



INTERIM

Policy on Sex Discrimination, Sex-Based Harassment, and Sexual Misconduct

Policy Effective Date:	August 1, 2024¹
Policy Previously Amended:	August 26, 2015, August 30, 2017, August 28, 2019, August 14, 2021
Version:	Policy Version No. V
Responsible Office:	Office of Equity and Civil Rights

¹ This amendment is effective August 1, 2024. On April 19, 2024, the United States Department of Education released new Title IX regulations, effective August 1, 2024 (the “2024 Title IX Regulations”). The new 2024 Federal Title IX Regulations require modification of the USM Policy as well as this policy. However, there are several lawsuits pending which seek to stay, delay or block implementation of some or all of the provisions in the 2024 Title IX Regulations. Should a court delay, stay or strike down, either temporarily or permanently, any portion of the 2024 Title IX Regulations, UMBC shall make any necessary modifications to this Policy, which will become effective immediately, or may revert to or retain the August 2020 version of this Policy.

I. Policy Statement

The University is dedicated to fostering an inclusive and welcoming environment for all members of the campus community and recognizes its responsibility to maintain a campus environment which is free from Discrimination on the basis of Sex, Sex-Based Harassment (including Sexual Assault, Domestic Violence, Dating Violence and Stalking), Sexual Misconduct, and Retaliation, and to preserve or restore equal access to UMBC's education programs and activities.

This Policy embodies the University's commitment to increasing awareness of this conduct and promoting prevention and educational programs for community members in an effort to eliminate the occurrence, prevent reoccurrence through education, supportive measures, investigation, informal resolution, formal resolution, and sanctions, and address any effects. The University's commitment is consistent with the values and standards of an intellectual community of distinction, as well as applicable federal, state, and local laws and USM policies.

The University is also committed to the principles of free inquiry and expression. This Policy is not intended to abridge academic freedom, freedom of expression, or the University's educational mission.

The University does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of actual or perceived sex. This Policy expressly prohibits all forms of discrimination and harassment on the basis of sex, which includes discrimination and harassment on the basis of pregnancy and related conditions, parental status, gender, sexual orientation and gender identity or expression, in UMBC education programs and activities, including the terms and conditions of employment. Discrimination or harassment for exhibiting what is perceived as a stereotypical characteristic for one's sex or gender or for failing to conform to stereotypical notions of masculinity and femininity, regardless of the individual's actual or perceived sex, gender, sexual orientation, or gender identity or expression is also prohibited under this Policy.

It also expressly prohibits Sex-Based Harassment which includes Sexual Assault, Domestic Violence, Dating Violence and Stalking, and other forms of Sexual Misconduct.

Finally, this Policy also expressly prohibits Retaliation against a UMBC community member.

II. Notice of Nondiscrimination Policy

A. Distribution

The University will publish a notice of nondiscrimination which will be widely distributed to all students, employees, applicants for admission and employment, and other relevant persons (including all unions or professional organizations holding collective bargaining or professional agreements with the institution). The notice will be prominently displayed on the institution's website and included in publications of general distribution that provide information to students and employees about the University's services and USM Bylaws, Policies and Procedures of the Board of Regents policies, including each handbook or catalog that it makes available to persons entitled to a notification.

B. Contents

The Notice will:

1. Confirm that the University does not discriminate on the basis of sex in the Education Program or Activity that it operates, that the University is required by Title IX not to discriminate in such a manner, and that obligation extends to admission and employment;
2. Provide that matters covered by Title IX should be referred to the Title IX Coordinator or to the Office for Civil Rights of the U.S. Department of Education, or both;
3. Provide the name or title, office address, email address, and telephone number of the employee(s) designated as the Title IX Coordinator(s);
4. Provide information on how to locate the University's Title IX policy and grievance procedures, report information about conduct that may constitute Sex Discrimination, and make a complaint about Sex Discrimination.

III. Title IX Team

A. Title IX Coordinator

Pursuant to Title IX of the Education Amendments of 1972 and the U.S. Department of Education's implementing regulations at 34 C.F.R. Part 106, the University's Title IX Coordinator has primary responsibility for coordinating UMBC's efforts to comply with and carry out the University's responsibilities under Title IX and this Policy.

The Title IX Coordinator oversees the University's response to reports and complaints that relate to Prohibited Conduct, monitors outcomes, identifies and addresses any patterns, and assesses effects on the campus climate, so the University can address issues that impact the wider campus community. The Title IX Coordinator is also responsible for coordinating the effective implementation of remedies, including Supportive Measures.

Reports of Prohibited Conduct must be sent to the University's Title IX Coordinator:

Office of Equity and Civil Rights
University of Maryland, Baltimore County
9th Floor, Administration Building
Baltimore, MD 21250
Email: titleixcoordinator@umbc.edu; ecr@umbc.edu
Phone: 410.455.1717
Website: www.ecr.umbc.edu

B. Office of Equity and Civil Rights (ECR)

The Title IX Coordinator is part of the University's Office of Equity and Civil Rights, which is responsible for addressing a broad range of civil rights issues including but not limited to Title IX. Members of ECR work with the Title IX Coordinator to assure prompt, equitable response to reported concerns. The Title IX Coordinator and ECR staff also work closely with representatives from the University Police Department, Student Affairs, the Provost's Office, and Human Resources, and other departments/offices, as well as third-party contractors or affiliates, as necessary to fulfill the University's obligations under this Policy.

The Title IX Coordinator shall be responsible for coordinating the activities when a collaborative response is necessary.

Members of the ECR staff can be found on the [ECR website](#).

C. Conflict of Interest and Bias

Any individual designated as a Title IX Coordinator, investigator, decision-maker, or any person designated to facilitate an informal resolution process, may not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

The University requires all individuals involved in responding to, investigating, and/or resolving matters under this Policy to disclose to the Office of Equity and Civil Rights/Title IX Coordinator any potential conflict of interest. A conflict of interest may arise when any of those persons, has been a participant or is related to a participant in the matter being investigated or reviewed, is related to or has had past substantial association with the Complainant or Respondent or a witness, or is biased, and/or lacks impartiality.

IV. Scope and Jurisdiction

A. Conflict with other Policies

To the extent of a conflict between this Policy and any other policies covering the same conduct, this Policy shall govern.

Nothing in this Policy shall be interpreted to conflict with the free speech and/or academic freedom protections afforded to UMBC Community Members.

B. Who is Covered by This Policy

This Policy protects all UMBC students, faculty, and staff as well as third parties such as guests, visitors, volunteers, invitees, and campers who are participating in or attempting to participate in a UMBC program, activity, or employment.

This Policy applies to the conduct of all UMBC students, faculty and staff, as well as third parties and

contractors under UMBC's control (including but not limited to, admitted students, undergraduate, graduate, exchange, visiting, professional, doctoral, and post-doctoral students, and temporary and contingent faculty and staff).

The individuals covered by this Policy, shall be collectively hereafter referred to as "member/s of the UMBC community" or "UMBC community member/s."

When there is an allegation of Prohibited Conduct by a member of the UMBC community, a complaint, investigation, resolution and/or hearing process may be available even if the person making the complaint is not a member of the UMBC community.

The applicable Procedures may be applied to incidents, to patterns or practices, and/or to the campus culture/climate, all of which may be addressed and investigated in accordance with this Policy at the discretion of the University.

The University also has the discretion to apply this Policy to Prohibited Conduct by a student, faculty and/or staff member that occurred during a time when a Complainant was participating in or attempting to participate in an UMBC program, activity or employment, even if the conduct is not reported, or an investigation or sanction is not undertaken until after the Complainant has withdrawn or left the University's program, activities and/or employment.

C. What is Covered by this Policy

This Policy applies to all reports of Prohibited Conduct that is alleged to have occurred in connection with the University's education programs and activities.

Education Program or Activity includes: all University operations, as well as locations, events, or circumstances in which the University exercises substantial control over both the person who is alleged to have engaged in Prohibited Conduct and the context in which the Prohibited Conduct occurs.

This includes, but is not limited to:

1. University premises, or a facility, office, regional center education program or activity, or property owned or controlled by the University;
2. Any on or off-campus UMBC sponsored, recognized, or approved employment or education program or activity, in the United States;² or
3. Any building owned or controlled by a student organization that is officially recognized by the University, whether such a building is on campus or off campus.

The University also reserves the discretion to address any Prohibited Conduct, on or off-campus, that threatens the health or safety of the UMBC Community or a member of the UMBC community or that creates a hostile environment within the University's education programs or activities under this Policy,

² The University has discretion to address Prohibited Conduct that occurs outside the United States under its Policy on Discrimination and Equal Opportunity, or Code of Student Conduct.

the UMBC Discrimination and Equal Opportunity Policy, the UMBC Policy on Pregnancy and Related Conditions and Parental Status, and/or the UMBC Code of Student Conduct.

This Policy also covers Prohibited Conduct that occurs online when such conduct occurs within the University's education programs or activities (e.g., conduct that occurs during online courses/remote work or through the use of the University's networks, technology, or equipment) or creates a hostile environment within the University's education program and activities. When the University does not control websites, social media, and other venues where Prohibited Conduct occurs, the University will engage in efforts to address and mitigate any effects within its education program or activities.

When a party is participating in a dual enrollment/early college program, the University will coordinate with the party's home institution to determine jurisdiction and coordinate providing supportive measures and responding to the complaint under the appropriate policy and procedures based on the allegations and identities of the Parties.

When the Respondent is enrolled in or employed by another institution, the Office of Equity and Civil Rights can assist the Complainant in contacting the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies.

Similarly, the Office of Equity and Civil Rights may be able to assist and support a student or employee Complainant who experiences Prohibited Conduct in an externship, study abroad program, or other environment external to the University where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse. If there are effects of that external conduct that impact a student or employee's work or educational environment, those effects can often be addressed remedially by the Title IX Coordinator if brought to their attention.

V. Effective Date

The effective date of this Policy and applicable Procedures is August 1, 2024.

This Policy and applicable Procedures only apply to Prohibited Conduct that occurs on or after August 1, 2024.

For Prohibited Conduct that occurred prior to August 1, 2024, the policy and procedures in place at the time of the alleged incident apply. Applicable versions of those policies and procedures are available on the [ECR website](#) or by contacting the Title IX Coordinator.

VI. Definitions

For purposes of this Policy and the applicable Procedures, the following definitions apply.

A. Administrative leave is placement of any employee on leave pending completion of an investigation, informal resolution, or Formal Resolution process.

B. Advisor means a person who is chosen by a Party to assist them during the resolution process or a person appointed by the University to conduct cross-examination for the party at a Hearing. An Advisor may, but is not required to be, an attorney.

C. Amnesty means that an individual who makes a report of Prohibited Conduct to the University or law enforcement, or participates as a witness in good faith, will not be subject to disciplinary action *for their own personal consumption of alcohol or drugs* taken/used at or near the time of the incident of Prohibited Conduct, provided that any such violation was not an act that was reasonably likely to place the health or safety of any other person at risk.

D. Coercion is the use of unreasonable pressure in an effort to compel another individual to initiate or continue sexual activity against the individual's will. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individuals' freedom of will and ability to choose whether or not to engage in sexual activity. Coercion includes but is not limited to intimidation, manipulation, threats of emotional or physical harm, and blackmail. Examples of coercion include threatening to disclose another individuals' private sexual information, or threatening to harm oneself if the other party does not engage in the sexual activity.

E. Complainant is an individual who is alleged to have been subjected to any Prohibited Conduct under this Policy and who was participating in or attempting to participate in a University education program or activity at the time of the alleged Prohibited Conduct.

F. Complaint means an oral or written request to the University that objectively can be understood as a request to investigate and make a determination about alleged Prohibited Conduct.³ All complaints of Sex-Based Harassment and Sexual Harassment prohibited by the 2020 Title IX Regulations will be reduced to writing.

G. Conditions are non-disciplinary actions which may include requirements, educational, remedial or Supportive Measures that may be imposed by the University upon any Community Member who is subject to this Policy. The University may impose Conditions even when no complaint has been filed, or no finding of a violation has been made. Conditions are not disciplinary actions or sanctions.

H. Confidential Resource means an employee 1) whose communications are privileged or confidential under Federal or State law; 2) whose communications are specifically designated as confidential for the purpose of providing services related to potential Prohibited Conduct; or 3) who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination—but the employee's confidential status is only with respect to information received while conducting the study. A Confidential Resource is not a Mandated Reporter with respect to reports of Prohibited Conduct under this Policy (irrespective of Clery Act Campus Security Authority status). Community Members may report Prohibited Conduct to a Confidential Resource, and that Confidential Resources does not have an obligation to report to the Title IX Coordinator or Office of Equity and Civil Rights.

³ A parent, guardian, or other authorized legal representative with the legal right to act on behalf of the Complainant may also file a Complaint on behalf of a Complainant.

Conversations with Confidential Resources will remain confidential unless a Community Member provides consent for the information to be disclosed, except, when there is an imminent or continuing threat to health or safety (as determined in the sole discretion of the University), where there is a disclosure of apparent or suspected abuse of a child or dependent adult, or other legal obligation to reveal such information.

I. Consent is defined as a knowing, voluntary, and affirmatively communicated willingness to mutually participate in a particular sexual activity or behavior. It must be given by a person with the ability and capacity to exercise free will and make a rational and reasonable judgment without Incapacitation, Coercion, Force or threat of Force.

Consent may be expressed either by affirmative words or actions, as long as those words or actions create a mutually understandable permission regarding the conditions of sexual activity or behavior. Under this definition, consent must be given at each stage of the sexual activity or behavior and can never be assumed.

Consent to one form of sexual activity or behavior does not automatically imply consent to engage in other forms of sexual activity or behavior. Consent to one sexual act does not constitute or imply consent to another act.

For purposes of this Policy, Consent is not inferred or assumed from silence, passivity or a lack of objection or resistance. Consent cannot be obtained by force, threat, coercion, fraud, manipulation, reasonable fear of injury, intimidation, or through the use of one's mental or physical helplessness or incapacity. The absence of a negative response, such as silence or a failure to physically resist does not equal consent.

Consent cannot be obtained by Coercion.

Some behaviors and comments that do not indicate consent include (but are not limited to): Silence; "I don't know;" "Maybe;" A head shake; Lack of objection; Not fighting back; Ambiguous responses such as "uh huh" or "mm hmm" without more; and A verbal "no," even if it may sound indecisive or insincere.

It is the responsibility of the person initiating sexual activity or behavior to make sure that they have received consent at each of those stages from all person(s) engaged in the sexual activity or behavior. If a person is not sure they have received consent or has received an unclear response, they have an obligation to seek additional information to make sure that they have received consent. Failure to do so could violate this Policy and lead to disciplinary action or sanctions. Consent cannot be based on assumptions.

Consent must be present throughout the entire sexual activity or behavior and may be withdrawn at any time. Once consent is withdrawn, the sexual activity or behavior must cease immediately. If there is confusion as to whether there is consent or whether prior consent has been withdrawn, it is essential that the sexual activity or behavior cease until the confusion is resolved.

Consent cannot be implied based upon a previous or existing consensual dating or sexual relationship. In the context of a current relationship, consent for future sexual activity or behavior cannot be implied.

Alcohol and drugs may complicate sexual activity as they impair judgment, affect ability to read and interpret others' communication, and affect a person's ability to communicate consent.

The use of alcohol, drugs, or other intoxicating substances does not excuse the person initiating sexual activity from making sure that they have obtained consent before initiating and/or engaging in sexual activity or behavior.

A person can give consent even if they have been drinking or using other drugs.

Where alcohol and/or drugs were involved, the University will examine whether or not the person initiating sexual activity or behavior knew or a sober and reasonable person in the same situation should have known whether the other person was capable of giving consent or gave consent.

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

K. Days means business days. Days when the University is closed for inclement weather, emergency closure, and/or officially designated holidays (observed), shall not be counted.

L. Domestic Violence includes conduct which could be felony or misdemeanor crime of violence⁴ committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant, or by any other person against an adult or youth Complainant protected from those acts by domestic or family violence laws of Maryland.

M. Education Program or Activity includes all incidents occurring on campus or in University Operations as well as locations, events, or circumstances over which the University exercised substantial control over both the person who engaged in Prohibited Conduct and the context in which the Prohibited Conduct occurs, and any building owned or controlled by a student organization that is officially recognized by the University. Conduct by or impacting employees is covered.

N. Emergency Removal the decision to remove a student from the University's campus, or education program or activity on an emergency basis, after the University conducts an individualized safety and risk analysis, determines that an imminent and serious threat to the health or safety of any student, staff or faculty member or third-party arising from the allegations of Prohibited Conduct justifies removal.

O. Failure to Comply means intentional failure to comply with the reasonable directives of a University official in the performance of their official duties. This includes an intentional failure to comply with the terms of a no contact order, emergency removal, administrative leave, sanctions, conditions, or terms of

⁴ Crimes of Violence include: the use or attempted use of physical force, or the threatened use or actual use of a deadly weapon. You do not need to contact the police or show that criminal charges have been filed, or that an arrest has been made, or that there has been a conviction in order to make a Domestic Violence complaint under this policy.

an Informal Resolution agreement; intentional failure to comply with mandated reporting duties as defined in this Policy; and intentional interference with the Resolution Process, including, but not limited to: destruction of or concealing of evidence or actual or attempted solicitation of knowingly false testimony or providing false testimony or evidence.

Failure to Comply Complaints are resolved under the Review Meeting Process.

P. Force is the use of overt physical strength, physical violence, physical imposition, actual or implied threats, intimidation, and other actions that are intended to overcome resistance or refusal to participate in sexual activity in order to compel participation in sexual activity without consent.

Q. Formal Resolution Process is a process that can be used to address Prohibited Conduct that includes an investigation, Live Hearing or Review Meeting, and appeal.

R. Hearing Process is a method of formal resolution designated to address Complaints in accordance with the requirements of the 2020 Title IX regulations, at 34 CFR §106.45, that allows for the parties to conduct cross-examination of the other party and witnesses through their advisors.

S. Incapacitation is a state in which a person's decision-making ability is impaired such that the person lacks the ability to understand the "who, what, where, why, or how" of their sexual activity or behavior. Incapacity is a state in which someone cannot make a decision because they lack the ability to fully understand what is happening and therefore cannot consent even if they appear to be a willing participant.

Incapacitation may result from a number of causes. A person can be incapacitated through the use of drugs, alcohol or any other intoxicating substance, or when they are unconscious, asleep or otherwise unaware the sexual activity or behavior is occurring. Further, mental or physical disabilities or cognitive impairments can cause an individual to lack the capacity to consent to sexual activity or behavior. Incapacitation may also occur when a person is physically restrained against their will, so the person is physically unable to resist or consent to sexual activity or behavior.

Incapacitation due to alcohol and/or drugs is a state beyond intoxication, impair in judgment, or "drunkenness." Because the impact of alcohol and/or drug use varies from person to person, when evaluating whether an individual (Complainant) is/was Incapacitated, and therefore unable to give Consent, the University will assess relevant factors, which may include but are not limited to:

- loss of control over physical movements such as lack of coordination or inability to walk unassisted
- slurred or disorganized speech and other indications of inability to communicate
- loss of inhibitions
- increased risk taking
- outrageous or unusual behavior
- intermittent or complete loss of consciousness
- other observed changes to a person's physical presentation and demeanor reflective of an altered state.

Factors indicating that a person is/was consuming alcohol may also be considered. These include but are not limited to:

- witness observations related to the amount of alcohol consumed
- vomiting
- blood shot eyes
- the smell of alcohol on the breath

Further, for the purposes of determining Consent, the University will consider whether the Respondent “knew” or “should have known” that the Complainant was Incapacitated. The University will make this determination by assessing whether, based on the totality of the circumstances and context, a sober, reasonable person in the same situation (as the Respondent) “knew” and/or “should have known” that the Complainant was Incapacitated.

T. Indecent Exposure is exposing one’s intimate parts, such as genitalia, groin, breast and/or buttocks to someone without their consent. This behavior is the deliberate showing of intimate parts of the body and may, but does not necessarily have to, include a sexual act. Engaging in sexual activity in public, witnessed by non-consenting person(s), is also a form of Indecent Exposure.

U. Informal Resolution Process is a process that can be used to address Prohibited Conduct instead of a Formal Resolution Process. An Informal Resolution Process cannot be used for allegations of Sexual Assault or Sexual Coercion. During the Informal Resolution Process, no formal investigation will take place, and no formal report of findings will be issued.

V. Knowledge means notice of allegations of conduct that may reasonably constitute Prohibited Conduct under this Policy received by the University’s Title IX Coordinator, Office of Equity and Civil Rights, or a Mandated Reporter.

W. Mandated Reporter is any UMBC Community Member, other than Confidential Resources, who have authority to institute corrective measures or who are responsible for administrative leadership, teaching, or advising. Mandated Reporters are required to immediately report the known details of an incident of Prohibited Conduct (date, time, location, names of parties involved, description of the incident, etc.), to the Title IX Coordinator, or Office of Equity and Civil Rights.

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

Y. Pregnancy or Related Conditions means the current, past, or potential presence of any of the following conditions: (1) Pregnancy, childbirth, termination of pregnancy, or lactation; (2) Recovery from pregnancy, childbirth, termination of pregnancy, or lactation; or (3) Medical conditions related to pregnancy, childbirth, termination of pregnancy or lactation.

Z. Prohibited Conduct under this Policy includes Sex Discrimination, Sex-Based Harassment (including

Sexual Assault, Domestic Violence, Dating Violence, and Stalking), Sexual Harassment, Sexual Misconduct, Retaliation, Failure to Report, and Failure to Obey a University Directive.

AA. Relevant means related to the allegations of sex discrimination under investigation as part of the grievance procedures. Questions are Relevant when they seek evidence which may aid a decisionmaker in determining whether the alleged sex discrimination occurred. Evidence is Relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

BB. Reported means information reported to the Title IX Coordinator, the Office of Equity and Civil Rights, or a Mandated Reporter.

CC. Review Meeting is a method of formal resolution that allows for the parties to pose questions for the other party and witnesses only through the Decision-Maker.

DD. Respondent means an individual who has been reported to have engaged in Prohibited Conduct under this Policy.

EE. Retaliation means conduct that is intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX, or this Policy or because an individual has made a report or complaint, testified, been interviewed as a witness, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing related to a matter covered by this Policy.

Retaliation includes bringing charges against an individual for violations of other institutional policies that do not involve Sex Discrimination but arise out of the same facts or circumstances as a report or Complaint, for the purpose of interfering with any right or privilege secured by Title IX or this Policy.

Retaliation Complaints are resolved under the Review Meeting Process.

FF. Sanction means a disciplinary consequence imposed on a Respondent who is found to have violated this policy.

GG. Sex-Based Harassment means conduct in the United States, in an Education Program or Activity, on the basis of sex that satisfies one or more of the following:

1. Quid pro quo harassment— An employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the University’s Education Program or Activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct.
2. Hostile Environment Harassment— Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the University’s Education Program or Activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact- specific inquiry that includes consideration of the following:
 - a. The degree to which the conduct affected the complainant’s ability to access the

- University's Education Program or Activity;
 - b. The type, frequency, and duration of the conduct;
 - c. The parties' ages, roles within the University's Education Program or Activity, previous interactions, and other factors about each party that may be Relevant to evaluating the effects of the conduct;
 - d. The location of the conduct and the context in which the conduct occurred; and
 - e. Other sex-based harassment in the University's Education Program or Activity.
3. Sexual Assault
 4. Dating Violence
 5. Domestic Violence
 6. Stalking

Sex-Based Harassment Complaints are resolved under the Hearing Process.

HH. Sex-Based Harassment prohibited by Md. Code Ann., State Gov't § 20-6018⁵ means unwelcome and offensive conduct, which need not be severe or pervasive, when the conduct is based on sex, sexual orientation, or gender identity or consists of unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature; and

- a. Submission to the conduct is made either explicitly or implicitly a term or condition of the employment of an individual;
- b. Submission to or rejection of the conduct is used as a basis for employment decisions affecting the individual; or
- c. Based on the totality of the circumstances, the conduct creates a working environment that a reasonable person would perceive to be abusive or hostile.

Sex-Based Harassment prohibited by Md. Code Ann., State Gov't § 20-6018 Complaints are resolved under the Review Meeting Process.

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

Sex Discrimination also includes subjecting an individual to different treatment or separation on the basis of sex or adopting a policy or engaging in a practice that prevents an individual from participating in an Education Program or Activity consistent with their gender identity in a manner that discriminates on the basis of sex by subjecting a person to more than de minimis harm, except as otherwise permitted by Federal, State, or local law.

Complaints of Sex Discrimination are resolved under the Review Meeting Process.

⁵ This definition applies only to sex-based harassment of employees that does not constitute Sex-Based Harassment prohibited by Title IX. See Md. Code Ann., State Gov't §§ 20-601 through 20-611.

JJ. Sexual Assault means an offense classified as a sex offense in the Uniform Crime Reporting System of the Federal Bureau of Investigation.⁶ Sex offenses are sexual acts directed against another person, without their consent, and include:

1. Non-Consensual Sexual Penetration— Penetration, no matter how slight, of the genital or anal opening of the body of another person with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
2. Fondling—The touching of the private body parts of another person for the purpose of sexual gratification without the person’s consent, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
3. Incest—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.⁷
4. Statutory Rape—Nonforcible sexual intercourse with a person who is under the statutory age of consent.⁸

KK. Sexual Exploitation is when a person(s) takes non-consensual sexual advantage of another, for their own advantage or benefit, or for the benefit or advantage of anyone other than the person being exploited. Non-consensual sexual advantage refers to any action and/or conduct taken without consent in furtherance to benefit from, to take advantage of, or to attain sexual opportunity.

Sexual Exploitation may include but is not limited to: (1) Intentionally observing, spying on, or listening to person(s) involved in sexual activity or behavior or in any state of undress, without their consent; allowing others to observe sexual activity or behavior of another person or allows others to observe another person in any state of undress, without the consent of all the person(s) involved; (2) Photographing or recording someone (via audio, video or otherwise) involved in sexual activity or behavior, or in any state of undress, without their consent.; (3) Sharing or posting images such as photographs or video/audio of someone involved in sexual activity or behavior or in a state of undress, without their consent. This is applicable to anyone in possession of the images/audio, even if the individual in possession of the images/audio was not responsible for the creation of the original images/audio and was not engaged in the recorded sexual activity or behavior; (4) Removing a condom during sexual intercourse without the consent of the other person; or the act of intentionally misleading another person to believe a condom is being used during sexual intercourse; (5) Prostituting another person, including the use of threat, coercion, or abduction to force another person to perform sexual acts

⁶ See Uniform Crime Reporting Program, National Incident-Based Reporting System (NIBRS) Offense Definitions: https://ucr.fbi.gov/nibrs/2018/resource-pages/nibrs_offense_definitions-2018.pdf.

⁷ Incest under Maryland law is defined as knowingly engage in vaginal intercourse with anyone the person may not marry under § 2-202 of the Family Law Article. Maryland Code, Criminal Law, §3-323, Incest. Section 2-202 says that the following marriages are invalid: with a grandparent; parent; child; sibling; grandchild; grandparent’s spouse; spouse’s grandparent; parent’s sibling; stepparent; spouse’s parent; spouse’s child; child’s spouse; grandchild’s spouse; spouse’s grandchild; or sibling’s child.

⁸ The age of consent in Maryland is sixteen (16). See Md. Code Ann., Crim. Law §§ 3-301 - 307.

with others in exchange for payment; and (6) Inducing Incapacitation of another by providing drugs, alcohol, or other substances—with or without their knowledge—with the intent to impair their ability to withhold consent or their ability to knowingly consent to sexual activity or behavior, regardless of whether sexual activity or behavior actually occurs. If sexual activity or behavior does occur, such conduct may also constitute Sexual Assault.

Sexual Exploitation Complaints are resolved under the Review Meeting Process.

LL. Sexual Harassment prohibited by the 2020 Title IX Regulations is defined as any unwelcome conduct on the basis of sex determined by a reasonable person to be so severe, and pervasive, and objectively offensive that it effectively denies a person equal access to the University’s Education Program or Activity.

An isolated incident, unless sufficiently severe or pervasive, generally does not amount to Sexual Harassment. However, a single incident, if sufficiently severe, may constitute Sex-Based Harassment.

Sexual Harassment prohibited by the 2020 Title IX Regulations Complaints are resolved under the Hearing Process.

MM. Sexual Misconduct includes Indecent Exposure and Sexual Exploitation.

Sexual Misconduct Complaints are resolved under the Review Meeting Process.

NN. Stalking means engaging in a course of conduct on the basis of sex, which is directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.

OO. Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available, and without fee or charge to the parties and without unreasonably burdening a party. Supportive measures may be provided before or after the filing of a Complaint or where no Complaint has been filed. Such measures are designed to restore or preserve a party’s access to the University’s Education Program or Activity without, including measures designed to protect the safety of the parties, the safety of the community or the University’s educational environment, deter Sexual Harassment or to ensure the integrity of the investigative and/or adjudicative processes.

PP. Unauthorized Disclosure means distributing or otherwise publicizing materials created or produced during an investigation or Resolution Process except as required by law or as expressly permitted by the University; or publicly disclosing University work product that contains personally identifiable information without authorization or consent.

VII. Preservation of Evidence of Prohibited Conduct

Preserving evidence is important and may be necessary to prove criminal conduct or obtain an order of protection.

You should take steps to preserve *physical evidence* by refraining from showering, bathing, eating or drinking, brushing teeth or gargling, changing clothes, urinating or defecating, brushing or combing hair, or smoking. Clothing worn at the time of the incident should not be washed and should be placed in a paper bag “as is” and taken to the hospital.

You should also preserve *other kinds of evidence* such as text messages, records of phone calls, email messages, social media posts, photos, notes, gifts, and electronic payment records for car services like Uber and Lyft as they may all be relevant evidence.

VIII. Where to Obtain a Sexual Assault Forensic Examination (SAFE)

If you are in danger or need immediate medical care – CALL 911. If possible, quickly get to a safe place. You can go to any emergency room to get a SAFE, or you can go to a Hospital with a SAFE program. A SAFE allows for the collection of evidence, documenting injuries, and can ensure physical evidence is preserved in the event of a report to law enforcement. A SAFE should occur within 120 hours (5 days) after the incident.

Completing a SAFE does not require that you contact the police and does not require that you report the assault to the University.

If needed, free transportation to obtain a SAFE can be arranged through contacting the Title IX Coordinator at 410.455.1250, University Health Services at 410.455.2542, or the Women’s Center at 410.455.2714. For after-hours requests, free transportation can be provided by calling the UMBC Police at 410.455.5555 (no charges/reports need to be filed with the UMBC Police to access this free SAFE transportation service).

The nearest hospital to UMBC’s campus:

Saint Agnes Hospital (approx. 3.6 miles)
900 South Caton Avenue
Baltimore, MD 21229
24/7 Emergency Department 667.234.6000

Note: While this facility can and will coordinate an exam, a comprehensive SAFE Program is not established at this location (See below for nearby options with SAFE Programs)

The nearest hospital(s) to UMBC’s campus with a SAFE Program:

Mercy Medical Center (9.4 miles)
345 St Paul Pl.
Baltimore, MD 21202
Forensic Nurse Examiner Program 410.332.9494
www.bmoresafemercy.org

Howard General Hospital (approx. 16 miles)
5755 Cedar Lane Hospital
Columbia MD, 21044
Emergency Room and SAFE Program: 410.740.7778

Greater Baltimore Medical Center (approx. 20 miles)
6701 N. Charles Street
Towson, MD 21204
24/7 Emergency Department: 443.849.2225
www.gbmc.org/safe

The nearest hospital to Universities at Shady Grove campus with a SAFE Program:

Adventist Healthcare Shady Grove Medical Center (approx. 1 mile)
9901 Medical Center Drive
Rockville, MD 20850
Forensic Medical Unit: 240.826.6000

IX. Reporting Prohibited Conduct

The University recognizes that the decision whether to make a report of Prohibited Conduct is personal, and that there are many factors that may impact someone's decision to report.

Reporting does not require that a person file a complaint, or request that the University take any action or investigate the conduct.

A. Right to Report to Law Enforcement

Victims of Sexual Assault have the right to file criminal charges with the appropriate law enforcement officials, which may include the UMBC Police, or local law enforcement officers the state, city or county where the Prohibited Conduct occurs.

The University will assist members of the community who wish to report Prohibited Conduct to law enforcement authorities University employees, including University Police, Title IX Coordinator, representatives of the Office of Equity and Civil Rights, Women's Center, and Student Conduct are available to assist students, faculty, and staff in reporting to law enforcement.

Complainants also have the right to decide not to notify or contact law enforcement.

If the UMBC Police receive a report that includes information regarding Prohibited Conduct that may constitute a crime, University Police will advise the person reporting that in addition to making a criminal report, they also have the right to make a report with the University and engage the University's informal and/or formal processes under this Policy and applicable Procedures.

In addition, as Mandated Reporters under this Policy, University Police who receive any type of report of Prohibited Conduct, whether it rises to the level of a crime or not, shall promptly notify the University's Title IX Coordinator.

B. Reporting to the University

The University has a variety of welcoming and accessible ways for UMBC community members to raise concerns and report instances of Prohibited Conduct.

1. Amnesty While Reporting

An individual who makes a report of Prohibited Conduct to the University or law enforcement, or participates as a witness in good faith, will not be subject to disciplinary action for their own personal consumption of alcohol or drugs taken/used at or near the time of the incident of Prohibited Conduct, provided that any such violation was not an act that was reasonably likely to place the health or safety of any other person at risk.

The University may, however, initiate an educational discussion or pursue other interventions/assessments for substance abuse. Amnesty will not be extended for any violations of University policy other than alcohol/drug use. In addition, Amnesty does not preclude or prevent action by police or other legal authorities.

In addition, the use of alcohol, drugs, and/or legally prescribed medication does not justify or excuse behavior that constitutes Prohibited Conduct under this Policy.

2. Who May Report

Any person may report Prohibited Conduct (whether or not the person reporting is the person alleged to have been subjected to the conduct).

3. How to Report

Members of the community are encouraged to report directly to the Title IX Coordinator and/or Office of Equity and Civil Rights.

Reports may be made in person, by mail, by telephone, by electronic mail, [or online](#) to the Office of Equity and Civil Rights or the Title IX Coordinator. Reports may also be made verbally to the Title IX Coordinator.

Reports may be made at any time (including during non-business hours) by using the ECR or Title IX Coordinator's telephone number, e-mail address, mail, or online reporting form.

Contact information for the Office of Equity and Civil Rights is as follows:

Administration Building, 9th Floor
1000 Hilltop Circle, Baltimore, MD 21250
Phone: 410.455.1717
Email: ecr@umbc.edu
Email: titleixcoordinator@umbc.edu

4. Anonymous Reporting

A person may also report conduct anonymously. Anonymous reports of Prohibited Conduct can be made with the University without disclosing one's name and without identifying the Respondent or requesting any action in writing, or via the [online reporting form](#).

Based upon the amount of information provided about the incident and the UMBC Community Members involved, the University's response to an anonymous report may be limited.

5. What Happens After a Report is Made

Upon knowledge of conduct that may reasonably constitute Prohibited Conduct under this Policy, the University will respond promptly and effectively in accordance with the applicable Procedures under this Policy. This includes outreach from the Title IX Coordinator, or designee (typically the ECR Case Manager), who will promptly contact the Complainant to discuss the availability of Supportive Measures, explain the Complainant's rights, and review the University's grievance procedures. The Title IX Coordinator will consider the Complainant's preferences and stated needs with respect to both Supportive Measures and any decision regarding how to move forward.

6. Time Limits on Reporting

There is no time limitation on reporting Prohibited Conduct under this Policy. However, the University's ability to respond, investigate, and/or provide remedies may be limited when there is a significant delay in reporting.

X. Confidential Resources

The University understands that some individuals may not be prepared to make a report to law enforcement or to the University. Therefore, the University has Confidential Resources available to provide confidential counseling, crisis support, medical care, and/or advocacy services for UMBC Community Members affected by an incident of Prohibited Conduct. Conversations with these Confidential Resources will remain confidential, except, when there is an imminent or continuing threat to health or safety (as determined in the sole discretion of the University), there is a disclosure of apparent or suspected abuse of a child or dependent adult, or other basis for disclosure, such as a legal obligation to reveal such information under enforceable court order.

A. Confidential Resources Identified

The following individuals are Confidential Resources:

- i. Pastoral Counselors: Professional, licensed, or ordained clergy, who provide pastoral counseling to members of the UMBC community at the University.
- ii. Professional Licensed Mental Health Providers: Professional, licensed mental health providers who provide mental-health counseling to members of the UMBC community, and those who act in roles under the supervision of a licensed counselor, through the UMBC Retriever Integrated Health (for students) and the Employee Assistance Program (for employees).
- iii. Professional Licensed Healthcare Providers: Professional, licensed healthcare providers who provide medical care to members of the UMBC community, and other health providers who act in roles under the supervision of a licensed healthcare provider, through the University's Retriever Integrated Health.
- iv. Non-Licensed Counselors, Non-Licensed Healthcare Providers, and/or Staff/Advocates who work or volunteer at the University Retriever Integrated Health, or the Women's Center.

B. Confidential Resources Who Serve in Multiple Campus Roles

The employee's confidential status is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies. A Confidential Resource Employee may also function in a different capacity, such as a Non-Confidential Employee. For instance, a Professional Licensed Mental Health Provider may also administer a course at UMBC, functioning as a faculty member. In such instances, the employee's responsibility is dictated by their functioning job title at the time the report is received.

So, a Professional Licensed Mental Health Provider will be considered as a Confidential Resource so long as they are functioning as a Professional Licensed Mental Health Provider, when receiving the report. If the professional is administering a class on campus when the report is received, they will be considered a Mandated Reporter while they function as a faculty member.

C. Responsibilities of Confidential Resources

When a Confidential Resource becomes aware of information about conduct that reasonably may constitute Prohibited Conduct under this Policy, they are required to inform the reporter of the following:

1. that they are a Confidential Resource;
2. circumstances in which they are not required to notify the Title IX Coordinator about conduct that reasonably may constitute Prohibited Conduct under this Policy;
3. how to contact the Title IX Coordinator and how to initiate a Complaint, and
4. that the Title IX Coordinator may be able to offer and coordinate Supportive Measures as well as initiate an informal resolution process or investigation under the grievance process.

XI. Mandatory Reporting Obligations

The University recognizes that some UMBC community members may be most comfortable disclosing information about an incident of Prohibited Conduct to someone they know. Thus, it is important to understand that certain UMBC community members have specific reporting obligations.

A. Mandated Reporters Identified

For purposes of this Policy, all University faculty (including adjunct faculty) and employees (including student-employees), other than those designated as Confidential Resources, are Mandated Reporters and are expected to promptly report all known details of actual or suspected Prohibited Conduct to the Title IX Coordinator.

Mandated Reporters are *non-confidential*, which means they will safeguard the UMBC Community Member's privacy, however **they are required to immediately disclose** the information to the Title IX Coordinator and other need-to-know University officials. Mandated Reporters will try to ensure that any UMBC community member making a disclosure to a Mandated Reporter, understands the Mandated Reporter's reporting/referral obligations.

B. Responsibilities of Mandated Reporters

When a Mandated Reporter becomes aware of information about conduct that reasonably may constitute Prohibited Conduct under this Policy, they are required to take the following actions:

1. Provide the contact information of the Title IX Coordinator and information about how to make a Complaint to any person who provides the Mandated Reporter with information about conduct that may reasonably constitute Prohibited Conduct under this Policy; and
2. Notify the Title IX Coordinator and share the known details of an incident of Prohibited Conduct (date, time, location, names of parties involved, description of the incident, etc.).

C. Failure of a Mandated Reporter to Report (Make Referral)

It is imperative that all Mandated Reporters abide by their reporting/referral obligations in order to ensure that those who report are provided with prompt notice of the Complaint Process and the Supportive Measures available to them.

Any Mandated Reporter who is found to have knowingly failed to make a report/referral to the Title IX Coordinator, regarding alleged Prohibited Conduct that was reported to them, is in violation of this Policy and may be subject to sanctions including disciplinary action.

XII. Reporting Suspected Child Abuse or Neglect

In accordance with State law⁹ and [USM Policy VI – 1.50 Policy on Reporting of Suspected Child Abuse](#)

⁹ See Family Law Article of the Maryland Annotated Code, Sections 5-701 through 5-708.

and Neglect, all community members who witness or receive information about a child (under the age of 18) being abused or neglected, is required to immediately report such information to law enforcement or the local department of social services and to the University's Designee.

University Police Department	410-455-5555
Baltimore County Police Department	410.887.2214
Baltimore County Department of Social Services	410-853.3000
Title IX Coordinator (University's Designee)	410.455.1717

XIII. Privacy and Confidentiality

A. University Obligations

The University makes every effort to preserve the privacy of the parties and witnesses. Only a limited number of individuals outside of the Office of Equity and Civil Rights who have a need to know will typically be told about a report or Complaint. The University must keep confidential the identity of anyone who has made a report or filed a Complaint of Prohibited Conduct, anyone who has been reported as a Respondent, and any witness, except as permitted by FERPA or required by law or to carry out the purposes of this Policy and Title IX, to include conducting of any investigation, Hearing, Review Meeting, or resolution process under this Policy.

The University must maintain as confidential any Supportive Measures provided to the parties, to the extent that maintaining confidentiality would not impair the ability to provide Supportive Measures.

B. Unauthorized Disclosure of Information

Parties, Advisors and Support Persons/Advocates/Attorneys are prohibited from disclosing information obtained by the University through the Resolution Process, to the extent that information is the work product of the University (meaning it has been produced, compiled, or written by the University for purposes of its investigation and resolution of a Complaint), without authorization from the Title IX Coordinator.

It is also a violation of this Policy to publicly disclose University work product that contains a party or witness's personally identifiable information without authorization or consent of that party or witness.

Violation of this provision is subject to sanctions ranging from a warning up to and including expulsion or termination.

Nothing in this section restricts the ability of the parties to obtain and present evidence, including by speaking to witnesses (as long as it does not constitute Retaliation under this Policy), consult with others (e.g., family members, confidential resources, or Advisors), or otherwise prepare for or participate in the Resolution Process.

Nothing in this section limits or precludes Parties, Advisors and Support Persons/Advocates/Attorneys from disclosing or publishing information in response to an enforceable court order, a subpoena, or other

valid lawful purpose. Other valid lawful purposes, include but are not limited to the filing of complaints with external enforcement agencies, such as the U.S. Department of Education Office for Civil Rights, the U.S. Department of Justice Civil Rights Division, the Equal Employment Opportunity Commission, and the Maryland Higher Education Commission, and the filing of proceedings in local, state, and/or federal courts.

XIV. Public Disclosures and Research-Based Disclosures

Disclosures in the following categories shall not be considered notice to the University of Prohibited Conduct for the purpose of triggering its obligation to address and/or investigate any particular incident(s):

A. Public Disclosures, including disclosures of incidents of alleged Sexual Misconduct during or in connection with public awareness events such as “Take Back the Night,” candlelight vigils, protests, “survivor speak-outs,” or other forums. Although such disclosures do not constitute notice to the University of Sexual Misconduct for purposes of triggering its obligation to investigate any particular incident(s), such disclosures may inform the need for campus-wide education and prevention efforts, and the University will provide information at these events about UMBC community members’ Title IX rights and about available University and community resources and support services.

B. Certain Research-Based Disclosures, including disclosures of incidents of alleged Sex Discrimination made by a University student during such student’s participation as a subject in an Institutional Review Board-approved human subject’s research protocol. Institutional Review Boards may, however, in appropriate cases, require researchers to provide information to all subjects of a study about their Title IX rights and about available University and community resources and support services.

XV. Clery Act Compliance and Release of Information

In handling reports related to Prohibited Conduct, the University remains responsible for complying with the requirements of the Crime Awareness and Campus Security Act of 1990 (“Clery Act”) and the Violence Against Women Act (VAWA) amendments to the Clery Act.

The University will comply with Clery and VAWA requirements, including crime recording and reporting requirements, where compliance is not otherwise reached by actions under this Policy.

Pursuant to the Clery Act, anonymous statistical information regarding reported criminal incidents must be shared with the UMBC Police Department for inclusion in the daily crime log. This information will be included in the University’s Annual Security Report and the University may also share aggregate and non-personally identifiable data about reports, outcomes, and sanctions.

XVI. Education, Prevention and Training

A. Education and Prevention

The Office of Equity and Civil Rights and other campus partners offer ongoing educational programs to explain this Policy and the resolution process, and to promote awareness and prevention of Prohibited Conduct for students, faculty, and staff.

The educational programs include, but are not limited to, overviews of what constitutes Prohibited Conduct; the University's policies and procedures; discussion of the impact of alcohol and drug use; understanding consent; risk reduction; and safe and positive options for bystander intervention.

B. Training for Employees

All employees must have annual training regarding the University's obligation to address Prohibited Conduct. At a minimum, the training will include information regarding what constitutes Prohibited Conduct; receiving, reporting and handling reports of Prohibited Conduct; the University's policies and procedures; and the parameters of confidentiality.

All employees shall be trained upon hire, upon change of position, and annually thereafter.

Training materials must not rely on sex stereotypes.

Training for employees shall also comply with Md. Code Ann., State Pers. & Pens. § 2-203.1.

C. Training for Persons Involved in Handling Complaints Under this Policy

Title IX Coordinators, investigators, decision-makers, case managers, any person responsible for providing, modifying or terminating Supportive Measures, and any person who facilitates an informal resolution process, must receive training on the University's obligation to address Prohibited Conduct; what constitutes Prohibited Conduct, the scope of the University's Education Program or Activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes in a manner that protects the safety of the parties and promotes accountability, how to define relevant and determine the relevance of questions and evidence, including the types of evidence that are impermissible as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

In addition to the training listed above, the Title IX Coordinator and any designees must be trained in their specific responsibilities, the specific actions required to prevent discrimination and ensure equal access, the University's recordkeeping system and recordkeeping requirements, and any other training necessary to coordinate compliance with Title IX.

Investigators must also receive training on how to create investigative reports that fairly summarize relevant evidence.

Decision-makers must also receive training on any technology to be used at a live hearing or review meeting.

Training materials must not rely on sex stereotypes and must promote impartial investigations and resolutions of Formal Complaints.

The University will make these training materials publicly available on the Office of Equity and Civil Rights website.

XVII. Monitoring for Barriers to Reporting

The Title IX Coordinator will:

- A. Monitor the Education Program or Activity for barriers to reporting information about conduct that reasonably may constitute Sex Discrimination under this Policy; and
- B. Take steps reasonably calculated to address such barriers.

XVIII. Agreements with Local Law Enforcement and Rape Crisis Programs

UMBC will pursue formalized agreements with Baltimore County Police Department, and a State designated rape crisis program and/or federally recognized sexual assault coalition. The agreement with Baltimore County Police Department will outline when the University refers a matter to the Baltimore County Police Department. The agreement with a local rape crisis program and/or sexual assault coalition will formalize a commitment to provide trauma-informed services to Complainants, education and prevention initiatives for the campus community, and improve the University's overall response to sexual violence.

XIX. University Sexual Assault Climate Survey

On or before March 1, 2016, and at least every two (2) years thereafter, the University will develop and administer a Sexual Assault campus climate survey to students, using nationally recognized best practices for research and climate surveys, in accordance with the procedures set by the Maryland Higher Education Commission (MHEC). On or before June 1, 2016, and at least every two (2) years thereafter, the University shall submit to MHEC a report in accordance with the requirements set forth in Md. Code Annotated, Education Article, Section 11-601(g).

XX. Record Keeping

The University shall maintain, for seven years, records of:

- A. Each investigation, including any determination regarding responsibility and any audio or audiovisual recording or transcript required, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to the Education Program or Activity;
- B. Any appeal and the result thereof;
- C. Any informal resolution and the result therefrom;
- D. Any actions, including any supportive measures, taken in response to a report or formal

complaint of Prohibited Conduct. Including the basis for its conclusion that its response was not deliberately indifferent, and any measures designed to restore or preserve equal access to the recipient's education program or activity. If a recipient does not provide a complainant with supportive measures, then the recipient must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

- E. Document the basis for the University's conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to its Education Program or Activity.
- F. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

XXI. Other Federal and State Nondiscrimination Laws

Nothing in this Policy affects the University's obligations to address, or employees' rights to report, discrimination and retaliation under federal and state nondiscrimination laws.

XXII. Related Policies and Regulations

[University System of Maryland \(USM\) Policy on Sex Discrimination, Amended July 31, 2024](#)

[UMBC Policy on Amorous and Sexual Relationships, Revised July 1, 2004](#)

[UMBC Discrimination and Equal Opportunity Policy](#)

UMBC Policy on Pregnancy and Related Conditions and Parental Status

[The Family Educational Rights and Privacy Act \(FERPA\) \(20 U.S.C. § 1232g; 34 CFR Part 99\)](#)¹⁰

XXIII. External Reporting Agencies

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 external agencies. Individuals seeking to file with these agencies should make contact as soon as possible, to verify any applicable filing time limits and deadlines.

U.S. Department of Education Office for Civil Rights

The Wanamaker Building

100 Penn Square East, Suite 515

Philadelphia, PA 19107-3323

Phone: 215.656.8541

TDD: 1.800.877.8339

Email: OCR.Philadelphia@ed.gov

Website: http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html

¹⁰ The Family Educational Rights and Privacy Act ("FERPA") affords students privacy rights with respect to their education records. Under FERPA, absent certain exceptions, UMBC cannot disclose a student's educational records to anyone other than the student — not even to the student's parents — without the student's written authorization. For more information, about UMBC student privacy policies see <http://ogc.umbc.edu/ferpa-rights-notification/> or <http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>.

U.S. Equal Employment Opportunity Commission (EEOC)- Baltimore Field Office
GH Fallon Federal Building
31 Hopkins, Plaza, Suite 1432
Baltimore, Maryland 21201
Phone: 1.800.669.4000
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
TTY: 410.333.1737
Website: www.mccr.maryland.gov

XXIV. University Response to Receipt of a Report

Upon knowledge of conduct that may reasonably constitute Prohibited Conduct under this Policy, the University will respond promptly and effectively in accordance with these Procedures under this Policy.

A. Notice/Complaint

Upon notification by a Complainant or an employee of information about conduct that may reasonably constitute Prohibited Conduct under this Policy, the Title IX Coordinator will initiate a prompt initial assessment to determine the next steps the University needs to take.

The Title IX Coordinator, or designee (typically the ECR Case Manager), will contact the Complainant to provide written notice of their rights and resources, offer Supportive Measures, and offer an opportunity to meet to discuss the University's policy and procedures, and how the Complainant would like to proceed. This initial outreach to the Complainant will typically occur within two (2) business days after receipt of notice or a Complaint.

B. Initial Assessment

Following receipt of notice or a Complaint of an alleged violation of this Policy, the Title IX Coordinator, or designee, engages in an initial assessment, which is typically five (5) business days in duration. The steps in an initial assessment can include the following:

1. Determining if the Complainant wishes to make a Complaint to pursue a formal investigation and resolution process or pursue informal resolution;
2. If the Complainant chooses not to initiate a Complaint, inform the Complainant of their ability to do so at a later time if desired;

3. If a Complaint is received, assess its sufficiency and obtain additional information from the Complainant if needed, to determine if the allegations would constitute Prohibited Conduct under this Policy.
 - a. If the Title IX Coordinator, or designee, determines that this Policy does not apply and will dismiss that aspect of the Complaint, assess which policies may apply, and refer the Complaint to the appropriate University official for resolution.
4. In the absence of a Complaint or the withdrawal of any allegations in a Complaint, the Title IX Coordinator will determine whether to initiate a Complaint.
5. If the Complainant decides to pursue informal resolution, assess whether the Complaint is suitable for informal resolution and may seek to determine if the Respondent is also willing to engage in informal resolution.
6. Upon receipt of a Complaint, either initiated by the Complainant or the Title IX Coordinator, the Title IX Coordinator will initiate the formal investigation and resolution process.
7. Determining the need to initiate an Emergency Removal or Administrative Leave for the Respondent.

C. Supportive Measures

1. Provision of Supportive Measures

The ECR Case Manager is responsible for facilitating the implementation of reasonable and appropriate Supportive Measures. The ECR Case Manager shall offer Supportive Measures to a Complainant and Respondent before or after the filing of a Complaint or where no Complaint has been filed.

Supportive Measures may be requested by a Complainant or Respondent, or the University can initiate Supportive Measures in the absence of a request, at any time, during the process. Individuals can make a request for Supportive Measures, in-person or in-writing by contacting the ECR Case Manager.

1. Available Supportive Measures

Supportive Measures may include, but are not limited to, counseling, extensions of deadlines or other course-related or academic accommodations and adjustments, change in class schedule, including the ability to drop a course without penalty or to transfer sections, if such alternatives are available and feasible; modifications of a work schedule, work location, or job assignment, if such alternatives are available and feasible; arranging for an incomplete grade in a class, permitting a leave of absence, or withdrawal, including a retroactive withdrawal; change in campus housing assignment or housing license, if such alternatives are available and feasible; assistance from University support staff in completing University housing assignments; to the extent practicable, preserving eligibility for academic, athletic, or other scholarships, institution-based financial aid, or program eligibility; providing alternative course completion options, campus escort services, referrals to counseling, health services, or academic support services, restrictions on contact between the parties, changes in housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, restricting access to the University or to certain University facilities, resources, or activities pending resolution of the report, and other similar measures.

2. Confidentiality of Supportive Measures

The University must maintain as confidential any Supportive Measures provided to the Complainant or Respondent, unless maintaining such confidentiality would impair the ability of the recipient to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.

2. Appeal of the Provision of Supportive Measures

A party may request to modify or reverse a decision made by the ECR Case Manager to provide, deny, modify, or terminate Supportive Measures applicable to them by submitting a written request to the Title IX Coordinator. The written request should outline the basis for the request and provide information regarding the desired Supportive Measures. The request should be submitted to the Title IX Coordinator within five (5) business days of receipt of the initial decision of the ECR Case Manager. The Title IX Coordinator may extend this timeline for good cause on a case-by-case basis.

3. Violations of Supportive Measures

Violations of no-contact orders or other restrictions provided as a Supportive Measure may constitute a Failure to Obey a University Directive and will be referred for resolution using a Review Meeting under this Policy and Procedures.

D. Request by Complainant for No University Action/University Complaint

A Complainant may request that their identity not be disclosed to anyone else and/or that the University not investigate, issue a Notice of Investigation, or take any action.

When a Complainant does not seek any action, the Title IX Coordinator will make every effort to honor the Complainant's wishes. In such situations, the University will be limited in its ability to implement any disciplinary action but will take steps to stop, prevent, and remedy and alleged Prohibited Conduct.

E. Complaints Initiated by the Title IX Coordinator

If the Title IX Coordinator determines, in their sole discretion, that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct, as alleged, prevents the University from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a Complaint.

In determining whether to initiate a Complaint, the Title IX Coordinator will consider the following factors:

1. whether the Complainant has requested not to proceed with the Complaint;
2. the Complainant's reasonable safety concerns regarding initiating a Complaint;
3. the risk that additional acts of Prohibited Conduct would occur if a Complaint is not initiated;
4. the severity of the alleged Prohibited Conduct, including whether the discrimination, if established, would require the removal of the Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent recurrence;

5. the age and relationship of the parties, including whether the Respondent is an employee;
6. the scope of the alleged Prohibited Conduct, including information suggesting a pattern of ongoing Prohibited Conduct alleged to have impacted multiple individuals;
7. the availability of evidence to assist a decision-maker in determining whether sex discrimination occurred; and
8. whether the University could end the alleged Prohibited Conduct and prevent its recurrence without initiating grievance procedures.

If the Title IX Coordinator initiates a Complaint, the Title IX Coordinator will notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing Supportive Measures.

F. Dismissal of Complaints

1. Mandatory Dismissal

There are certain circumstances in which the Title IX Coordinator must dismiss a Complaint, or any allegations therein, that is received in writing and involves allegations of Sexual Assault, Domestic Violence, Dating Violence, Stalking, or Sexual Harassment prohibited by the 2020 Title IX Regulations.

The Title IX Coordinator must dismiss such Complaints when:

- i. the allegations, even if proven, would not constitute, Sexual Assault, Domestic Violence, Dating Violence, Stalking, or Sexual Harassment prohibited by the 2020 Title IX Regulations; or
- ii. the alleged conduct did not occur in the University's Education Program or Activity; or did not occur against a person in the United States.

2. Permissive Dismissal

The Title IX Coordinator may dismiss a Complaint or any allegations therein, if at any time during the Resolution Process:

- i. The University is unable to identify the Respondent after taking reasonable steps to do so;
- ii. The Respondent is not participating in the University's Education Program or Activity or is not employed by the University;
- iii. The Complainant voluntarily withdraws any or all of the allegations in the Complaint in writing, the Title IX Coordinator declines to initiate a Complaint on behalf of the University, and the University determines that without the Complainant's withdrawn allegations any conduct that remains would not constitute Prohibited Conduct under this Policy, if proven;
- iv. The University determines that the conduct alleged, if proven, would not constitute Prohibited Conduct under this Policy, after taking reasonable steps to clarify the allegations with the Complainant; or
- v. specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Complaint or allegations therein.

In situations where the Complainant voluntarily withdraws any or all of the allegations in the Complaint, nothing in this Policy would preclude a Complainant from voluntarily deciding to re-file any or all of the allegations at a later time. In such cases, the University reserves the right to reinstate the Resolution Process.

3. Notice of a Dismissal

Upon deciding that the University will dismiss a Complaint or any allegations therein, the Title IX Coordinator will promptly send written notice of the dismissal to the Complainant. Notice of the dismissal will also be sent to the Respondent if the dismissal occurs after the Respondent has been notified of the allegations.

The written notice will include, at a minimum, the basis for the dismissal, process to appeal the dismissal, and information regarding whether the Office of Equity and Civil Rights will continue the investigation or resolution under another applicable policy and/or refer the Complaint to the appropriate University official for resolution.

Upon dismissal, the Title IX Coordinator must offer Supportive Measures to Complainant or Respondent, as appropriate, and take appropriate and prompt steps to ensure that Prohibited Conduct does not continue or recur.

Dismissing a complaint under this Policy is just procedural and does not limit the University's authority to address a complaint with an appropriate process and remedies in accordance with other University policies and procedures.

4. Appeal of a Dismissal

The following grounds for appeal of a dismissal are available:

- i. Procedural irregularity that would change the outcome;
- ii. New evidence that would change the outcome that was not reasonably available when the determination was made; and
- iii. The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias that would change the outcome.

The University may offer additional bases for appeal as long as they are available equally to all parties.

A party must submit a request for an appeal in writing to the Title IX Coordinator within five (5) business days of the delivery of the notice of dismissal.

If a dismissal is appealed, the University will:

- a. Notify the parties, including providing notice of the allegations to the Respondent if not previously notified;
- b. Implement appeal procedures equally for the parties;

2. Ensure that the appeal decision-maker has received training and did not participate in the investigation or dismissal;
3. Provide the parties a reasonable and equal opportunity to make a written statement in support of or challenging the outcome; and
4. Notify the parties of the result of the appeal and the basis for the result.

The appeal Decision-Maker will review the written documentation provided by the parties and decide to uphold, reverse, and/or modify the dismissal. The appeal Decision-Maker will seek to provide the written decision to the parties within five to seven (5-7) business days after receiving the written responses from the parties.

G. Emergency Removal of a Student Respondent

The University can act to remove a student Respondent entirely or partially from its education program or activities on an emergency basis when a risk assessment has determined that an immediate threat to the physical health or safety of any student, employee, or other individuals justifies removal.

The Title IX Coordinator initiates the risk analysis process through a referral to the Behavioral Risk Assessment and Consultation Team (BRAC). Where an Emergency Removal is imposed, the Title IX Coordinator will provide written notice of the decision to the Respondent and information about the process for challenging the determination.

The Respondent will have two (2) business days to appeal the Emergency Removal decision by submitting a written summary of their objections to the Emergency Removal to the Title IX Coordinator. When an appeal is not submitted within two (2) business days after receiving the notice of the emergency removal from the Title IX Coordinator, any appeal to the Emergency Removal will be deemed waived.

If the Respondent challenges the Emergency Removal decision, the Respondent will meet with the Vice President for Institutional Equity, or their designee.

This meeting will occur before such Emergency Removal is imposed or as soon thereafter as reasonably possible to showcase why the Emergency Removal should not be implemented or should be modified. This meeting is not a hearing on the merits of the allegation(s) but rather an administrative process intended to determine solely whether the Emergency Removal is appropriate.

The University will implement the least restrictive emergency actions possible based on the circumstances and safety concerns. These actions could include but are not limited to: removing a student from a residence hall, temporarily re-assigning a student-employee, restricting a student's access to or use of facilities or equipment, implementing no-contact orders, alternative coursework options, allowing a student to withdraw or take grades of incomplete without financial penalty, and suspending or restricting a student's participation in extracurricular activities, student employment, student organizations, or intercollegiate or recreational athletics.

H. Administrative Leave for Employee Respondents

Where the Respondent is an employee (including student employees), the University may place the employee on administrative leave during the pendency of a Resolution Process.

The Title IX Coordinator will recommend the administrative leave process and work in coordination with Human Resources and any other appropriate University officials for implementation.

I. Counterclaims

The University is obligated to ensure that the Resolution Process is not abused for retaliatory purposes. When a counterclaim is filed, the University will conduct an initial assessment, as described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims made for retaliatory purposes constitute a violation of this Policy and will not be permitted.

Counterclaims determined to have been reported in good faith will be processed using the procedures outlined herein. Counterclaims will be resolved as part of the same investigation as the underlying allegation when practicable. When this is not practicable, the investigation of such claims may take place after the underlying initial allegation is resolved, in which case a delay may occur.

XXV. Rights of the Parties

Under this Policy and Procedures, the parties have the right to:

- A. Treatment with dignity, respect, and sensitivity by University officials during all phases of the Resolution Process;
- B. A fair and impartial investigation;
- C. Resolution Processes that are prompt and equitable and provide an opportunity for the parties to be heard;
- D. Timely written notice of:
 - 1. The reported violation, including the date, time, and location of the alleged violation, and the range of potential sanctions associated with the alleged violation;
 - 2. The party's rights and responsibilities under the University's policies and procedures and information regarding other civil and criminal options;
 - 3. The date, time, and location of each hearing, meeting, or interview that the party is required or permitted to attend;
 - 4. A final determination made by the Decision-Maker regarding whether a policy violation occurred and the basis for the determination;
 - 5. Any sanction imposed, as permitted by law; and
 - 6. The party's rights to appeal and a description of the appeal process;

- E. Participation in the Resolution Process, including:
1. Access to the case file and evidence regarding the incident obtained by the University during the investigation or considered by the Decision-Maker, with personally identifiable or other information redacted as required by applicable law;
 2. Offering testimony to the Decision-Maker at a Hearing or Review Meeting;
 3. Submitting evidence, witness lists, and suggested specific questions to be posed to the other party involved in the Resolution Process by investigators or the Decision-Maker;
 4. Providing and reviewing testimony electronically or in a way in which the parties are not required to be in the physical presence of one another;
 5. Reviewing and providing written responses to reports and proposed findings; and
 6. Appealing a determination or sanction;
- F. Right to have access to and assistance from an advisor and a support person trained advocate or advisor or attorney of their choice throughout the Resolution Process, including:
1. Presence during any interview, Review Meeting or Hearing;
 2. Private consultations with the party during interviews, Review Meetings and Hearings, except during questioning of the party at a hearing;
 3. Assistance with the party's exercise of any right during the resolution process; and
 4. For a student, access to counsel paid for by the Maryland Higher Education Commission (MHEC).
 5. The presence of no more than two people at any hearing, meeting, or interview during the resolution process.
- G. Under Maryland State Law, a current or former student who makes a Complaint or responds to a Complaint where a Title IX investigation is initiated, and who was enrolled as a student at the institution at the time of the incident that is the basis of the complaint, may have access to counsel paid for by the Maryland Higher Education Commission (MHEC), unless the student knowingly and voluntarily chooses not to have counsel. Code of Maryland Regulations (COMAR) 13B.09.01.

A student may obtain from MHEC, through [MHEC's website](#), a [list of licensed attorneys](#) and/or legal services programs who have indicated that they will represent such students in Title IX proceedings on a pro bono basis or for reduced legal fees.

A student may contact, select and seek to retain an attorney from the MHEC list, at any time before the conclusion of formal Title IX proceedings. A student's attorney may seek reimbursement of certain legal costs and fees from MHEC's Legal Representation Fund for Title IX Proceedings, subject to the availability of funding.

- H. Notice to a student party, presented in an appropriate and sensitive format, before the start of the Formal Resolution Process, of:
1. The student's right to the assistance of an attorney or an advocate;
 2. The legal service organizations and referral services available to the student; and
 3. The student's right to have a personal supporter of the student's choice at any hearing, meeting, or interview during the Resolution Process;

- I. Access to counsel paid for by MHEC for a current or former student who makes a Complaint or responds to a Complaint on which a Title IX investigation is initiated, and who was enrolled as a student at the Institution at the time of the incident that is the basis of the Complaint, unless the student knowingly and voluntarily chooses not to have counsel, in accordance with COMAR 13B.09.01:
- a. A student may select and retain an attorney before the conclusion of the formal Title IX proceedings;
 - b. A student may obtain from MHEC, through MHEC's website, a list of licensed attorneys who have indicated that they will represent such students in Title IX proceedings on a pro bono basis or for reduced legal fees; and
 - c. A student's attorney may seek reimbursement of certain legal costs and fees from MHEC's Legal Representation Fund for Title IX proceedings, subject to the availability of funding.
- J. Equitable Treatment of Complainants and Respondents by the University which includes:
1. Providing remedies to a Complainant where a determination of responsibility has been made against the Respondent, and by using procedures that comply with Title IX and this Policy when investigating and resolving allegations of Prohibited Conduct before the imposition of any sanctions or other actions that are not Supportive Measures against a Respondent (remedies must be designed to restore or preserve equal access to the University's Education Program or Activity);
 2. Providing an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence; and
 3. Applying any provisions, rules, or practices used to investigate and resolve complaints under this Policy equally to all parties.

K. Presumption of Non-Responsibility

The University will presume that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made, or the Respondent admits the conduct.

L. Advisors and Support Persons

a. Who May Serve as an Advisor or Support Person

The Advisor or Support Person may be an advocate, attorney, union representative, friend, family member, or any other individual a party chooses. Choosing an Advisor who is also a witness in the process creates the potential for bias and conflict of interest. A party that chooses an Advisor who is also a witness can anticipate that the Decision-Maker will consider this as part of the credulity assessment when making a determination regarding responsibility.

A party may elect to change their Advisor or Support Person during the resolution process and is not obligated to use the same individual throughout. Parties are expected to provide the Title IX Coordinator with timely notification of any change to their Advisor or Support Person. If a party changes their Advisor or Support Person, consent to share information with the previous individual is assumed to be terminated, and a release for the new Advisor or Support Person must be submitted.

b. Role of the Advisor and Support Person

The Advisor or Support Person may not delay, disrupt, or otherwise interfere with the outlined Procedures. Advisors and Support Persons are expected to act ethically, with integrity, and in good faith.

The Advisor or Support Person will not be allowed to provide testimony or statements on behalf of the party they are assisting. Parties are expected to ask and respond to questions on their own behalf throughout the resolution process. The Advisor or Support Person may consult with the party, either privately as needed, or by conferring or passing notes during any meeting or interview. For longer or more involved discussions, the parties and their Advisor or Support Person should ask for breaks to allow for private consultation.

c. Records Shared with an Advisor

Advisors are entitled to the same opportunity as their advisee to access relevant evidence, and/or the same written investigation report that accurately summarizes this evidence.

Advisors are expected to maintain the confidentiality of the records the University shares with them, per the Confidentiality provisions outlined in this Policy. Advisors may not disclose any University work product or evidence the University obtained solely through the Resolution Process for any purpose not explicitly authorized by University.

Accordingly, Advisors will be asked to sign a confidentiality notice and FERPA waiver. The University may decline to share materials with any Advisor who has not executed the confidentiality notice and FERPA waiver. University may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the University's confidentiality expectations.

The Unauthorized Disclosure of records shared with an Advisor is a violation of this Policy.

d. Advisor and Support Person Expectations

The University generally expects an Advisor or Support Person to adjust their schedule to allow them to attend University meetings/interviews/hearings when planned, but the University may change scheduled meetings/interviews/hearings to accommodate an Advisor or Support Person's inability to attend, if doing so does not cause an unreasonable delay or impede the University's ability to provide a prompt and equitable process.

The University may also make reasonable provisions to allow an Advisor or Support Person who cannot be present in person to attend a meeting/interview/hearing by telephone, video conferencing, or other similar technologies.

All Advisors are subject to the same University policies and procedures, whether they are attorneys or not, and whether they are selected by a party or appointed by the University.

e. Advisor and Support Person Policy Violations

Any Advisor or Support Person who oversteps their role as defined by the Policy, who shares information or evidence in a manner inconsistent with the Policy, or who refuses to comply with the University's established rules of decorum will be warned. If the Advisor or Support Person continues to disrupt or otherwise fails to respect the limits of the Advisor or Support Person role, the meeting/interview/hearing may be ended, or other appropriate measures implemented, including the University requiring the party to use a different Advisor or Support Person or providing a different University-appointed Advisor. Subsequently, the Title IX Coordinator will determine how to address the Advisor or Support Person's non-compliance and future role.

XXVI. Formal Investigation and Resolution of Complaints

A. Which Procedures Apply

Sex-Based Harassment and Sexual Harassment prohibited by the 2020 Title IX Regulations: The procedures include a Notice of Complaint, Investigation, Opportunity to Review the Evidence and Investigation Report, Live Hearing and Appeal. Those procedures are set forth in further detail below.

Sex Discrimination, Sex-Based Harassment prohibited by Md. Code Ann., State Gov't § 20-6018, Sexual Misconduct, and Retaliation: The procedures include a Notice of Complaint, Investigation, Opportunity to Review the Evidence and Investigation Report, Review Meeting and Appeal. Those procedures are set forth in further detail below.

B. Time Frame for Resolution

The University will generally seek to resolve a report of Prohibited Conduct within sixty to ninety (60-90) business days after receiving a Formal Complaint, excluding any appeal. There may be circumstances that prevent the University from meeting the sixty to ninety (60-90) business day timeline.

The time frame may be extended by the University for good cause, as determined on a case-by-case basis, in order 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.

When the University is unable to meet the target timeline, the Parties will receive written notice regarding the extended time frame and the reason for the delay.

C. Co-Occurring Criminal Investigation

People may report Prohibited Conduct to law enforcement before, during or after reporting to the University. Therefore, the University process is not dependent on the status of or outcome of any criminal investigation or process. That means that you can report conduct to both law enforcement, and the

University, or you can report only to one or the other.

Because the standards for a violation of criminal laws are different from the standards under this Policy, the outcome of a criminal investigation or proceeding does not control whether or not something is found to violate this Policy; a policy violation may be found even if law enforcement agencies or prosecutors decline to prosecute.

Since the University is required to conduct an investigation in a reasonably prompt time frame, in most cases, the University will not wait until a criminal investigation or proceeding begins or ends before conducting its own investigation or implementing Supportive Measures to protect the safety of the person reporting, and/or the entire UMBC campus community, if necessary.

However, at the request of law enforcement, the University's investigation may be delayed temporarily, during the initial evidence gathering stage of the criminal investigation, as long as the delay does not inhibit the University's ability to respond to the Prohibited Conduct in a prompt manner.

Where appropriate, if there is a pending criminal investigation regarding Prohibited Conduct that is also the subject of a Complaint to ECR, the University may coordinate with law enforcement consistent with student privacy rights and any applicable agreements with local law enforcement.

D. Standard of Review

The standard of review for all complaints based on alleged violations of this Policy is preponderance of the evidence. This is the same standard of review that is used in other proceedings at UMBC for Complaints of Sex-Based Harassment and for all allegations of involving discrimination.

XXVII. Notice of Investigation

Upon receipt of a Complaint, the University will provide written notice to all known parties. At a minimum, the notice will include the following:

- Information regarding this Policy and the investigation and Resolution Process, including the availability of any informal resolution process;
- Sufficient details of the allegations with sufficient time to prepare a response before any initial interview. "Sufficient details" refers to all known information at the time regarding the identities of the parties involved in the incident, the conduct allegedly constituting Prohibited Conduct, and the date and location of the alleged incident;
- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is not made until the conclusion of the investigation and Resolution Process;
- The right of the parties to receive Supportive Measures;
- The right of the parties to have an Advisor and support person/advocate/attorney present with them at any meeting, interview, or hearing;
- The right of the parties to present Relevant and not otherwise impermissible evidence to a trained,

impartial Investigator for consideration during the investigation and any Hearing or Review Meeting held during the Resolution Process;

- The right of the parties to receive and review the evidence that is not otherwise impermissible before a final investigative report is issued;
- Statement that Retaliation is prohibited;
- Notice that the UMBC Code of Student Conduct and other University policies prohibit knowingly making false statements, furnishing false information to any University official or office, and submitting false or misleading information during any University investigation or Resolution Process;
- If the University decides to investigate additional allegations of Prohibited Conduct not included in the original notice, the parties will be provided an updated written notice of the additional allegations; and
- To the extent the University has reasonable concerns for the safety of any person as a result of the University providing such notice, the University may reasonably delay providing written notice in order to address safety concerns appropriately. Reasonable concerns must be based on an individualized safety and risk analysis and not mere speculation or stereotypes.

If a Complainant wants the University to investigate, they must agree to have the University provide the Respondent with a Notice of Investigation. The University will not proceed with a Formal Resolution Process without issuing a Notice of Investigation to the Respondent.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official University records, or emailed to the parties' University-issued email or otherwise approved account. Once mailed, emailed, and/or received in person, notice will be presumptively delivered.

F. Consolidation of Complaints

The University may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations arise out of the same facts or circumstances.

The University shall promptly notify the Parties if, in its sole discretion, it determines that matters should be consolidated.

J. Evidence

1. Objective Evaluation of Evidence

The University will objectively evaluate all Relevant evidence—including both inculpatory and exculpatory evidence.

Credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness.

2. Impermissible Evidence that Cannot Be Considered

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

a. Privileged Information

Information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

b. Health Records

Records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional which are made in connection with the treatment of a party or witness, unless the University obtains that party's or witness's voluntary, written consent to do so.

c. Mental Health Records

Information about a student's history of mental health counseling, treatment, or diagnosis, unless the student consents.

d. Sexual Interests or Prior Sexual Conduct

Sexual interests or prior sexual conduct will not be used for purposes of illustrating any party's individual character or reputation.

The University may not elicit, consider, require, rely upon, allow, disclose, or otherwise use evidence about a Complainant's sexual interests or prior sexual conduct unless: (1) such evidence is offered to prove that someone other than the Respondent committed the Prohibited Conduct; or (2) such evidence relates to specific incidents of the Complainant's prior sexual conduct *with the Respondent* and is offered to prove consent. The mere fact of current or previous consensual sexual conduct between the Complainant and Respondent, by itself, is not sufficient to demonstrate or imply Consent.

The University may not elicit, consider, require, rely upon, allow, disclose, or otherwise use evidence about a Respondent's prior sexual history with an individual other than a party to the proceedings, except to: (1) prove prior sexual misconduct; (2) support a claim that a student has an ulterior motive; or (3) impeach a student's credibility after that student has put their own prior sexual conduct at issue.

e. Illegally-Obtained Information

Information obtained in violation of state or federal law, including but not limited to recordings taken in violation of two-party consent (Maryland Wiretap Act).

K. Investigation of a Complaint

1. Assignment of Investigator(s)

Once an investigation is initiated, the Title IX Coordinator appoints an Investigator(s) to conduct the investigation. The Investigator(s) may be an internal ECR investigator, or any other properly trained investigator, external to the University's community.

The University will ensure that the Investigator(s) has had the requisite training and confirm that there is no actual conflict of interest, bias, or lack of impartiality.

2. Steps in the Investigation Process

When investigating a Complaint and throughout the investigation and resolution process, the University will:

- a. Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties.
- b. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the University and not on the parties,
- c. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence that is not otherwise impermissible evidence;
- d. Provide the parties with the same opportunities to have others present during any investigation or resolution proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor and/or support person of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of an advisor for either the Complainant or Respondent in any meeting or proceeding; however, the institution may establish restrictions regarding the extent to which the advisor may participate in the meetings or proceedings, as long as the restrictions apply equally to all parties;
- e. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;
- f. Conduct interviews of the parties and any relevant witnesses. Follow-up interviews will be conducted as needed.
- g. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is Relevant to the allegations raised in a Formal Complaint and not otherwise impermissible evidence, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation.
- h. Write a comprehensive investigative report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. The Investigator(s) gather, assess, and synthesize evidence but make no conclusions, engage in no policy analysis, and render no recommendations as part of their investigative report.
- i. Prior to completion of the investigative report, send to each party and the party's advisor, if any, a

draft investigation report and the evidence subject to inspection and review in an electronic format or a hard copy, and provide the parties at least ten (10) days to submit a written response for consideration by the investigator along with any written follow-up questions they would like to have the investigator ask the other party and/or witnesses.

- i. The Investigator will review the proposed questions submitted by the parties to determine whether a proposed question is Relevant and would not elicit Impermissible Evidence.
- ii. The Investigator must explain the decision to exclude any question that is not Relevant or would elicit Impermissible Evidence and allow the parties an opportunity to clarify any proposed questions prior to finalizing the investigation report.
- j. Conduct any follow-up interviews with the parties and/or witnesses to pose the questions submitted by the parties and include a summary of these follow-up interviews in the final investigative report.
- k. Create a final investigative report that fairly summarizes the Relevant evidence.
- l. Provide each party and Advisor, if any, the investigative report in an electronic format or a hard copy, at least ten (10) days prior to any Hearing or Review Meeting to allow each party an opportunity to submit a written response to be given to the Decision-Maker.
- m. Complete the investigation promptly and without unreasonable deviation from these Procedures and the intended timeline.
- n. Provide regular status updates to the parties throughout the investigation.

3. Interview Recordings

It is standard practice for investigators to create a record of all interviews pertaining to the Resolution Process. No unauthorized audio or video recording of any kind is permitted during investigation meetings.

All interviews are recorded, and all involved persons will be made aware of the audio and/or video recording. The recording and/or transcript of those meetings will be provided to the parties and any witnesses for their review.

Interviews may be conducted in person, via online video platforms (e.g., Zoom, Microsoft Teams, WebEx), or, in limited circumstances, by telephone. The University will take appropriate steps to ensure the security/privacy of remote interviews.

i. Unresponsive Parties or Witnesses

If a party or witness chooses not to participate in the Resolution Process or becomes unresponsive, the University reserves the right to continue the investigation without their participation to ensure a prompt resolution. Non-participatory or unresponsive parties retain the rights outlined in this Policy and the opportunity to participate in the Resolution Process.

ii. Participation of Employee Witnesses

Employees (not including a Complainant or Respondent) are expected to cooperate with and participate in the University's investigation and Resolution Process. Student witnesses and witnesses from outside the University community cannot be required to participate but are encouraged to cooperate with University investigations and to share what they know about a Complaint.

iii. Investigation Timeframe

The University will generally seek to complete all investigations of Prohibited Conduct within forty-five to sixty (45-60) business days after issuing the Notice of Investigation. The timeline may be extended for good cause. When the University is unable to meet the target timeline, the Parties will receive written notice regarding the extended time frame and reason for the delay.

L. Decision-Maker

1. Assignment of Decision-Maker

Once an investigation is concluded, the Title IX Coordinator will appoint a Sole Decision-Maker. The University will use a Sole Decision-Maker to hold a Hearing or Review Meeting. The Decision-Maker may be an internal ECR Decision-Maker or any other properly trained Decision-Maker internal or external to the University. The Decision-Maker may not be the Title IX Coordinator or the Investigator(s).

The University will ensure that the Decision-Maker has had the requisite training and confirm that there is no actual conflict of interest, bias, or lack of impartiality.

2. Role of the Decision-Maker

The role of the Decision-Maker is to independently determine whether a Policy violation did or did not occur, based upon the preponderance of the evidence standard, and if warranted, determine the appropriate sanctions.

The role of the Decision-Maker, is not to re-investigate the matter. The Decision-Maker shall make the final determination(s) regarding credibility of all the information/evidence presented. However, no negative inferences related to final credibility determinations, shall be made, because a party does not appear or does not participate at the scheduled Hearing or Review Meeting.

3. Hearing and Review Meeting Recordings

It is standard practice for the Decision-Maker to create a single record of all Hearings and Review Meetings pertaining to the Resolution Process. No unauthorized audio or video recording of any kind is permitted during a Hearing or Review Meeting.

All Hearings and Review Meetings are recorded, and all involved persons will be made aware of the audio and/or video recording. The recording and/or transcript of those meetings will be provided to the parties for their review. The recording and/or transcript will be the property of the University.

Hearings and Review Meetings may be conducted in person or via online video platforms (e.g., Zoom, Microsoft Teams, WebEx). The University will take appropriate steps to ensure the security/privacy of remote Hearings and Review Meetings.

4. Unresponsive Parties or Witnesses

If a party or witness chooses not to participate in the Resolution Process or becomes unresponsive, the University reserves the right to continue the Hearing or Review Meeting without their participation to ensure a prompt resolution. Non-participatory or unresponsive parties retain the rights outlined in this Policy and the opportunity to participate in the Resolution Process.

5. Participation of Employee Witnesses

Employees (not including a Complainant or Respondent) are expected to cooperate with and participate in the University's Resolution Process. Student witnesses and witnesses from outside the University community cannot be required to participate but are encouraged to cooperate with University Hearings and Review Meetings and to share what they know about a Complaint.

6. Hearing and Review Meeting Timeframe

The University will generally seek to schedule a Hearing or Review Meeting no later than twenty (20) business days after issuance of the final investigative report. The timeline may be extended for good cause. When the University is unable to meet the target timeline, the Parties will receive written notice regarding the extended time frame and reason for the delay.

M. Live Hearing with Cross-Examination to Resolve Complaints of Sex-Based Harassment and Sexual Harassment prohibited by the 2020 Title IX Regulations under this Policy.

A live hearing with cross-examination of the parties and witnesses is held to resolve Complaints of Sex-Based Harassment, including Sexual Assault, Domestic Violence, Dating Violence and Stalking, and Sexual Harassment prohibited by the 2020 Title IX Regulations.

The Live Hearing Process consists of the following:

1. A Sole Decision-Maker is assigned, and written notice of the Hearing is provided to the parties. At a minimum, the written notice will provide information regarding; the date, time, location of the Hearing; name of the Decision-Maker; the ability to raise any challenge to the assigned Decision-Maker due to bias or conflict of interest; names of any other individuals who will be present during the Hearing; and the ability to request the University to appoint an Advisor to conduct cross-examination during the Hearing on behalf of the party.
2. Make all evidence obtained as part of the investigation that is Relevant to the allegations raised in a Complaint and not otherwise impermissible evidence available at any Hearing to give each party equal opportunity to refer to such evidence.
3. At the live Hearing, the Decision-Maker must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.
4. Cross-examination at the live Hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.
5. Only relevant cross-examination and other questions may be asked of a party or witness.

6. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Decision-Maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
7. If a party does not have an Advisor present at the live Hearing to conduct cross-examination on behalf of that party, the University must provide without fee or charge to that party, an Advisor of the University's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.
8. If a party or witness does not submit to cross-examination at the live Hearing, the Decision-Maker cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live Hearing or refusal to answer cross-examination or other questions.
9. Live Hearings may be conducted with all parties physically present in the same geographic location or, at the University's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

N. Review Meeting to Resolve Complaints of Sex Discrimination, Sexual Harassment, Sexual Misconduct, and Retaliation under this Policy.

A Review Meeting is held to resolve Complaints of Sex Discrimination, Sexual Harassment, Sexual Misconduct, and Retaliation.

The Review Meeting Process consists of the following:

1. A Sole Decision-Maker is assigned and written notice of the Review Meeting is provided to the parties. At a minimum, the written notice will provide information regarding; the date, time, location of the Review Meeting; name of the Decision-Maker; the ability to raise any challenge to the assigned Decision-Maker due to bias or conflict of interest; and the names of any other individuals who will be present during the Review Meeting.
2. Make all evidence obtained as part of the investigation that is Relevant to the allegations raised in a Complaint and not otherwise impermissible evidence available at Review Meeting to give each party equal opportunity to refer to such evidence.
3. The Investigator presents the report and a summary of the evidence gathered during the investigation for no longer than fifteen (15) minutes; the Decision-Maker may, but is not required to, ask questions.
4. The Complainant has an opportunity to give a statement no longer than fifteen (15) minutes; the Decision-Maker may, but is not required to, ask questions.
5. The Respondent has an opportunity to give a statement no longer than fifteen (15) minutes; the Decision-Maker may, but is not required to, ask questions.
6. The parties cannot directly ask questions of one another. However, the parties may propose questions to the Decision-Maker that they would like to have the Decision-Maker ask the other party during the Review Meeting.
 - a. These questions must be submitted in writing to the Decision-Maker no later than five (5) business days prior to the date of the Review Meeting.
 - b. The Decision-Maker will review all proposed questions prior to the Review Meeting to determine whether a proposed question is Relevant and would not elicit Impermissible Evidence.
 - c. The Decision-Maker must explain the decision to exclude any question that is not Relevant

or would elicit Impermissible Evidence and allow the parties an opportunity to clarify any proposed questions prior to the Review Meeting.

- d. The Decision-Maker may choose to place less or no weight on statements by a party or witness who refuses to respond to questions deemed Relevant that would not elicit Impermissible Evidence.
- e. The Decision-Maker cannot draw an inference about whether Prohibited Conduct occurred based on a party's or witness's refusal to respond to such questions.

O. Determination Regarding Responsibility

After any Hearing or Review Meeting, the Decision-Maker will issue a written determination regarding responsibility, which must include:

1. A description of the allegations potentially constituting Prohibited Conduct;
2. A description of the procedural steps taken from receipt of the Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Information about the policies the University used to evaluate the allegations;
4. Findings of fact supporting the determination;
5. Evaluation of the Relevant and not otherwise impermissible evidence;
6. Conclusions regarding the application of the policy to the facts;
7. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility,
8. A determination of any sanctions the institution will impose on the Respondent,¹¹
9. Any remedies that will be provided to the Complainant; and
10. Procedures and permissible bases for parties to appeal.

The University generally seeks to issue the written determination to the parties no later than ten (10) days after conclusion of the Hearing or Review Meeting. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official University records, or emailed to the parties' University-issued email or otherwise approved account. Once mailed, emailed, and/or received in person, notice will be presumptively delivered.

P. Appeals.

The appeal process is equally available to the parties. Any party may file a Request for Appeal which must be submitted in writing to the Title IX Coordinator within five (5) days of the delivery of the written determination.

The University will use a trained Sole Decision-Maker to determine an appeal. The Appeal Decision-

¹¹ The Decision-Maker may consult with the Office of Equity and Civil Rights, Office of the Provost, Student Conduct and Community Standards, Student Affairs, Department of Human Resources, and/or any other University administrative offices about any prior disciplinary actions regarding the Respondent and about sanctions imposed in similar cases in the past.

Maker may not be the same as the Decision-Maker who presided over the Hearing or Review Meeting, the Title IX Coordinator, or the Investigator(s).

1. Grounds for Appeal

Any party may appeal a determination regarding responsibility on the following bases:

- a. Procedural irregularity that affected the outcome of the matter;
- b. New evidence that was not reasonably available at the time the determination regarding was made, that could affect the outcome of the matter; and
- c. The Title IX Coordinator, investigator(s), or decision- maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant(s) or Respondent(s) that affected the outcome of the matter;
- d. Excessiveness or insufficiency of the sanctioning decision.

Mere dissatisfaction with the outcome or mere deviations from procedures that were not so substantial as affect the outcome of the matter and/or to deny a party notice or a fair opportunity to be heard, are not valid bases for an Appeal.

2. Appeal Review

Upon receipt of a Request for Appeal, the University will:

- a. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for all parties;
- b. Provide the other party with five (5) business days to respond to the Request for Appeal;
- c. If applicable, provide the Title IX Coordinator, Investigator(s), and/or Decision-Maker with a copy of the Request for Appeal and allow them five (5) business days to submit a response;
- d. Issue a written decision describing the result of the appeal and the rationale for the decision; and
- e. Provide the written decision simultaneously to all parties. The Decision-Maker will seek to provide the written decision to the parties within five to seven (5-7) business days after receiving the responses from the parties and others, as applicable. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official University records, or emailed to the parties' University-issued email or otherwise approved account. Once mailed, emailed, and/or received in person, notice will be presumptively delivered.

3. Final Decision.

The determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

4. Disciplinary Actions or Sanctions

This 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, respectful, inclusive, and free of Prohibited Conduct, this Policy allows for wide latitude in the imposition of disciplinary actions or sanctions and/or conditions tailored to the facts and circumstances of each report, the impact of the Prohibited Conduct on the Complainant and surrounding UMBC Community Members, and accountability for the Respondent.

The imposition of disciplinary actions (in employment context) or sanctions (in educational context) 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.

The University may not impose discipline or sanctions on a Respondent for Prohibited Conduct unless there is a determination at the conclusion of the University's Resolution Process that the Respondent engaged in Prohibited Conduct.

Disciplinary actions or sanctions may include educational, restorative, rehabilitative, and punitive components. Some conduct, however, is so egregious in nature, so harmful to the individuals involved and the entire UMBC community, or so deleterious to the educational or working environment, that it requires severe disciplinary action, up to and including termination from or dismissal from the University.

Disciplinary actions which may be imposed on faculty, staff, and student employees in the employment context, can include, but are not limited to the following: no contact orders, letter of reprimand, censure, service to the University, counseling, retraining, transfer, demotion, suspension, and/or termination.

Sanctions which may be imposed on students in the academic context, can include, but are not limited to the following: no contact orders, housing restrictions (including removal from on-campus housing), community service, educational requirements, written warning, reprimand, probation, suspension, and/or dismissal.

Individuals who commit certain Prohibited Conduct in violation of federal, state, or local law may also be subject to criminal charges and penalties.

The University may not discipline a party, witness, or others participating in the process for making a false statement or for engaging in consensual sexual conduct based solely on the University's determination of whether Prohibited Conduct occurred.

5. Conditions

In certain circumstances, even when there are no disciplinary actions or sanctions imposed, the University reserves the right to impose certain conditions upon any party who is subject to this Policy. Conditions may be imposed as Supportive Measures, as part of an Informal Resolution, or as part of a Formal Resolution after a Hearing or Review Meeting.

Conditions are designed to prevent any Prohibited Conduct under the Policy, cultivate a safe academic and employment environment, and maintain public order on campus, while supporting the University's

mission and federal obligations. Conditions are not disciplinary actions or sanctions.

XXVII. Informal Resolution

At any time prior to reaching a determination regarding responsibility, the University may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and Hearing or Review Meeting. Informal Resolution may be used to resolve alleged violations of this Policy subject to the following conditions:

1. The University must obtain the parties' voluntary, written consent to the informal resolution process.
2. The University may not require the parties to participate in an informal resolution process.
3. The University may not offer or facilitate an informal resolution process to resolve allegations of Sexual Assault, Sexual Coercion.
4. The University may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of Formal Complaints of Sex Discrimination
5. The University must provide the parties with written notices disclosing (a) the allegations; (b) the requirements of the informal resolution process including that at any time prior to the parties' agreement to a resolution, any party may withdraw from the informal resolution process and initiate grievance procedures; (c) that the parties' agreement to a resolution at the conclusion of the informal resolution process precludes the parties from initiating or resuming a grievance procedures arising from the same allegations; (d) the potential terms that may be requested or offered in an informal resolution agreement, including a notice that the agreement is binding only on the parties; and (e) what information will be maintained by the Institution and how the Institution could disclose such information for use in grievance procedures, if initiated or resumed.⁶ The University does not use the same facilitator for informal resolution to investigate or decide a matter under the grievance procedures.
7. The University requires that any person designated to facilitate an informal resolution process must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.