

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

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**Including Sexual and Gender Based Harassment, Sexual Violence, Sexual Exploitation, Sexual Intimidation,  
Relationship Violence, Domestic Violence, Sex and Gender Based Stalking, and Retaliation**

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Procedures Effective Date: August 24, 2015  
Amended Effective Date: August 30, 2017  
Version: Procedures Version II  
Responsible Offices: Office of Human Relations  
Office of the General Counsel  
Department of Human Resources

Procedures for Reporting and Responding to Reports of Sexual Misconduct, Interpersonal Violence, and Other 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, Interpersonal Violence, Other Related 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.**<sup>1</sup> Please refer to the University Policy on Prohibited Sexual Misconduct, Interpersonal Violence, and Other Related Misconduct (hereafter referred to as the "Policy") for applicable definitions of Prohibited Conduct, as well as key terms and obligations.<sup>2</sup>

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. Effective Date of These Procedures

The effective date of these procedures is August 30, 2017. These procedures will apply in all cases where a report of Prohibited Conduct under the Policy is made on or after August 30, 2017.

Where the date of the reported Prohibited Conduct precedes the effective date of these procedures, the definitions of Prohibited Conduct in existence at the time of the alleged conduct will be used. These procedures will be used to investigate and resolve all reports/complaints made on or after the effective date of these procedures, regardless of when the reported Prohibited Conduct occurred.

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<sup>1</sup> These procedures apply to individuals whose primary role on campus is a Staff Member.

<sup>2</sup> Capitalized terms herein are defined in UMBC's Policy on Prohibited Sexual Misconduct, Interpersonal Violence, and Other Related Misconduct.

### III. 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 which are designed to end the Prohibited Conduct, prevent its recurrence, and address its effects. The University will also help a Reporting Party identify external reporting options and support and resources, if desired.

### IV. 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—or others'—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's Title IX Coordinator, any member of the Title IX Response Team, and/or another University official.

When a request is received, the Title IX Coordinator, in consultation with the University, is responsible for implementing 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 is 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, work location, 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

## V. Interim Suspension/Restriction from University Property

A Responding Party may be restricted from University Property for an interim period pursuant to a matter under these Procedures. The Associate Vice President, Human Resources, or a designee, may initiate this action. The interim restriction is effective without prior notice when there is evidence that the continued presence of the Responding Party on University Property, or in specific facilities, poses a substantial threat to himself or herself, or to others, or to the stability and continuance of normal University functions.

A Responding Party may request a review of the interim action and it must be made in writing. The interim action letter will include information about where the Responding Party should submit their request for review.

A response to the request will be made within five (5) days from the date of receipt of the request. The review shall examine the following issues only:

- the reliability of the information concerning the Responding Party’s conduct, including the matter of identity; and
- whether the alleged conduct and surrounding circumstances reasonably indicate that the continued presence of the Responding Party on University Property, or in a specific campus facility, poses a substantial threat to him or herself or to others or the stability and continuance of normal University functions.

## 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 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, faculty, and staff through the Office of Accessibility Resources, (410-455-2459).

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 of Review or Appeal Board of Review meeting date, time, and decision
- To have the right to appeal any initial outcome

### B. 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 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

When possible, based on the facts and circumstances, the Title IX Coordinator 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 (e.g. 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 will inform both the Reporting Party and Responding Party if a decision to move forward is made. 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.

### C. Preliminary Review

When a report is received, the Title IX Coordinator will promptly conduct a preliminary review. The Title IX Coordinator may consult with others when conducting the preliminary review. The Preliminary Review will assess 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 Title IX Coordinator will promptly 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.

## D. Manners of Resolution

### 1. Informal Intervention

The University may address a report of alleged Prohibited Conduct through Informal Intervention. Informal Intervention under these Procedures does not involve an Investigation of formal disciplinary action against a Responding Party, and is not appropriate for all forms of reported Prohibited Conduct. Under No circumstances, may an allegation of Sexual Assault (I or II) be addressed informally. The Reporting Party or Responding Party can request that the University address any other type of report informally. Further, the University reserves the right to address a report of Prohibited Conduct (excluding Sexual Assault I or II) via an informal manner.

The Reporting Party or Responding Party may make a request to the Title IX Coordinator to informally address the report. The Title IX Coordinator, in consultation with the applicable University authorities, will determine if Informal Intervention is an appropriate mechanism to address the Prohibited Conduct, prevent its recurrence, and remedy its effects. Further a determination will be made to assess whether utilizing Informal Interventions to address the report is consistent with maintaining the safety and welfare of the entire UMBC campus community. When a report is filed, the University retains the sole discretion in determining whether a case can be appropriately addressed informally.

Informal Interventions may include: establishing Interim Protective Measures and/or post-address/intervention Conditions; 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 addressing the matter informally, the remedies imposed will focus on supporting the Reporting Party with no participation or involvement by the Responding Party. In other forms, 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 manner to informally address the report. Participation is a choice. Mediation, even if requested, must NOT be used in cases involving Sexual Assault (I or II).

## 2. Investigation/Formal Intervention

The University will investigate reports of Prohibited Conduct, which have not been addressed informally or have not been addressed differently in response to a Reporting Party requesting that no formal action be taken.

The investigation is designed to provide an adequate, reliable, prompt, and impartial gathering of the facts by a trained and neutral Investigator. An 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 Notices 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 NOI will include the notice of rights and responsibilities for both the Reporting Party and Responding Party.

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, to address its effects, and maintain public order on campus.

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 policies. 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/documentation, and to identify witnesses who may have relevant information/documentation. 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. The investigative interviews may be recorded. The Investigator will inform all participants prior to the start of the interview if the interview will be recorded. A single recording will be made by the Investigator and will be the property of the University. The recording will be maintained by the Office of Human Relations. If a recording malfunction occurs during the interview, the Investigator will create a

sufficiently detailed summary of the statement(s) obtained. The Reporting Party and Responding Party may review the transcript of their own respective statement, in the presence of a University official, by scheduling an appointment with the Office of Human Relations.

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. During the investigative process, the Investigator will not disseminate copies of any documents obtained as part of the investigation with either party. 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 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 IX B.

The time frame for completion of the investigation, or any designated time frames for 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 in writing when the 60-day time frame for completion will not be met. 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, and/or mailed by Certified, return receipt requested, to the Responding Party's address of record as maintained by the Office of the Registrar and/or Human Resources Office.

## 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 recommendation. The recommendation will indicate whether, based upon the preponderance of the evidence, the report supports a finding that:

1. A Policy violation occurred; or
2. A Policy violation did not occur.

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 recommendation, and may be presented in redacted form. The Investigator will send a Notice for Opportunity to Review the Draft Investigative Report, with the Draft Investigative Report and all documents relied upon, to both parties.

The Reporting Party and Responding Party may submit a response/comments and any 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 response/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 be granted.

This submission is the final opportunity for both parties to identify or submit any additional information or witnesses, before the report and investigative recommendation are finalized and 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. Based on the response(s)/comment(s) to the draft investigative report and/or the submission of any additional information, the Investigator will determine whether or not any additional investigation is needed.

## I. Final Investigative Report

After receiving the Reporting Party and Responding Party's response/comments and/or additional information and the investigation is deemed complete, the Investigator will finalize the report and issue the final investigative report simultaneously, via electronic mail, to the Reporting Party and the Responding Party. All final investigative reports, will be sent to a Board of Review for a final decision and determination whether a policy violation occurred, and the application of sanctions, if necessary. Prior to the scheduled Board of Review meeting, (1) the Notice of Review identifying the Board of Review members and (2) the Final Investigative Report (with supporting documentation) will be issued to both the Reporting Party and the Responding party, and made available to the Board of Review.

## X. Consolidation of Reports

At the sole discretion of the University, multiple reports may be consolidated into one Investigation and/or Board of Review, if the information related to each incident would be relevant and probative in reaching a determination on the other incident (provided that it does not delay the prompt resolution of the matter). This includes matters where the determination has been made that there is relevant pattern evidence, where the evidence of the other conduct is inextricably intertwined with the alleged Prohibited Conduct under the Policy, or sufficiently related by their nature to be reasonably addressed and resolved in a single Investigation and/or Board of Review.

### A. Composition of the Board of Review

The University has selected and trained a pool of University personnel to serve on the Board of Review. All members of the pool have training and/or experience to serve on the Board of Review. A 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 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.

## B. Role of the Board of Review

The Board of Review's role is to independently review whether a Policy violation did or did not occur, based upon the preponderance of the evidence standard, and if warranted, determine the appropriate sanctions. In reaching the final decision, the Board of Review may solicit information from the Investigator, the Reporting Party, and the Responding Party to ensure a full assessment of the relevant facts.

## C. Board of Review Procedures

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, both party's comments/responses, and the Draft Investigative Report.

The Reporting Party and Responding Party with their respective Support Persons, Attorneys, or Non-Attorney Advisors will be scheduled 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. Even if either the Reporting Party or Responding Party declines to participate in the review process the Board of Review will still hear from the party that opts to participate and the Investigator. If the Reporting Party or Responding Party elects to not be present at the Board of Review meeting, their voluntary absence will not preclude the process from moving forward. The Board of Review will make its determination based on the information/documents that have already been submitted in the Final Investigative Report.

Further, the Board of Review will not accept written or pre-recorded statements from either the Reporting Party or Responding Party in lieu of their presence at the Board of Review meeting. If written or pre-recorded statements are sent to the University and/or the Board of Review, they will not be considered and will not be included as part of the official record.

The Board of Review will set time limits for each part of the review process. The Investigator will have no longer than fifteen (15) minutes to present the information and recommendation from the Final Investigative Report. The Investigator is limited to only providing information to the Board of Review which has been identified in the Final Investigative Report. The Board of Review may, but is not required to, ask the Investigator questions. Only the Board of Review members can ask questions of the Investigator during the review process. At the conclusion of the Board of Review's questions to the Investigator, the Board of Review will instruct the Investigator to remain for the remaining review process.



The Board of Review will then offer the Reporting Party an opportunity to give a closing and/or impact 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 closing and/or impact 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.

If deemed necessary, the Board of Review may ask the Investigator, Reporting Party, and/or Responding Party additional questions before concluding the Board of Review meeting. After meeting with the Investigator, Reporting Party, and Responding Party and considering all of the relevant evidence and statements, the Board of Review will dismiss the Investigator, Reporting Party, and Responding Party and then deliberate. The Board of Review deliberations will not be recorded.

The Board of Review has the authority and discretion to determine the relevance of, place restrictions on, or exclude any information. A single recording of the Board of Review process with the Investigator, Reporting Party, and Responding Party will be made and will be the property of the University. If the recording malfunctions, the Board of Review members shall create a sufficiently detailed summary of the Board of Review meeting, to be maintained in the file. The file and the recording shall be maintained in the Office of Human Relations, and only made available to the Reporting Party and/or Responding Party and the Appeals Board of Review to review, if an appeal is filed.

The Board of Review will make a final decision whether to:

1. Accept the investigator's recommended finding;
2. Reject the investigator's recommended finding; or
3. Refer the matter back to the Investigator for further/additional investigation; and
4. If a policy violation is found, determine sanctions and/or conditions.

A majority vote is required when making a decision to accept or reject the investigator's recommended finding or to refer back for further/additional investigation. If the Board of Review has accepted the investigator's recommended finding of a policy violation, the Board of Review members must also determine any sanctions and/or conditions based upon a majority vote.

The Board may consult with the Human Relations Office, Department of Human Resources, and/or any other University administrative offices 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 and/or conditions, 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
- 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 ten (10) 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 and/or the imposition of conditions, 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 an 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.

## D. Closing/Impact Statements

The Reporting Party and Responding Party have an opportunity to present a closing/impact statement. This is both parties opportunity to remind the Board of Review members about the key evidence/information that is in the Final Investigative Report, which supports their position. The parties have wide latitude in how they can present their statement by using hypothetical analogies, commenting on the credibility of the other party or witnesses, discussing or challenging the plausibility of the events at issue, and advocating why the Board of Review members should adopt an interpretation favorable to their position. Further, both parties can present information about how the events have impacted them.

While both parties will be allowed significant latitude, the statements should be confined to the issue that has been investigated and should not be used as an opportunity to engage in malicious personal attacks against the other party or witnesses.

## XI. 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 extensions of time will be granted.

If the appeal is timely and properly filed, the non-appealing party will be given the opportunity to review the appealing party's written appeal and respond to it in writing. Any response by the opposing (non-appealing)

party must be submitted to the Human Relations Office/Title IX Coordinator within ten (10) calendar days from being provided the other appealing party's written appeal.

If both parties file cross-appeals, the appeal documents from each party will be considered together in one appeal review process. Each party will have the opportunity to respond to the appeal of the other party pursuant to the process described hereinabove.

### 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

The Appeals Board of Review will meet to review and discuss 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 deliberations 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 conditions; or
- Only in cases of clear and material error, vacate the Board of Review’s findings and sanctioning decision or conditions 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 after the conclusion of the Appeal Board of Review meeting. 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.

## XII. Possible Disciplinary Sanctions and Conditions

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 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 is 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. The University reserves the right to delay or refuse considerations for promotions during the pendency of an investigation.

### A. Sanctions

Possible sanctions may include, but are not limited to the following: a letter of reprimand, censure, service to the University, counseling, retraining, transfer, demotion, suspension (without pay), and/or termination.

### B. Conditions

In certain circumstances, even when there are no disciplinary actions or sanctions imposed, the University reserves the right to impose certain conditions, similar to the Interim Protective Measures, upon any party who is subject to this Policy. These conditions are designed to eliminate Prohibited Conduct under the Policy, prevent

its recurrence, and remedy its effects, while supporting the University's mission and federal obligations. These conditions are not to be construed disciplinary or as sanctions.

The following conditions may be imposed, as appropriate. Conditions include, but are not limited to:

- Financial restitution for any loss sustained or incurred by the institution or member(s) of the University community
- Community restitution
- Participation in a restorative circle or conference
- Attendance at an alcohol and other drug assessment or education program
- Counseling Intake or Evaluation Session
- Educational Project
- Suspension of computer account
- Restriction from specific University buildings, areas, or facilities
- Termination of UMBC Residential Life license
- Termination of Food Services contract
- Restriction or denial of campus driving privileges for disciplinary violations involving the use or registration of motor vehicles and parking permits
- No contact with designated persons
- Residential Life housing reassignment or loss of ability to re-license or reapply for UMBC housing
- Establishment of Educational Achievement Expectations
- Revocation or denial of degree/diploma
- Academic Registration block
- Monetary fines
- Loss of University privileges, including social privileges, athletic privileges, housing privileges, co-curricular privileges, facility-use privileges
- Residential Life Probation – This condition places the student on a notice that further violations may lead to the termination of the student's UMBC Residential Life license
- Random Drug Testing

### C. Failure to Satisfy or Timely Complete a Disciplinary Sanction and/or Condition

Failure to satisfy or complete a mandated sanction and/or condition within the allotted time may result in additional administrative actions.

### XIII. Role of Support Person, Attorney, and Non-Attorney Advisor/Union Representative

Throughout the process, any participant may have a Support Person, Attorney, or Non-Attorney Advisor/Union Representative 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 should provide advance notice to the University Official convening the meeting (including any investigative or adjudicative meeting) 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/Union Representative:** A Reporting Party and a Responding Party may, at their own initiative and expense, be assisted by an Attorney or Non-Attorney Advisor/Union Representative during any phase of the Procedures, from investigation through Appeal. The Attorney or Non-Attorney Advisor/Union Representative may accompany the party to any investigatory or Board of Review meeting under these Procedures. The Attorney or Non-Attorney Advisor/Union Representative 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/Union Representative 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/Union Representative 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/Union Representative plans to participate, the University will make reasonable efforts to accommodate the Support Person, Attorney or Non-Attorney

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

## XIV. 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. . Records will be maintained under these Procedures consistent with Section XXII of the Policy.

## XV. 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](mailto:OCR.Philadelphia@ed.gov)  
Website: [http://www2.ed.gov/about/offices/list/ocr/docs/tix\\_dis.html](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](http://www.eeoc.gov)
- Maryland Commission on Civil Rights (MCCR)  
William Donald Schaefer Tower  
6 St. Paul Street, Ninth Floor  
Baltimore, Maryland 21202  
Phone: 410.767.8600  
Fax: 410.333.1841



TTY: 410.333.1737

Website: [www.mccr.maryland.gov](http://www.mccr.maryland.gov)

- Individuals 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.