other. If both parties agree with a witness statement, a witness does not need to be present at the hearing.

f. At either Party's request, the University will provide the Parties with separate rooms (including separate virtual rooms if the Hearing is held virtually) and use technology enabling the Hearing Officer and Parties to simultaneously see and hear the Party or the witness who is answering a question.

g. All Hearings are closed to the public.

h. Hearings will be recorded by the University. No other recordings will be permitted. Recordings are maintained by the University. Parties may submit a written request to inspect and review the recording.

i. All evidence subject to the Parties' inspection and review as explained in Section IV.C.5.d of these Procedures will be available at the Hearing to give each Party equal opportunity to refer to such evidence during the Hearing, including for purposes of cross-examination.

j. The Investigator will summarize the *Final Investigation Report*.

k. Each Party may provide a brief opening statement.

l. Each Party's Advisor will be provided an opportunity to cross-examine the other Party and any witnesses. Questioning will be conducted directly, orally and in real time by the Party's Advisor only. Parties may not question each other or witnesses directly.

m. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Hearing Officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. All relevant questions and follow-up questions, including those challenging the credibility of Parties and witnesses, will be allowed.
n. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence:
o. Are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant; or
p. Concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove Consent.

q. Questions and evidence about the Respondent's prior sexual history with an individual other than a Party to the proceedings may only be considered if the evidence:
    i. Proves prior sexual misconduct;
    ii. Supports a claim that a Party has an ulterior motive; or
    iii. Impeaches a Party's credibility after that Party has put their own prior sexual conduct in issue.
r. The Hearing Officer may not consider a Party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the Party, unless the University obtains that Party's voluntary, written consent to do so.
s. The Hearing Officer may not consider any questions or evidence about a student's history of mental health counseling, treatment, or diagnosis, unless the student consents.
t. The Hearing Officer may not consider questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
u. If a Party or witness declines to answer any questions, the Hearing Officer will not rely on any prior statements made by that Party during the investigation process in making a determination regarding responsibility.
v. If a Party or witness refuses to submit to cross-examination, then the Hearing Officer is required to ignore that Party or witness's statement and reach a decision based on the remaining body of relevant evidence. The Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a Party's or witness's absence from the Hearing or refusal to answer cross-examination or other questions.
w. Each Party will have the opportunity to make a brief closing statement.

3. **Written Notice of Determination –** The Hearing Officer will provide the Parties with a *Written Notice of Determination* at the same time. The *Written Notice of Determination* will include:
a. Identification of the allegations at issue;

b. A description of the procedural steps taken throughout the case;
c. Findings of fact supporting the determination;
d. Conclusions regarding application of the Policy to the facts;
e. A statement of, and rationale for, the determination for each allegation;
f. A statement of, and rationale for, any Sanctions imposed on the Respondent and whether any Remedies will be provided to the Complainant, as set forth in more detail below; and
g. A description of the procedures and permissible grounds for appeal.

4. **Disciplinary Sanctions, Remedies, and Other Responsive Actions**

The University may take responsive action based on a determination of responsibility for a violation of the Policy. Responsive action is intended to eliminate Prohibited Conduct, prevent its recurrence and promote accountability while supporting the University's educational mission and legal obligations. Responsive action may include Sanctions, Remedies, or other responsive action including rehabilitation, educational, restorative, or monitoring components.

a. **Prior to issuing the Written Notice of Determination, the following will occur:**
   i. Parties will have the option to provide written impact statements to the Hearing Officer within three (3) Days of completion of the Hearing.
   ii. The Hearing Officer shall confer with the Title IX Coordinator or designee, and other University administrators as appropriate, prior to issuing the written determination.
   iii. Although the Hearing Officer may confer with University officials as described above, the Hearing Officer is the decision maker responsible for issuing the *Written Notice of Determination*.
   iv. The Title IX Coordinator or designee will provide input with respect to any recommended Sanction and other responsive action to the Hearing Officer.
   v. The University will not publicly disclose personably identifiable information about the Parties or the written determination (including any Sanctions) except as required by law.

b. **The range of Sanctions and other responsive actions that may be imposed upon the Respondent, include, but are not limited to, the following:**

For students:

- *Reprimand:* written notice documenting the Prohibited Conduct and informing the Respondent that further Prohibited Conduct will result in additional disciplinary action and will be considered more significant.
- *Probation:* assigned for a specific period of time, during which a student must not violate the Sexual Harassment and Other Sexual Misconduct Policy or other University policies. While on probation, a student may not represent the University in any capacity nor hold office in any student organization.

- *Account Hold:* will require the conduct hold that was placed on the student's MyUB account to remain for a period of time beyond the final hearing decision. This hold places restrictions on the account activity, which include, but are not limited to, requesting transcripts, enrolling/withdrawing from classes and receiving a diploma.
- *Temporary Loss of Privilege:* withdrawal of specified University privilege(s) and rights, loss of ability to use specified University service(s), or being barred from the university premises or facilities. This loss of privilege can last for no longer than three calendar years.
- *Permanent Loss of Privilege:* permanent withdrawal of specified University privilege(s) and rights, permanent loss of ability to use specified University service(s), or being barred from specified University Premises or facilities.
- *Temporary Removal from a University Activity:* immediate removal and banning of a student from future participation in a specified University activity or event. When the activity or event is reoccurring, the duration of the ban will be specified.
- *Permanent Removal from a University Activity:* immediate and permanent removal and banning of a student from future participation in a specified University activity or event.
- *Withdrawal from a University Course:* immediate withdrawal of a student from a specified course(s). The student is still responsible for any tuition and fees associated with the course.
- *Reflection Experience:* requires completion of a task or assignment that encourages reflection and skill development. These can be assigned individually or with more than one component.
- *Reflection Paper/Project:* completion of a paper/project to help the student avoid further Prohibited Conduct. Student may also be required to read an identified text/article(s) or conduct research on a topic.
- *Service-Learning Project:* completion of a specified number of service learning hours.
- *Personal Development Experience:* exploration of University/external resources and/or participation in educational program(s), or required completion of activities or tasks. The experience will assist the student in learning skills that will help them avoid future Prohibited Conduct.
- *Meeting(s) with a University Employee:* required attendance of follow-up meetings with a designated University employee and required compliance with directives set by the official.
- *Contact Restrictions*: limits a student's ability to be in the vicinity of and/or have contact with a particular individual(s). This may require restrictions on a student's ability to take classes and participate in activities with the designated individual(s) as well as include restrictions from specific University Premises and facilities.
- *Suspension of Recognition:* suspension of University recognition of a University Sponsored Student Group or other student organizations for a specific period of time. During that time, the group is not permitted to meet or hold functions and all University privileges are immediately revoked.
- *Termination of Recognition:* termination of University recognition of University Sponsored Student Group, or other student organizations for a specific or indefinite period of time. Once terminated, the group is not permitted to meet or hold functions and all University privileges are immediately revoked.
- *Suspension:* suspension precludes a student from registration, class attendance, and use of University facilities for at least one semester but no more than five years. Suspension is recorded for the term of the suspension on the student's transcript and will permanently remain in the student's conduct file. Upon termination of the suspension, the record of the suspension will

be removed from the student's academic record and the student will be permitted to re-enroll or be considered for readmission in compliance with the academic admission standards then in effect. Credits for any course completed at another institution during a suspension are not acceptable transfer credits at the University of Baltimore. Any tuition and fees paid to the University for a semester in which the suspension was issued will not be refunded to the student.

- *Dismissal*: cancellation of the student's registration and all permissions and privileges related thereto. Dismissal is permanently recorded in the student's transcript and in the student's conduct record. A student who has been dismissed is not eligible for readmission earlier than one year and no more than five years following dismissal and then only with the approval of the appropriate Dean. Students found responsible for Prohibited Conduct must submit their readmission request in writing to the Dean of Students. Credits for any course completed at another institution during a period of dismissal are not acceptable as transfer credits at the University of Baltimore. Any tuition and fees paid to the University for a semester in which the disciplinary dismissal is issued will not be refunded to the student.
- *Expulsion*: permanent dismissal of the student from registration, class attendance and use of University facilities. The student's registration is immediately cancelled and all associated privileges and permissions are revoked. Expulsion is permanently recorded on the student's academic record and in the student's conduct record. Any tuition and fees paid to the University for a semester in which the expulsion was issued will not be refunded to the student. Expelled students are never eligible for readmission to the University.

For staff:

- Education and training
- Written reprimand
- No Contact Order
- Denial of Access to campus grounds and/or buildings
- Reassignment
- Suspension without pay
- Separation from employment

For faculty:

- Education and training
- Written reprimand
- Reassignment
- No Contact Order
- Denial of Access to campus grounds and/or buildings
- Suspension without pay
- Separation from employment

c. **The following factors will be considered before imposing Sanctions and other responsive action on a Respondent:**
   i. The nature and degree of violence involved in the conduct at issue.
   ii. The impact of the conduct on the Complainant.
   iii. The impact of the conduct on the community and/or the University.

iv. Prior relevant misconduct by the Respondent.
v. Maintenance of a safe and respectful environment conducive to working and learning.
vi. Protection of the University community.
vii. Any other mitigating, aggravating or compelling circumstances appropriate to reaching a just and appropriate resolution.

d. **The range of Remedies that may be provided to a Complainant –** The University may provide reasonable Remedies to a Complainant based on a determination of responsibility for a violation of the Policy. The range of Remedies that may be provided to a Complainant include, but are not limited to:

For students:

- Supportive measures: such as extended classwork deadlines, flexible deadlines, change of venue for taking a test or exam, change in test or exam date and/or retaking of a test or exam;
- Academic accommodations: such as retroactive drop from a particular class, retroactive withdrawal from a semester, policy exemption requests and/or tuition reimbursement;
- Additional accommodations: such as a No Contact Order, Denial of Access, housing accommodation; course schedule changes, counseling and/or referral to outside agencies.

For staff:

- Supportive measures: such as reassignment to a different shift, location, supervisor or work unit.
- Additional accommodations: such as counseling and/or referral to outside agencies.

For faculty:

- Supportive measures: such as reassignment of duties, change in work location, change in service assignments, change in reporting structure.
- Additional accommodations: such as counseling and/or referral to outside agencies.

e. **In the event of a written determination that Respondent violated the Policy and Remedies provided to the Complainant are warranted, the following will occur:**

- Remedies will be provided to the Complainant on a confidential basis.
- The written determination issued by the Hearing Officer will not include specific Remedies provided to the Complainant but will state whether Remedies designed to restore or preserve equal access to the University's Education Program or Activity will be provided.
- Remedies are considered confidential and the Respondent will not have access to specific information about what Remedies will be provided except to the extent that the Remedies are punitive and burden the Respondent.
- Remedies may not be appealed by either Party.
- The University will not publicly disclose personably identifiable information about the parties, the written determination, or the Sanctions, except as required by law.

5. Appeals

a. **Bases for Appeals –** Either Party may initiate this appeal process when they receive a *Written Notice of Designation* or a *Written Notice of Determination*. Appeals must be submitted in writing to the Title IX Coordinator within five (5) days of receipt of the *Written Notice of Designation* or the *Written Notice of Determination*. Appeals are limited to the bases listed below.

i. **Procedural Irregularity –** In all cases, the procedural irregularity must be material to the outcome of the designation or the written determination.

A procedural irregularity affecting the designation or the written determination may include: a failure to follow the University's procedures; a failure to objectively evaluate all relevant evidence, including inculpatory or exculpatory evidence; or a determination regarding what evidence was excluded as irrelevant.

ii. **New Evidence –** New Evidence is evidence that was not reasonably available at the time the designation or written determination was made, that could affect the outcome.

Evidence presented prior to the time the designation or written determination is issued does not qualify as new evidence that was not reasonably available.

iii. **Conflict of Interest –** The Title IX Coordinator, Deputy Coordinator, Investigator or Hearing Officer had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the designation or written determination.

Claims of conflict of interest or bias should be based on the current case and process in question and will be assessed accordingly.

iv. **Substantially Disproportionate Sanction (Applicable ONLY to *Written Notice of Determination*) –** The Sanction set forth in the written determination is substantially disproportionate to the facts of the particular Policy violation.

v. Appeals will be reviewed by the designated Appellate Hearing Officer for all appeals of designations or written determinations under these Procedures. The Appellate Hearing Officer shall be free from conflict of interest or bias and shall not be composed of any of the same persons that reached the determination regarding the designation or the written determination, the Investigator, or the Title IX Coordinator. The Appellate Hearing Officer will have had no previous involvement with the case that they are assigned to review.

b. **Appellate Process –** The appellate process following a *Written Notice of Designation* or *Written Notice of Determination* will proceed as follows:

i. Appeals will be in writing only. There will be no hearing.
ii. Parties will have five (5) Days after the date of a *Written Notice of Designation* or *Written Notice of Determination* is electronically submitted to the Parties to submit a written appeal statement challenging the decision.
iii. Parties will be notified if the other Party files a written appeal statement and given notice in writing of the general grounds for the appeal. The other Party will be given five (5) Days after other Party's written appeal statement is electronically transmitted to submit a response to the written appeal statement in support of the designation or written determination.
iv. The Appellate Hearing Officer(s) will issue a written decision including its rationale which decision shall be shared with both Parties, within fifteen (15) Days of the latest day a party can submit a response to a written appeal statement.
v. The Appellate Hearing Officer(s) may: (1) affirm the designation or written determination; (2) overturn the designation or written determination; (3) overturn the sanction; or (4) remand the case to remedy procedural errors or to consider new evidence.
vi. The written decision by the Appellate Hearing Officer(s) is final and is not subject to further appeal.
vii. After the resolution process is concluded or when the time for filing an appeal has expired and neither Party has submitted an appeal, the Title IX Coordinator or designee shall notify the Parties simultaneously of the final outcome of the resolution process.
viii. The determination regarding responsibility 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 if 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.

6. **Academic Transcripts and Effect of Withdrawal on Student Respondents**

Sanctions of expulsion, dismissal and suspension are noted on a student Respondent's academic transcript. Suspension is recorded for the term of the suspension on the Respondent's transcript. Expulsion and Dismissal are permanently recorded on the Respondent's academic record. When a student Respondent requests their transcript prior to the completion of the resolution process, the existence of a pending investigation is also noted. In the event a Respondent chooses to withdraw from the University prior to the resolution of a Formal Complaint, or where the Respondent declines to participate in the University proceedings under the Policy and Procedures, the University will continue the resolution process in accordance with the Procedures. When a Respondent withdraws before the conclusion of the resolution process, the Respondent is ineligible to return to the University until the resolution process has concluded.

7. **Post-Resolution Follow-Up**

After any Sanction and/or Remedies are issued, if the Complainant agrees, the Title IX Coordinator or designee may periodically contact the Complainant to ensure the Prohibited Conduct has ended and to determine whether additional Remedies are necessary. The Complainant may decline future contact at any time. The Title IX Coordinator or designee may periodically contact the Respondent to assure compliance with the intent and purpose of any Sanction and/or Remedies that have been imposed. Any violation by a Respondent of the intent and purpose of any Sanction and/or Remedies imposed under the Policy, or a failure by a University employee to enforce specified Sanctions or Remedies should be reported to the Title IX Team, which then may take additional actions

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

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