

The University of Maryland Baltimore County
Interim Procedures for Reporting and Responding to Reports of
Sexual Misconduct and Other Related Misconduct
When the Responding Party is a Staff Member

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Responsible Offices: Office of the General Counsel
Office of Human Relations
Department of Human Resources

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Related Misconduct **When the Responding Party is a Staff Member**

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I. Overview

These Procedures assist to ensure the University of Maryland Baltimore County’s (“the University” or “UMBC”) compliance with Federal and State law, as well as University System of Maryland (“USM”) and University policies prohibiting discrimination based upon sex (including pregnancy), sexual orientation, gender, and gender identity or expression. Specifically, these Procedures set forth a process for reporting, investigating, responding to, and adjudicating complaints of *Sexual Misconduct* (including Sexual and Gender Based Harassment, Sexual Violence, Relationship Violence, Domestic Violence, Sexual Exploitation, and Sexual Intimidation), Sex and Gender Based Stalking, and Retaliation (collectively hereafter referred to as “Prohibited Conduct”) **when the Responding Party is a Staff Member**. Please refer to the University Policy on Prohibited Sexual Misconduct and Other Related Misconduct (hereafter referred to as the “Policy”) for applicable definitions of Prohibited Conduct, as well as key terms and obligations.¹

THESE PROCEDURES REPLACE ANY PRIOR UNIVERSITY PROCEDURES RELATED TO COMPLAINTS, INVESTIGATION AND ADJUDICATION OF ANY ALLEGATION OF PROHIBITED CONDUCT COVERED BY THE POLICY AGAINST ANY STAFF MEMBER.

COMPLAINTS AGAINST SWORN LAW ENFORCEMENT SHALL NOT PROCEED UNDER THESE PROCEDURES, BUT PURSUANT TO THE LAW ENFORCEMENT OFFICERS’ BILL OF RIGHTS (LEOBOR) AS SET FORTH IN PUBLIC SAFETY, TITLE 3, SUBTITLE 1.

II. Reporting Prohibited Conduct

Any person, including, but not limited to, students, a member of the faculty, administration or support staff, a visitor or guest to the campus community, campus or local police, or a family member, alleging Prohibited Conduct against a Staff Member may file a complaint or report against such Staff Member with the University as set forth herein. The University, on its own, may also initiate, investigate, and adjudicate complaints of Prohibited Conduct against a Staff Member under

¹ Capitalized terms herein are defined in UMBC’s Policy on Prohibited Sexual Misconduct and Other Related Misconduct.

these Procedures. The Procedures also address complaints or reports of Retaliation against a Staff Member in connection with any Prohibited Conduct.

There are multiple reporting options available across the University and the University recognizes that central reporting is an important tool in addressing, ending, and preventing Prohibited Conduct. A Reporting Party can make a report to the University by informing a **Designated Responsible Employee** what happened, in-person, by telephone, in writing, by e-mail, electronically, or anonymously. **Designated Responsible Employees** are *Non-Confidential*, which means they will disclose the known details of the incident (date, time, location, names of parties involved, description of the incident, etc.), to the Title IX Coordinator and other need-to-know University administrators.

The University strongly encourages prompt reporting of incidents of Prohibited Conduct to any of the **Designated Responsible Employees**, identified below:

- Paul Dillon, University Police:
410.707.6012
- Jeff Cullen, Staff Member Judicial Programs
410.455.2453
- John Fox, Office of Residential Life
410.455.2591
- Lee Hawthorne, Office of Staff Member Life
410.455.1754
- Stephanie Lazarus, Title IX Coordinator:
410.455.5745

A Reporting Party can also make a report to the University by telling a **Quasi-Confidential Resource** what happened, in-person, by telephone, in writing, by e-mail, electronically, or anonymously. **Quasi-Confidential Resources** will report incidents of Prohibited Conduct under these Procedures, without sharing any identifying information to the University's Title IX Coordinator.

Reports of incidents of Prohibited Conduct can be made to any of the following **Quasi-Confidential Resources** identified below:

- Rina Rhyne, Voices Against Violence Coordinator
410.455.3748
- Jess Myers, Women's Center

A Reporting Party can choose to pursue both a report under these Procedures and a criminal investigation at the same time.

The University understands that, at the time a report is made, the Reporting Party may only want to seek resources and support and may not be prepared to decide what steps in the process they want to take. Choosing to make a report and informing the University of the Reporting Party's preferred method of addressing the report, can unfold over time as the process proceeds. The University recognizes that the decision of whether or not to make a report of Prohibited Conduct is personal, and that there are many barriers and influences, both individual and societal, to reporting.

III. Amnesty

The University prohibits student conduct action (except for mandatory intervention/assessment for substance abuse) for a violation of the University's alcohol or drug use policies by a student who reports Prohibited Conduct to the University or law enforcement or participates in a matter that involves Prohibited Conduct as a witness, if the institution determines that (1) the violation occurred during or near the time of the alleged Prohibited Conduct; (2) the student made the report of Prohibited Conduct, or is participating in an investigation as a witness, in good faith; and (3) the violation was not an act that was reasonably likely to place the health or safety of another individual at risk.

IV. Time Frames for Reporting Prohibited Conduct

Although the University does not limit the time frame for reporting an incident, it encourages prompt reporting of incidents of Prohibited Conduct to maximize the University's ability to respond effectively. Notably, if the Responding Party is no longer attending the University at the time of the report, the University will still conduct an inquiry as to what occurred, although its ability to take direct action against the Responding Party may be limited.

In each instance, the University will still provide any fair and reasonable support and resources to a Reporting Party designed to end the Prohibited Conduct, prevent its recurrence, and address its effects. The University will also help a Reporting Party identify reporting options external to the University, if desired.

V. Interim Protective Measures

Interim Protective Measures are temporary actions taken by the University prior to concluding the investigation which may be applied to the Reporting Party, Responding Party, and other involved UMBC community members as appropriate to ensure their safety and well-being and to limit undeterred campus, educational and employment access. Interim Protective Measures may be requested by the Reporting Party or the Responding Party, or the University can initiate the Interim Measures in the absence of a request, at any time, during the process. Individuals can make a request for Interim Protective Measures by phone, in-person or in writing to the University Title IX Coordinator or any of the **Designated Responsible Employees** or **Quasi-Confidential Resources** listed above.

When a report is received, the University, in consultation with the Title IX Coordinator, can impose reasonable and appropriate Interim Protective Measures.

Interim Protective Measures are taken based on the information available at the time and are not intended to be permanent resolutions. Interim Protective Measures may be withdrawn or amended as additional information is discovered. The University will take appropriate, responsive, and prompt action to enforce Interim Protective Measures and to respond to any reports about the inadequacy or failure of another UMBC community member to abide by the Interim Protective Measures. The range of Interim Protective Measures can include, but are not limited to:

- Access to counseling and medical services and assistance in setting up initial appointments, both on and off campus
- Imposition of a campus “No-Contact Order”
- Rescheduling of exams and assignments
- Providing alternative course completion options
- Change in class schedule, including the ability to drop a course without penalty or to transfer
- sections
- Change in work schedule or job assignment
- Arranging for class incompletes, a leave of absence, or withdrawal
- Change in campus housing assignment or housing license
- Assistance from University support staff in completing University housing relocation

- Restricting access to certain University facilities, resources, or activities pending resolution of the report
- To the extent practicable, preserving eligibility for academic, athletic, or other scholarships, institution-based financial aid, or program eligibility
- Providing academic support services, such as tutoring
- University-imposed leave or suspension for the Responding Party

VI. Time Frame for Resolution

The University will seek to resolve every report of Prohibited Conduct within sixty (60) calendar days after receiving the report, excluding any appeal. The time frame may be extended for good cause, as determined on a case-by-case basis, as necessary to ensure the integrity and completeness of an investigation, comply with a request by law enforcement, reasonably accommodate the availability of witnesses, reasonably accommodate delays by the parties, account for University closures, or address other legitimate reasons, including the complexity of the investigation (e.g. the number of witnesses and volume of information provided by the parties) and the severity and extent of the alleged Prohibited Conduct. The Title IX Investigator, or designee, (“Investigator”) will share with the Reporting Party and Responding Party, in writing, any extension of the timeframes, and the reason for the extension. The University will strive to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

VII. Conflict of Interest

The University requires the Investigator, the Board of Review, and Appeals Board of Review members to disclose to the Human Relations Office/Title IX Coordinator any potential conflict of interest. A conflict of interest may arise when any of those persons, has been a participant or related to a participant in the matter being investigated or reviewed, is related to or has had past association with the Reporting Party or Responding Party, is biased, and/or lacks impartiality.

A Reporting Party or Responding Party who believes that the Investigator, or a Board of Review or Appeals Board of Review member has a conflict of interest must submit a written request, detailing with specificity the alleged conflict of interest, to the University’s Title IX Coordinator, within three (3) calendar days after being notified of the Investigator or the Board of Review or Appeals Board

of Review membership. The Human Relations Office/Title IX Coordinator will determine whether a conflict exists and what action should be taken to ensure a fair and impartial process.

Absent extenuating circumstance, failure to raise a conflict of interest allegation regarding the Investigator or an individual's membership on the Board of Review or Appeals Board of Review precludes a party from appealing the outcome, solely, based on the conflict of interest assertion.

VIII. Access for Persons with Disabilities

The University will provide reasonable accommodations to students, faculty and staff, with disabilities, to enable them to participate fully in the processes under these Procedures. Accommodations are determined on an individual basis for students through Student Support Services (410-455-2459) and for faculty and staff through the Human Relations Office (410-455-1873). Any student, faculty, or staff member with a disability requiring an accommodation should notify the Title IX Coordinator, at minimum, seven (7) calendar days prior to any meeting held under these Procedures.

IX. The Process

A. Rights of the Reporting Party and the Responding Party

In order to provide accessible, prompt and fair methods for reporting, investigating, and responding to complaints of Prohibited Conduct, the University has developed these Procedures. Throughout this process, both the Reporting Party and the Responding Party have the following rights:

- To a prompt, fair, and thorough investigation
- To have the choice to be accompanied by a Support Person, Attorney, or Non-Attorney Advisor of choice throughout the process
- To be informed of available UMBC and non-UMBC resources and supports
- To participate or decline to participate in the process, with the knowledge and understanding that the University may proceed with the process, despite a decision to refrain from participating

- To have an equal opportunity to present relevant witnesses and evidence throughout the investigative and adjudicative process, and to have similar and timely access to information to be used during any process
- To notification in writing, at the same time as the other party, of any decision, resolution, outcome, and/or appeal, and of any Board or Appeals Board of review meeting date, time, and decision.
- To have the right to appeal any initial outcome

B. Preliminary Review

When a report is received, the Investigator will conduct a preliminary review within five (5) calendar days. This time frame may be extended, based on a case-by-case basis. The Investigator may consult with the Title IX Coordinator when conducting the preliminary review. The Preliminary Review will determine whether the alleged Prohibited Conduct, if proven, would or would not constitute a violation under the Policy, as well as the appropriate route to resolve the report.

Based upon the information/facts gathered during the Preliminary Review, if it is determined that the alleged Prohibited Conduct, even if proven by a preponderance of the evidence, would *NOT* constitute a violation under the Policy, the Investigator will immediately notify the Reporting Party, in writing, of this No Action Warranted determination. The Investigator will provide the Reporting Party with the No Action Warranted notice, within five (5) calendar days after the conclusion of the Preliminary Review. The Reporting Party will be advised of external reporting options, and if available, other University offices that may be able to address the report.

C. Reporting Party Requests for Confidentiality or No Formal Action

When a Reporting Party requests that their name or other identifiable information not be shared with the Responding Party or that no formal action be taken, the Investigator, in consultation with the Title IX Coordinator, will balance the request against factors, such as those listed below.

- The nature and scope of the alleged Prohibited Conduct, including, but not limited to, whether the reported Prohibited Conduct involved the use of a weapon or force
- The roles of the Reporting and Responding Parties

- The risk posed to any individual or to the members of the UMBC community by not proceeding, including the risk of additional violence
- Whether there have been other reports of misconduct, including but not limited to reports of Prohibited Misconduct, filed against the Responding Party
- Whether the report reveals a pattern of misconduct, including but not limited to Prohibited Conduct, at a given location or by a particular group
- The Reporting Party's wish to pursue disciplinary action
- Whether the University possesses other means to obtain relevant evidence
- Considerations of fundamental fairness and due process with respect to the Responding Party should the course of action include disciplinary action against the Responding Party
- The University's obligation to provide a safe and non-discriminatory environment

Where possible based on the facts and circumstances, the Investigator will seek action consistent with the Reporting Party's expressed preference for manner of resolution. However, in certain cases, the University must move forward as it sees appropriate where the University has an obligation to move forward, for example, where there appears to be a continuing threat to an individual or the UMBC community, as determined in the sole discretion of the University. The University's ability to fully investigate and respond to a report may be limited if the Reporting Party requests, and the University grants a request, that their name not be disclosed to the Responding Party or where a Reporting Party declines to participate in an Investigation.

D. Manners of Resolution

1. Voluntary Informal Resolution

If it is determined that, based upon the information/facts gathered, the alleged Prohibited Conduct, if proven by the preponderance of evidence, *MAY* constitute a violation under the Policy, the Investigator will notify the Reporting Party and discuss, in more detail, the option for voluntary informal resolution. Voluntary informal resolution does not involve an Investigation or formal disciplinary action against a Responding Party, and is not appropriate for all forms of Prohibited Conduct under the Policy. Under no circumstances may an allegation of Sexual Assault (I or II) be resolved through voluntary informal resolution.

The Reporting Party may make a request to the Investigator for voluntary informal resolution. If the Reporting Party requests voluntary informal resolution, the Investigator, in consultation with the Title IX Coordinator, will determine if it is an appropriate mechanism to address the Prohibited Conduct, prevent its recurrence, remedy its effects, and will determine whether the voluntary informal resolution is consistent with maintaining the safety and welfare of the entire UMBC campus community. The University retains the sole discretion in determining, when selected by the Reporting Party, whether a case is appropriate for voluntary informal resolution.

Voluntary informal resolution may include: establishing Interim Protective Measures; conducting targeted or broad-based educational programming or training for relevant individuals or groups; providing increased monitoring, supervision, or security at locations or activities where the Prohibited Conduct occurred; facilitating a meeting with the Responding Party and the Reporting Party present if desired (in cases that do not involve Sexual Assault I or II); and/or any other remedy that can be tailored to the involved individuals to transform the environment, prevent recurrence of the issues, remedy the effects of the particular complaint, and more generally achieve the goals of the Policy.

In some forms of voluntary informal resolution, the remedies imposed will focus on supporting the Reporting Party with no participation or involvement by the Responding Party. In other forms of voluntary informal resolution, the Responding Party may be asked to participate or be involved. Depending on the type of remedy used, it may be possible for a Reporting Party to maintain anonymity.

The University will not compel a Reporting Party to engage in mediation, to confront directly the Responding Party, or to participate in any particular form of voluntary informal resolution. Mediation, even if voluntary, may NOT be used in cases involving Sexual Assault (I or II). Participation in voluntary informal resolution is a choice, and either party can request to end this method of resolution and pursue an Investigation/Formal Resolution at any time, including if voluntary informal resolution is unsuccessful at resolving the report. Similarly, a Reporting Party can request to end an Investigation and pursue voluntary informal resolution at any time. In addition, either party may request Interim Protective Measures regardless of whether any particular course of action is sought.

Regardless of the manner of resolution, the Responding Party may choose to accept responsibility at any time during the process.

2. Investigation/Formal Resolution

The investigation is designed to provide an adequate, reliable, prompt, and impartial gathering of the facts by a trained and neutral Investigator. The University will investigate reports of Prohibited Conduct, which are not being addressed through voluntary informal resolution or when a Reporting Party requests no formal action to be taken. The Investigator, who has specialized training and experience investigating allegations of Prohibited Conduct, will be assigned to conduct the investigation.

The Investigator will send the Reporting Party and the Responding Party written Notice of Investigation (“NOI”). The NOI will contain a summary of the allegation(s) or conduct at issue, the range of potential violations under the Policy, and the range of potential sanctions under the Policy. Further, the Investigator will send the Reporting Party and Responding Party a written notice of their rights and responsibilities.

Upon receipt of the NOI, or at any stage in the process, the Responding Party may choose to accept responsibility for the Policy violation. Once the NOI has been delivered to the parties, the Investigation begins.

Information gathered during the investigation will be used to evaluate the appropriate course of action, provide for individual and campus safety, and identify the need for Interim Protective Measures and other remedies, as necessary, to eliminate the Prohibited Conduct, prevent its recurrence, and to address its effects.

All individuals, including the Reporting Party, the Responding Party, and any third party witnesses, will be treated with appropriate sensitivity and respect throughout the investigation. The investigation will safeguard the privacy of the individuals involved in a manner consistent with the law and University policy. Throughout the investigative process, any participant may have a Support Person, Attorney, or Non-Attorney Advisor present at any meeting related to the resolution of a matter under these Procedures.

During the investigation, the Reporting Party and Responding Party will have an equal opportunity to be heard, to submit information, and to identify witnesses who may have relevant information. The Investigator will speak separately with the Reporting Party, the Responding Party, and any other individuals who have information relevant to the determination of whether a Policy violation occurred. Further, as part of the investigation, the Investigator may gather or receive information that is relevant to the determination of appropriate sanctions or remedies, including information about the impact of the Prohibited Conduct on the parties or the entire UMBC community.

The Investigator will also gather any available physical or documentary evidence, including prior statements by the parties or witnesses, any communications between the parties, email messages, social media materials, text messages, and other records as appropriate and available.

All UMBC community members, including students, faculty, and staff are expected to cooperate with an investigation of any report of Prohibited Conduct to assure fairness and procedural due process. The Investigator may also request the appearance of individuals from the University community who can provide substantial, relevant evidence.

Both a Reporting Party and a Responding Party may decline to participate in proceedings under these Procedures. The Investigator, in consultation with the Title IX Coordinator, will determine whether the investigation and/or adjudication will proceed without the Reporting Party and/or Responding Party, pursuant to the factors set out above in Section C.

The time frame for completion of the investigation, or any designated time frames of steps in the investigation, may be extended for good cause as necessary to ensure the integrity and completeness of the investigation, to comply with a request by external law enforcement, to reasonably accommodate the availability of witnesses, reasonably accommodate delays by the parties, to account for University closings, breaks or vacations, to account for complexities of a case (including the number of witnesses and volume of information provided by the parties), or to address other legitimate reasons. The Investigator will advise the parties of any extension of the timeframes and the reason for the extension in writing. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

E. Standard of Review

The standard of review is the preponderance of the evidence. A preponderance of the evidence means that it is more likely than not that the Prohibited Conduct occurred.

F. Notices to the Reporting Party and Responding Party

All written notices/communication issued to the Reporting Party and Responding Party under these Procedures will be hand-delivered, e-mailed, or mailed by certified, return receipt requested first class mail

G. Relevance and Special Considerations

The Investigator has the discretion to determine the relevance of any witness or other evidence and may exclude information in preparing the investigation report if the information is irrelevant, immaterial, or more prejudicial than informative.

The Investigator may also exclude statements of personal opinion by witnesses and statements as to general reputation for any character trait, including honesty. The Investigator will not exclude direct observations or reasonable inferences drawn from the facts.

1. Character Evidence

For purposes of these Procedures, character evidence is defined as information that does not directly relate to the facts at issue, but, instead, reflects upon the reputation, personality, qualities, or habits of an individual. In general, information regarding the character, or lack thereof, of the Reporting Party, the Responding Party, or any witness, is not relevant to the determination of a Policy violation.

2. Pattern Evidence

For purposes of these Procedures, where there is evidence of a pattern of similar conduct, either before or after the conduct in question, regardless of whether there has been a prior finding of a Policy violation against either party, this information may be deemed relevant to the determination of Policy violation or assigning of a disciplinary action. The determination of relevance will be based

on an assessment of whether the previous or subsequent incident was substantially similar to the conduct cited in the report or indicates a pattern of behavior and substantial conformity with that pattern. Where there is a prior finding of a Policy violation against the Responding Party for a similar act of Prohibited Conduct, there is a presumption of relevance and the finding may be considered in making a determination as to responsibility and assigning of a disciplinary action.

3. Prior Sexual History Between the Parties

For purposes of these Procedures, where there was a prior or ongoing relationship between the Reporting Party and the Responding Party, and the Responding Party asserts that Consent was sought and given, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties.

As specified in the Policy, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute Consent.

4. Prior Sexual History with Other Parties

For purposes of these Procedures, a party's sexual history with anyone other than the Reporting Party or Responding Party may be relevant under very limited circumstances to prove intent, motive, absence of mistake, or to explain an injury or physical finding.

H. Review of Draft Investigative Report

At the conclusion of the investigation, the Investigator will prepare a written draft investigative report that summarizes the information gathered, synthesizes the areas of agreement and disagreement between the parties with any supporting information or accounts, and includes an investigative finding regarding whether, based upon the preponderance of the evidence, a Policy violation *MAY* have occurred. Before the report is finalized, the Reporting Party and the Responding Party will be given an opportunity to review the draft investigative report, which will include the Investigative Finding, and may be presented in redacted form. The Investigator will send a Notice for Opportunity to Review and the Draft Investigative Report to both parties.

The Reporting Party and Responding Party may submit comments or additional information to the Investigator within seven (7) calendar days of the date the Notice for Opportunity to Review is sent.

Either party may make a request to the Investigator for a limited extension of time to submit their comments or additional information. Requests for extension of time will be determined on a case-by-case basis, however, reasonable requests for extension of time will not be withheld.

This submission is the final opportunity for both parties to identify any additional information or witnesses, before the report is finalized and the investigative finding is issued. In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the Investigator at this point will not be considered by the Investigator, the Board of Review, or the Appeals Board of Review.

1. Final Investigative Report

After receiving the parties' comments and/or additional information regarding the draft investigative report, the Investigator will determine whether or not any additional investigation is needed. If the investigation is deemed complete, the Investigator will finalize the report and make an investigative finding, by the preponderance of the evidence, whether a Policy violation *MAY* have occurred. The Investigator will issue the final investigative report simultaneously, via electronic mail, to the Reporting Party and the Responding Party. If the final investigative report finds, via the preponderance of the evidence that a Policy violation *MAY* have occurred, a charging letter to the Responding Party will also be issued, and sent to both parties.

X. Consolidation of Reports

At the discretion of the University, multiple reports may be consolidated in one investigation if the information related to each incident would be relevant and probative in reaching a determination on the other incident. This includes matters where the determination has been made that there is relevant pattern evidence or where the evidence of the other conduct is inextricably intertwined with the alleged Prohibited Conduct under the Policy. Matters may be consolidated where they involve multiple Reporting Parties, multiple Responding Parties, or related conduct involving the same parties (provided that it does not delay the prompt resolution of the matter).

XI. Board of Review

All Final Investigative Reports, regardless of the investigative finding will be sent to the Board of Review for review and determination of sanctions, if necessary. The Investigator (1) will issue a Notice of Review to the Reporting Party and the Responding Party, identifying the Board of Review members and (2) will forward the Final Investigative Report (with supporting documentation) to the Board of Review.

A. Composition of the Board of Review

The University has selected and trained a pool of University personnel for service on the Board of Review. All members of the pool have training and/or experience to serve on the Board of Review. A quorum Board of Review will be comprised of a minimum of three (3) personnel, selected from the pool of trained personnel. In the absence of a Board of Review quorum, the University may designate an alternative means of adjudication, such as designating an individual(s) to act in the place of the Board of Review. A University student may not serve as a Board of Review member under these Procedures. The Reporting Party and the Responding Party will be informed of the Board of Review's membership before the review process begins.

B. Role of the Board of Review

The Board of Review's role is to independently determine whether a Policy violation occurred, by the preponderance of the evidence, and if warranted, determine the appropriate sanctions. Prior to the scheduled Board of Review meeting, all members selected for the respective review process shall have received a confidential copy of the Final Investigative Report, with the supporting documentation.

C. Review Procedures

The Board of Review will initially meet to review and discuss the final investigative report and supporting documentation. This meeting will not be recorded.

The Board of Review will schedule the Investigator, the Reporting Party, and Responding Party with their respective Support Persons, Attorneys, or Non-Attorney Advisors to meet with the Board of Review. All parties can elect to be present for the Board of Review's meeting with the Investigator,

Reporting Party and Responding Party. Either the Reporting Party or Responding Party can decline to participate in the review process, however, the Board of Review will still hear from the party that opts to participate and the Investigator.

The Board of Review will set reasonable time limits for each part of the review process. The Board of Review Process will begin with questions, if any by the Board of Review to the Investigator. Only the Board of Review members can ask questions of the Investigator during the review process. The Investigator is limited to only providing information to the Board of Review which has been identified in the final investigative report. At the conclusion of the Board of Review's questions to the Investigator, the Investigator will be dismissed from the review process.

The Board of Review will then offer the Reporting Party an opportunity to give a statement. The Reporting Party can decline to give a statement and no negative inference will be drawn. If the Reporting Party decides to give a statement, the statement shall be no longer than fifteen (15) minutes. The Board of Review may, but is not required to, ask the Reporting Party questions after the Reporting Party has given their statement. Only the Board of Review members can ask questions of the Reporting Party during the review process.

Thereafter, the Board of Review will offer the Responding Party an opportunity to give a statement. The Responding Party can decline to give a statement and no negative inference will be drawn. If the Responding Party decides to give a statement, the statement shall be no longer than fifteen (15) minutes. The Board of Review may, but is not required to, ask the Responding Party questions after the Responding Party has given their statement. Only the Board of Review members can ask questions of the Responding Party during the review process.

The Board of Review has the authority and discretion to determine the relevance of, place restrictions on, or exclude any information. Recordings of the Board of Review process with the Investigator, Reporting Party, and Responding Party will be made. If any of the recordings malfunction, the Board of Review members shall create a detailed summary of the meetings, to be maintained in the file. The file and the recording shall be maintained in the Office of Human Relations, and made available to the parties and the Appeals Board of Review, if an appeal is filed.

After meeting with the Investigator, Reporting Party, and Responding Party and considering all of the relevant evidence and statements, the Board of Review will deliberate. The Board of Review deliberations will not be recorded.

The Board will make its finding, based on the preponderance of the evidence whether a Policy violation occurred, and if a preponderance of the evidence exists, make a determination regarding sanctions. Responsibility based on a preponderance of the evidence shall be determined by a majority vote of the Board of Review members. The Board of Review members must unanimously vote to implement any sanctions of suspension or dismissal. The Board may consult with the Department of Human Resources about any prior disciplinary actions regarding the Responding Party and about sanctions imposed in similar cases in the past. Consistency in sanctions of similar cases is important, however, similar offenses may result in different sanctions where there are distinguishing facts and circumstances.

In determining sanctions, the Board of Review may consider these factors, including but not limited to:

- The nature and violence of the conduct at issue
- The impact of the Prohibited Conduct on the Reporting Party
- The impact or implications of the Prohibited Conduct on the UMBC community members
- Prior misconduct by the Responding Party, including the Responding Party's relevant prior discipline history, both at the University or elsewhere (if known), including criminal convictions
- Whether the Responding Party has accepted responsibility for the Prohibited Conduct;
- Maintenance of a safe and respectful environment
- Any other mitigating, aggravating, or compelling circumstances to reach a just and appropriate resolution in each case

Within five (5) calendar days of the conclusion of the review process, the Board of Review will simultaneously, provide a Notice of Review Outcome to the Reporting Party, Responding Party, and the Investigator. The Notice of Review Outcome will include the Board of Review's finding(s), a rationale for the finding(s), and the sanctioning decision, if warranted.

The Notice of Review Outcome will also include information about the appeal process, including the available grounds for appeal, the time frame for submitting an appeal, and the name of the individual whom the appeal shall be addressed.

If neither party seeks an Appeal, at the conclusion of the Appeal period, the Notice of Review Outcome will become the final action of the University, and any sanction determined by the Board of Review will take effect immediately. If neither party seeks and appeal, and once the Notice of Review Outcome becomes the final action of the University, the parties will be given prompt written notice that the Notice of Review Outcome is now the final action of the University.

XII. Appeals

Within ten (10) calendar days after receipt of the Notice of Review Outcome, either the Reporting Party or the Responding Party may submit an appeal, in writing, to the Human Relations Office/Title IX Coordinator.

The grounds for appeal are strictly limited to the following:

- Significant Procedural Error that affected the findings and/or sanctioning decision;
- New Information/Evidence that was not available at the time of the findings and/or sanctioning decision, or that could not have reasonably been discovered with due diligence, that may/would change the finding and/or sanctioning decisions;
- Substantive Due Process Violation; and/or
- Excessiveness or insufficiency of the sanctioning decision

Mere dissatisfaction with the Board of Review's findings or the sanctioning decision is not a valid basis for an appeal. Either party may make a request to the Human Relations Office/Title IX Coordinator for a limited extension of time to submit their appeal. Requests for extension of time will be determined on a case-by-case basis, however, reasonable requests for extension of time will not be withheld.

If the appeal is timely and properly filed, each party will be given the opportunity to review the other parties' written appeal and respond to it in writing to the Appeals Board of Review. Any response by the opposing party must be submitted to the Human Relations Office/Title IX Coordinator within

ten (10) calendar days from being provided the other parties' written appeal. If both parties file an appeal, the appeal documents from each party will be considered together in one appeal review process.

A. Composition of Appeals Board of Review

The University has selected and trained a pool of University personnel for service on the Appeals Board of Review. All members of the pool have training and/or experience to serve on the Appeals Board of Review. An Appeals Board of Review quorum will be comprised of a minimum of three (3) personnel, selected from the pool of trained personnel. In the absence of an Appeals Board of Review quorum, the University, may designate an alternative means of adjudication such as designating an individual(s) to act in the place of the Appeals Board of Review. A University student may not serve as an Appeals Board of Review member under these Procedures. An Appeals Board of Review member may decline to participate in a particular case on the basis of an actual conflict of interest, bias, or lack of impartiality. The Reporting Party and the Responding Party will be informed of the Appeal Board of Review's membership before the review process begins.

A member that served on the Board of Review for a particular matter under these Procedures is precluded from sitting on the Appeals Board of Review for the same matter.

B. Role of Appeals Board of Review

The scope of the Appeals Board of Review will be strictly limited to the permissible grounds. The Appeals Board of Review's role is to independently determine whether an appeal shall be granted. The Appeals Board of Review process is not intended to be a re-investigation of the matter.

C. Appeals Board of Review Procedures

Prior to the scheduled Appeals Board of Review meeting, all members selected for the respective review process shall have received a confidential copy of the Final Investigative Report (with the supporting documentation), the Board of Review recordings, the Notice of Review Outcome, and any appeals filed. The Appeals Board of Review will meet to review and discuss the matter. The Appeals Board of Review meeting will not be recorded.

Depending on the basis of the requested appeal, the Appeals Board of Review may:

- Concur with the Board of Review’s findings and sanctioning decision;
- Concur with the Board of Review’s findings and amend/alter the sanctioning decision; or
- Only in cases of clear error, vacate the Board of Review’s findings and sanctioning decision and return the matter for additional investigation or request that a new Board of Review be convened to review the matter.

The Appeals Board of Review will render a written decision on the appeal(s) within ten (10) calendar days from the date that all appeal documents have been submitted. The written decision will include the Appeals Board of Review’s finding(s) and rationale and will be sent simultaneously to the Reporting Party, Responding Party, and Investigator.

The Appeals Board of Review’s decision, if an appeal is filed, is the final University action under these Procedures.

XIII. Possible Sanctions

The Policy prohibits a broad range of conduct, which is serious in nature. In keeping with the University’s commitment to fostering an environment that is safe, inclusive, and free of Prohibited Conduct, the Policy allows for a wide latitude in the imposition of sanctions is tailored to the facts and circumstances of each report, the impact of the Prohibited Conduct on the Reporting Party and surrounding UMBC community members, and accountability for the Responding Party. The imposition of sanctions are designed to eliminate Prohibited Conduct under the Policy, prevent its recurrence, and remedy its effects, while supporting the University’s mission. Sanctions may include educational, restorative, rehabilitative, and punitive components. Some conduct, however, is so egregious in nature, harmful to the individuals involved and the entire UMBC community, or so deleterious to the educational or working environment, that it requires severe sanctions. Possible sanctions may include, but are not limited to the following: no contact orders, a letter of reprimand, censure, service to the University, counseling, retraining, transfer, demotion, suspension, and/or termination.

XIV. Role of Support Person, Attorney, and Non-Attorney Advisor

Throughout the process, any participant may have a Support Person, Attorney, or Non-Attorney Advisor present with them and assisting them at any investigatory meeting or Board of Review meeting related to the resolution of a report under the Policy or during any Appeal process.

The parties must provide five (5) calendar days advance written notice to the University Official convening the meeting (including any investigative or adjudicative meeting), unless the meeting is called on shorter notice, of the name and relationship of any individual who will accompany them, so that all parties are aware of who will be present at any meeting.

Support Person: A Reporting Party and Responding Party may choose to be assisted by a Support Person of their choice, at any investigatory or Board of Review meeting under these Procedures, or during any Appeal process. A Support Person is someone who can provide emotional, logistical, or other kinds of assistance. The Support Person is a non-participant who is present to assist a Reporting Party or Responding Party by taking notes, providing emotional support and reassurance, organizing documentation, or consulting directly with the party in a way that does not disrupt or delay the meeting. The Support Person cannot be a fact witness or provide any statements as part of any process under these Procedures.

Attorney or Non-Attorney Advisor: A Reporting Party and a Responding Party may, at their own initiative and expense, be assisted by an Attorney or Non-Attorney Advisor during any phase of the Procedures, from investigation through Appeal. The Attorney or Non-Attorney Advisor may accompany the party to any investigatory or Board of Review meeting under these Procedures. The Attorney or Non-Attorney Advisor is a non-participant who is present to assist a Reporting Party or Responding Party by taking notes, providing emotional support and reassurance, organizing documentation, or consulting directly with the party in a way that does not disrupt or delay the meeting. The Attorney or Non-Attorney Advisor cannot be a fact witness or provide any statements as part of any process under these Procedures.

The Support Person, Attorney, or Non-Attorney Advisor will not be allowed to provide testimony or statements on behalf of the individual they are assisting.

When scheduling any meeting under these Procedures, in which an individual has notified the University that a Support Person, Attorney or Non-Attorney Advisor plans to participate, the University will make reasonable efforts to accommodate the Support Person, Attorney or Non-Attorney Advocate's schedule, while balancing the University's responsibility to provide a prompt and equitable process.

An individual's Support Person, Attorney or Non-Attorney Advisor may not delay, disrupt, or otherwise interfere with these Procedures. A party's inclusion of a Support Person, Attorney, or Non-Attorney Advocate is at the sole expense of the party.

XV. Records Retention

The Office of Human Relations will keep records of matters related to Prohibited Conduct, including but not limited to records of any complaints/reports of Prohibited Conduct; and investigation, adjudication and resolution of complaints/reports. The records shall be maintained in accordance with UMBC's records retention schedule.

XVI. External Reporting Options

In addition to or as an alternative to the University's procedures for reporting Prohibited Conduct, reports of Prohibited Conduct, may be filed with the following agencies:

- Office for Civil Rights
U.S. Department of Education
The Wanamaker Building
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Phone: 215.656.8541
Fax: 215.656.8605
TDD: 1.800.877.8339
Email: OCR.Philadelphia@ed.gov
Website: http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html
- 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

- Reporting parties who wish to file complaints with these external agencies should make contact as soon as possible, to verify any applicable filing time limits and deadlines.