I. POLICY STATEMENT

Sexual misconduct is a form of sex discrimination prohibited by federal and state discrimination laws, including Title IX of the Education Amendments of 1972 and Title VII of the Civil Rights Act. In addition, some forms of sexual misconduct violate the criminal laws of the State of Maryland. Sexual misconduct is also a form of sex discrimination in violation of the University of Maryland Code on Equity, Diversity, and Inclusion (“Code”) http://www.president.umd.edu/policies/vi100b.html. However, this policy supersedes and replaces the Code with respect to matters of sexual misconduct. The University will respond to complaints of sexual misconduct in accordance with the provisions of the Sexual Misconduct Policy and accompanying investigation and adjudication procedures.

The Office of Civil Rights & Sexual Misconduct (OSM) shall receive notice of all reports of sexual misconduct received by any individual deemed a “Responsible University Employee” under this policy. No employee (other than law enforcement) is authorized to investigate or resolve reports of sexual misconduct without the involvement of the Title IX Officer:

Catherine A. Carroll, Director
Title IX Officer
Office of Civil Rights & Sexual Misconduct
University of Maryland
1103 Reckord Armory, College Park, MD 20742-5031
E-mail: carrollc@umd.edu titleixcoordinator@umd.edu
Phone: 301-405-1142 Cell/Text: 301-852-0946 Fax: 301-405-2837
http://www.umd.edu/Sexual_Misconduct
Training
The Office of Civil Rights & Sexual Misconduct is responsible for overseeing the University’s training and educational programs related to sexual misconduct. To learn more about various resources, on-going training initiatives, and education programs for students, faculty and staff, please consult the office’s website for more current and up-to-date information.

The University of Maryland is committed to a working and learning environment free from sexual misconduct. Sexual misconduct is a broad term used to describe a range of behavior, including sexual harassment, sexual assault, domestic violence, dating violence, sexual violence, relationship violence, sexual exploitation, sexual intimidation, and stalking. Sexual misconduct will not be tolerated. It corrupts the integrity of the educational process and work environment, and violates the core mission and values of the University.

Creating an environment free from sexual misconduct is the responsibility of all members of the University community. The University is committed to fostering a campus climate free from sexual misconduct through training, education and prevention programs, and through policies and procedures that promote prompt reporting, prohibit retaliation, and promote timely, fair and impartial investigation and resolution of sexual misconduct cases. In responding to complaints of sexual misconduct, the University will take appropriate steps to eliminate sexual misconduct, prevent its recurrence and address its effects.

II. APPLICABILITY

This policy applies to all members of the University community, including students, faculty, and staff. It also applies to contractors and other third parties within the University’s control. This policy applies to sexual misconduct:

- On University premises, in any University facility or on University property;
- At any University sponsored, recognized or approved program, visit or activity, regardless of location;
- That impedes equal access to any University education program or activity or that adversely impacts the education or employment of a member of the University community regardless of where the conduct occurred; or
- That otherwise threatens the health and/or safety of a member of the University community.

III. DEFINITIONS

“Coercion” Includes conduct, intimidation, and express or implied threats of physical or emotional harm, that would reasonably place an individual in fear of immediate or future harm and that is employed to persuade or compel someone to engage in sexual contact. Examples of Coercion include causing the deliberate Incapacitation of another person; conditioning an academic benefit or employment advantage on submission to the sexual contact; threatening to harm oneself if the other
party does not engage in sexual contact; or threatening to disclose an individual’s sexual orientation, gender identity, gender expression, or other personal sensitive information if the other party does not engage in the sexual contact.

“Complainant” refers to the individual who files a sexual misconduct complaint, alleging a violation of this Policy.

“Confidential” refers to communications between two parties where one party, based on their professional status, has the ability to ensure the communications between the two parties are legally protected as private.

“Consent” means a knowing, voluntary and affirmatively communicated willingness to participate in a particular sexual activity or behavior. Only a person who has the ability and capacity to exercise free will and make a rational, reasonable judgment can give consent. Consent may be expressed either by words and/or actions, as long as those words and/or actions create a mutually understandable agreement to engage in specific sexual activity. It is the responsibility of the person who wants to engage in sexual activity to ensure that he/she has consent from the other party, and that the other party is capable of providing consent.

- Lack of protest or resistance is not consent. Nor may silence, in and of itself, be interpreted as consent. For that reason, relying solely on non-verbal communication can lead to misunderstanding.
- Previous relationships, including past sexual relationships, do not imply consent to future sexual acts.
- Consent to one form of sexual activity cannot automatically imply consent to other forms of sexual activity.
- Consent must be present throughout sexual activity and may be withdrawn at any time. If there is confusion as to whether there is consent or whether prior consent has been withdrawn, it is essential that the participants stop the activity until the confusion is resolved.
- Consent cannot be obtained by use of physical force, threats, intimidating behavior, or coercion. Coercion is pressuring another person into sexual activity.

It is a violation of this policy to engage in sexual activity with someone you know, or should know, is incapacitated. Incapacitated, for purposes of this policy, means that the person’s decision-making ability is impaired such that they lack the capacity to understand the “who, what, where, why or how” of their sexual interaction. Incapacitation may result from: sleep or unconsciousness, temporary or permanent mental or physical disability, involuntary physical restraint, or the influence of alcohol, drugs, medication, or other substances used to facilitate sexual misconduct.

“Incapacitated” An individual who is Incapacitated is unable to give Consent to sexual contact. States of Incapacitation include sleep, unconsciousness, intermittent consciousness, or any other state where the individual is unaware that Sexual Contact is occurring. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to Consent to Sexual Contact.
Alcohol or drug use is one of the prime causes of Incapacitation. Where alcohol or drug use is involved, Incapacitation is a state beyond intoxication, impairment in judgment, or “drunkenness.” Because the impact of alcohol or other drugs varies from person to person, evaluating whether an individual is Incapacitated, and therefore unable to give Consent, requires an assessment of whether the consumption of alcohol or other drugs has rendered the individual physically helpless or substantially incapable of:

- Making decisions about the potential consequences of Sexual Contact;
- Appraising the nature of one’s own conduct;
- Communicating Consent to Sexual Contact; or
- Communicating unwillingness to engage in Sexual Contact.

“Interim Protective Measures” means reasonably available steps the University may take to protect the parties pending a University investigation and adjudication of sexual misconduct.

“Respondent” means the individual accused of engaging in Prohibited Conduct under this Policy.

“Responsible University Employee” includes any University administrator, supervisor, faculty member, campus police, coach, athletic trainer, resident assistant, or non-confidential first responder who has the authority to take action to redress sexual misconduct; or whom a student could reasonably believe has such authority or duty.

“Title IX Officer” refers to the individual designated by the President of the University to: 1) oversee the University’s response to sexual misconduct reports and complaints and identify and address any patterns or systemic problems revealed by such reports and complaints; 2) conduct sexual misconduct investigations; 3) oversee, review content, and, in collaboration with other University offices, conduct training for students, faculty, and staff on sexual misconduct issues; 4) ensure that appropriate policies and procedures are in place for responding to complaints of sexual misconduct against faculty, staff, and students; and 5) work with local law enforcement to ensure coordinated responses to sexual misconduct cases.

IV. PROHIBITED CONDUCT

“Dating Violence” encompasses a broad range of behaviors, including sexual assault, physical abuse and other forms of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant, considering the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved.

“Domestic Violence” encompasses a broad range of behaviors, including sexual assault, physical abuse and other forms of violence committed by a current or former spouse or intimate partner of the complainant, by a person with whom the complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner, by a person
similarly situated to a spouse of the complainant, or by any other person against an adult or youth complainant protected from those acts by domestic or family violence laws of Maryland.

“Relationship Violence” encompasses a broad range of behaviors, including sexual assault, physical abuse and other acts, threats or a pattern of abusive behavior of a physical or sexual nature by one partner intended to control, intimidate, manipulate, humiliate, frighten, coerce, or injure the other. These acts may be directed toward a spouse, an ex-spouse (also referred to as “domestic violence”), or by a current or former intimate partner (also referred to as “dating violence”).

“Retaliation” means intimidating, threatening, coercing, or discriminating against an individual for the purpose of interfering with any right or privilege secured by law or University policy relating to sexual misconduct, or because an individual has made a report, filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding related to sexual misconduct. Retaliation includes retaliatory harassment.

“Sexual Assault” is any type of actual or attempted sexual contact with another individual without that person’s consent, including sexual intercourse (rape) and attempted sexual intercourse (attempted rape).

Sexual Assault I. – Non-Consensual Sexual Intercourse
Any act of sexual intercourse with another individual without consent (rape). This includes penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person’s consent.

Sexual Assault II. – Non-Consensual Sexual Contact
Any unwanted intentional touching of the intimate body parts of another person, causing another to touch the intimate parts of oneself or another, or disrobing or exposure of another without consent. Intimate parts may include genitalia, groin, breast, or buttocks, or clothing covering them, or any other body part (including one’s own) that is touched in a sexual manner. Non-consensual sexual contact includes attempted sexual intercourse without consent (attempted rape).

“Sexual Exploitation” means taking non-consensual or abusive sexual advantage of another person for one’s own advantage or benefit or for the advantage or benefit of anyone other than the person being exploited.

“Sexual Harassment” means: (a) unwelcome sexual advances; (b) unwelcome requests for sexual favors; or (c) other behavior of a sexual or gender-based nature where: (i) submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, evaluation of academic work, or participation in a university-sponsored educational program or activity; (ii) submission to or rejection of such conduct by an individual is used as the basis for an academic, employment, or activity or program participation decision affecting that individual; or (iii) such conduct has the purpose or effect of unreasonably interfering with an
individual’s academic or work performance, i.e., it is sufficiently severe or pervasive to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment.

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

“**Sexual Misconduct**” is an umbrella term that encompasses dating violence, domestic violence, sexual violence, sexual harassment, sexual assault, sexual exploitation, sexual intimidation, relationship violence, and stalking. Sexual misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual misconduct can be committed by any person, regardless of gender identity, and can occur between people of the same or different sex, sexual orientation, or gender expression.

“**Sexual Violence**” means physical sexual acts perpetrated without consent. Sexual violence includes but is not limited to sexual harassment, sexual coercion, and sexual assault.

“**Stalking**” means repeated, unwanted attention; physical, verbal, or electronic contact; or any other course of conduct directed at an individual that is sufficiently serious to cause physical, emotional, or psychological fear or to create a hostile, intimidating, or abusive environment for a reasonable person in similar circumstances and with similar identities. Stalking may involve individuals who are known to one another or who have a current or previous relationship or may involve individuals who are strangers.

V. SANCTIONS

Both parties shall be informed of the outcome of any investigative and adjudicative process based on a violation of this policy. The University shall not publically disclose personally identifiable information about either of the parties, except as required by law.

**Employees.** Employees found in violation of this policy are subject to disciplinary action ranging from a written reprimand up to and including termination of employment, depending on the circumstances.

**Students.** Students found in violation of this policy are subject to disciplinary action based on the circumstances and nature of the violation. Sanctions include, but are not limited to: dismissal from the University (suspension or expulsion), removal from University housing, disciplinary probation, and other sanctions such as a community service and mandatory and continuing participation in sexual misconduct education programming.

Persons who commit sexual misconduct in violation of federal, state, or local law may also be subject to criminal charges and penalties.
VI. CONFIDENTIAL RESOURCES

Generally, it is not confidential when a person reports sexual misconduct. If a person desires to keep an incident of sexual misconduct confidential, they should speak with individuals who have professional or legal obligations to keep communications confidential. When seeking advice and support, persons should always consider whether they want to discuss their concerns with a confidential resource. Unless there is an imminent threat to health or safety or other basis for disclosure, such as child abuse, confidentiality applies when persons seek services from the following resources:

**Campus Advocates Respond and Educate (CARE) to Stop Violence**
University Health Center Office 301-314-2222
24/7 Help Line (call/text) 301-741-3442
[www.health.umd.edu/care](http://www.health.umd.edu/care) or [care@health.umd.edu](mailto:care@health.umd.edu)
This service is a free and confidential resource that provides support, assistance and advocacy to any member of the University community impacted by sexual misconduct. Its mission is to respond to incidents of sexual misconduct, including sexual assault, relationship violence, stalking, and sexual harassment.

**Faculty Staff Assistance Program (FSAP) 301-314-8170 or 301-314-8099**
This program is a confidential assessment, referral, and counseling service staffed by trained mental health professionals. FSAP is available to all University of Maryland employees and their family members at no charge. Faculty and staff may consult with a counselor for many different reasons, including sexual misconduct.

**University Counseling Center 301-314-7651**
[www.counseling.umd.edu](http://www.counseling.umd.edu)
The University of Maryland Counseling Center provides comprehensive psychological and counseling services to meet the mental health and developmental needs of students and others in the campus community. Staffed by counseling and clinical psychologists, the Counseling Center offers a variety of services to help students, faculty, staff, and the community deal with issues concerning them.

**University Health Center, Mental Health Service 301-314-8106**
[www.health.umd.edu/mentalhealth/services](http://www.health.umd.edu/mentalhealth/services)
The Mental Health Service is staffed by psychiatrists and licensed clinical social workers and offers confidential services including short-term psychotherapy, medication evaluations, and crisis intervention and group psychotherapy.

**Student Legal Aid Office**
Undergraduates 301-314-7756; Graduate Students 301-405-5807
The Student Legal Aid Office, located in South Campus Dining Hall, provides free, confidential legal advice to any University student.

**Campus Chaplains 301-405-8450 or 301-314-9866**
http://thestamp.umd.edu/engagement/memorial_chapel/chaplains

The Campus Chaplains represent 14 faith communities and work collectively to serve the spiritual needs of all members of the University community.

**Prince George’s Hospital Domestic Violence and Sexual Assault Center**
301-618-3154 - 24 hours (3001 Hospital Drive, Cheverly, MD 20785)

Persons who experience sexual assault can access a Sexual Assault Forensic Exam (SAFE) within 72 hours of an assault. Each Maryland County has a hospital that provides SAFE exams. A SAFE exam is available at Prince George’s Hospital Center. To find a SAFE provider in other counties call 1-800-656-4653. SAFE exams and attention to medical needs are available without having to reveal a person’s identity to the police.

**Maryland Coalition Against Sexual Assault (MCASA)**
Statewide Sexual Assault Information and Referral help line 1-800-983-RAPE
MCASA is a statewide coalition of 17 rape crisis and recovery centers that serve all of Maryland’s jurisdictions. MCASA works to help prevent sexual assault, advocate for accessible, compassionate care for survivors of sexual violence, and works to hold offenders accountable.

**Maryland Network against Domestic Violence**
1-800-MD-HELPs

The Maryland Network Against Domestic Violence is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence. The Network accomplishes this goal by providing education, training resources, and advocacy to advance victim safety and abuser accountability.

Disclosures or reports made to any other entities except those listed above are *not* confidential. For instance, if you discuss an incident of sexual misconduct with your supervisor, a resident assistant, a coach, or faculty member, those persons are “Responsible University Employees” and, as such, are obligated pursuant to this policy to report the sexual misconduct to the Title IX Officer.

The University recognizes that sexual misconduct is a sensitive issue for all parties involved and is committed to operating with discretion, and maintaining the privacy of individuals to the greatest extent possible under applicable law.
VII. REPORTING SEXUAL MISCONDUCT

Obligations of “Responsible University Employee.” A “Responsible University Employee” (see definitions) must promptly notify the Title IX Officer in the Office of Civil Rights & Sexual Misconduct of any report of sexual misconduct brought to their attention, including campus law enforcement. The Title IX Officer works collaboratively with the reporting entity, making every effort to operate with discretion and maintain the privacy of the individuals involved.

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

All reports of sexual misconduct will be responded to immediately and appropriate action will be taken in accordance with the University’s Sexual Misconduct Investigation & Adjudication Procedures (see Appendices A, B, C). If the University determines that sexual misconduct has occurred, it will take prompt and effective steps to eliminate the sexual misconduct, prevent its recurrence, and address its effects.

The University strives to take appropriate action, including investigation and resolution of complaints within sixty (60) calendar days from when the complaint was filed. The University may extend the time frames set forth in this policy for good cause, with written notice to both parties of the delay and the reason for the delay. Exceptions to this timeframe may vary depending on the complexity of the investigation, access to relevant parties, and the severity and extent of the misconduct.

Sexual misconduct by students, faculty, staff, and third parties should be reported to:

Office of Civil Rights & Sexual Misconduct 301-405-1142
www.umd.sexual_misconduct | titleixcoordinator@umd.edu

The mission of the Office of Civil Rights & Sexual Misconduct is to support the University’s commitment to a working and learning environment free from sexual misconduct and relationship violence. The core services of the Office include: oversight for all institutional responses to sexual misconduct and relationship violence, ensuring University compliance with federal statutory and regulatory requirements, promoting best practices in responding to victims of sexual violence and holding respondents accountable, receiving and investigating reports of sexual misconduct and relationship violence, and increasing access to information and available resources to the campus community. The office seeks to work collaboratively across all campus constituent groups and create a climate where diversity, inclusion, and respect inform all processes.
Sexual misconduct committed by students may also be reported to:

**Office of Student Conduct, Division of Student Affairs 301-314-8204**

www.studentconduct.umd.edu | studentconduct@umd.edu

The Office of Student Conduct administers adjudicative processes involving students who commit violations of the University of Maryland Code of Student Conduct, and can provide assistance to students who wish to report incidents of sexual misconduct.

**Office of Rights and Responsibilities, Department of Resident Life 301-314-7598**

www.reslife.umd.edu/rights | drl-rr@umd.edu

The Office of Rights and Responsibilities administers adjudicative processes involving students who commit conduct violations of the Residence Hall Rules and the University of Maryland Code of Student Conduct in on-campus residence halls, and can provide assistance to students who wish to report incidents of sexual misconduct.

**Reporting a crime.** Sexual misconduct, particularly sexual violence, may be a crime. The University will assist complainants who wish to report sexual misconduct to law enforcement authorities, including campus police. Representatives of the Office of Civil Rights & Sexual Misconduct, Office of Student Conduct, Office of Rights & Responsibilities, and Campus Advocates Respond and Educate (CARE) to Stop Violence Office in the University Health Center are available to assist students in reporting to campus police. Campus police will also assist complainants in notifying other law enforcement authorities in other jurisdictions, as appropriate. To report to the University of Maryland Police, please call 301-405-3555.

Because the standards for a violation of criminal law are different from the standards for a violation of this policy, criminal investigations and proceedings are not determinative of whether a violation of this policy has occurred. In other words, conduct may violate this policy even if law enforcement agencies or local prosecutors decline to prosecute. Complaints of sexual misconduct and related internal University processes may occur prior to, concurrent with, or following criminal proceedings off campus.

Upon receipt of a report of sexual misconduct that may constitute a crime, campus police will advise the student that in addition to making a criminal report, they also have the right to file a complaint with the University and engage the University’s investigation and adjudicative processes under this policy. In addition, as Responsible University Employees under this policy, campus police who receive any type of report of sexual misconduct, whether it rises to the level of a crime or not, shall promptly notify the Title IX Officer at titleixcoordinator@umd.edu.

**Co-Occurring Criminal Action.** Proceeding with a University investigation and adjudication of a complaint of sexual misconduct under this policy is independent of any criminal investigation or proceeding. Reporting to law enforcement does not preclude a person from proceeding with a complaint of sexual misconduct under this policy. The University is required to conduct an
investigation in a timely manner, which means, in most cases, the University will not wait until a criminal investigation or proceeding is concluded before conducting its own investigation, implementing interim protective measures, and taking appropriate action. However, at the request of law enforcement, the Title IX Officer may defer its fact gathering until the initial stages of a criminal investigation are complete. If such a request is made, University of Maryland Police will submit the request in writing and the complainant will be notified. In addition, when possible, in cases where there is a co-occurring criminal investigation by University of Maryland Police, Prince George’s County Police, or the local prosecutor’s office, the Office of Civil Rights & Sexual Misconduct will work collaboratively and supportively with each respective agency within the parameters outlined above. The Office of Civil Rights & Sexual Misconduct will communicate any necessary delays in the University’s investigative process to both parties in the event of a deferral.

The Office of Civil Rights & Sexual Misconduct shall not disclose information about sexual misconduct complaints to third parties (persons other than those in the University community with a need to know) except as may be required or permitted by federal or state law. If a report of sexual misconduct discloses a serious and on-going threat to the campus community, the University of Maryland Police may issue a timely warning of the conduct under the Clery Act in the interests of the health and safety of the campus community. This notice will not contain any personally identifying information related to the complainant.

Amnesty for Students Who Report Sexual Misconduct
The University recognizes that a student who is under the influence of alcohol and/or drugs at the time of an incident may be hesitant to make a report of sexual misconduct because of the threat of disciplinary sanctions for his or her own violation of the University of Maryland Code of Student Conduct (i.e., alcohol or drug use violation). In this context, a student who reports sexual misconduct, either as a complainant or third party witness, will not face disciplinary charges under the University of Maryland Code of Student Conduct in accordance with V-1.00(J) University of Maryland Policy on Promoting Responsible Action in Medical Emergencies at http://www.president.umd.edu/policies/v100jnnew.html

Requests for Confidentiality
If a complainant requests that their name not be disclosed or that the University not investigate or take action against the respondent, the Title IX Officer or designee will determine whether or not it can honor such a request while still providing a safe and nondiscriminatory environment for all students, faculty, and staff, including the complainant. The Title IX Officer shall make a determination as to whether the complainant’s request can be honored, by considering the following factors:

- Circumstances that suggest there is an increased risk of the respondent committing additional acts of sexual misconduct or other violence (e.g., whether there have been other sexual misconduct complaints about the same respondent);
- Whether the respondent has any documented history of violence known to the University;
- Whether the respondent threatened further sexual misconduct or other violence against the complainant or others that is known to the University;
- Whether the sexual misconduct was committed by multiple persons;
- Whether the sexual misconduct was perpetrated with a weapon;
- The age of the complainant subjected to the sexual misconduct; and
- Whether the University possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence).

VIII. INTERIM PROTECTIVE MEASURES

Reports of sexual misconduct in violation of this policy may require immediate protective measures to protect the safety and well-being of the parties and/or the campus community pending the outcome of the investigative and adjudicative processes. Interim protective measures may include the following:

No Contact Order. A no contact order is an official University directive that serves as notice to an individual that they must not have verbal, electronic, written, or third party communications with another individual.

For Students:
- Academic accommodations, such as, assistance in transferring to another section of a lecture or laboratory, assistance in arranging for incompletes, leaves or withdrawal from campus, or rearranging class schedules, and
- Housing accommodations, such as, facilitating changes in on-campus housing location to alternate housing, assistance in exploring alternative housing off-campus, and
- Employment accommodations, such as, arranging for alternate University employment, different work shifts, etc., and
- Transportation and parking accommodations.

For Employees:
- Employment accommodations, such as, temporary assignment, if appropriate, to other work duties and responsibilities, or other work locations, or other work groups/teams or alternative supervision/management, and
- Transportation and parking accommodations.

IX. RETALIATION

Complaints of Retaliation. Individuals who engage in retaliatory behavior against a reporting party or party participating in an investigation are in violation of this policy and will be subject to appropriate disciplinary action pursuant to the procedures for this policy. Individuals who believe
they have experienced retaliation in violation of this policy should immediately report such conduct to the Title IX Officer at titleixcoordinator@umd.edu.

X. COMPLAINT PROCEDURES

Complaints Against Students. Complaints against students based on a violation of this policy will be reviewed in accordance with the procedures set forth in Appendix A.

Complaints Against Staff. Complaints against staff based on a violation of this policy will be reviewed in accordance with the procedures set forth in Appendix B.

Complaints Against Faculty. Complaints against faculty members based on a violation of this policy will be reviewed in accordance with the procedures set forth in Appendix C.

Complaints Against Third Parties Not Affiliated With the University. If a member of the University community (student, faculty, or staff) is subjected to sexual misconduct by a third party not affiliated with the University on University premises or during University sponsored activities, the matter should be reported to the Title IX Officer. The matter may be referred to law enforcement with a request that a formal letter be issued to the third party denying access to the University’s buildings or grounds for acting in a manner that disrupts or disturbs the normal educational functions of the institution. The University is authorized to deny campus access to a third party engaged in disruptive behaviors under Maryland State law (see Sections 26-101 and 26-102, Education Article, Annotated Code of Maryland).

XI. STEPS TO TAKE FOLLOWING A SEXUAL ASSAULT

Stay Warm. Persons who experience sexual assault may be in a state of shock. It is important to stay warm by wrapping up in a blanket or coat. This will help recovery from shock and make it less likely that physical evidence is disturbed.

Get to a Safe Place and Seek Emotional Support. Talking with a trusted friend or relative or someone who is professionally trained to deal with sexual assault like a confidential CARE advocate or mental health professional at the University Health Center can help you make decisions about what to do. Whether you decide to go to law enforcement or not, it is important to take care of your own emotional needs. Professional counseling may be beneficial.

Preserve Evidence. If possible, consider taking steps to preserve physical evidence - on the body and at the location of an assault. It is important not to shower or bathe, eat or drink, brush teeth or gargle, change clothes, urinate or defecate, brush or comb hair, or smoke. Clothing worn at the time of an assault should not be washed but placed in a paper bag “as is” and brought to the hospital. In order to avoid forgetting important details, write down the facts about the accused and the assault.
Seek Medical Attention. It is important to seek medical attention as soon as possible. A medical examination will ensure appropriate medical treatment, including testing for pregnancy or sexually transmitted infections. You may also want to obtain a Sexual Assault Forensic Exam (SAFE). A SAFE exam allows for the collection of evidence and can ensure any physical evidence is preserved in the event of a report to law enforcement. A SAFE exam may be obtained within 72 hours after an assault at:

**Prince George’s Hospital Domestic Violence and Sexual Assault Center (DV/SAC)**
301-618-3154

XII. CAMPUS SAFETY

The health and safety of all members of the campus community are the University’s primary concern. The University makes the following services available:

**Emergency Phones**
University of Maryland Police Emergency Response Telephones (PERT), recognized by a blue light affixed to each station, are available throughout campus. By activating the phone, an individual will be automatically connected to a campus police dispatcher who is immediately alerted to the location of the phone.

**24 Hour Walking Escort Service/Student Police Auxiliary Foot Patrol**
301-405-3555 or blue light emergency PERT phone
The University of Maryland Police Department provides a walking escort service 24 hours a day for anyone who feels unsafe while walking on campus. The walking escorts are conducted by the Student Police Auxiliary foot patrol program. University of Maryland Police officers will provide walking escorts when the foot patrol program is out of service or if requested and available.

**University Department of Public Safety**
301-405-3555 (non-emergency) or 301-405-3333 (emergency)
Local Police in ANY location - 911

Persons who experience sexual misconduct are strongly encouraged to contact the University of Maryland Police. If a person is not certain whether criminal conduct is involved, an officer can assist in determining whether a crime has occurred. If sexual misconduct occurred off campus, an officer can assist in contacting the appropriate law enforcement agency. A student can request and receive the assistance of campus police without making a criminal complaint. Campus police can also assist in accompanying the student to a hospital that can provide a Sexual Assault Forensic Exam (SAFE)
to both ensure appropriate medical treatment and the timely collection of physical evidence in the event the person seeks to make a criminal complaint.

XIII. CONSENSUAL RELATIONSHIPS AND PROFESSIONAL CONDUCT

Sexual relationships that occur in the context of educational or employment supervision and evaluation present potential conflicts of interest. Relationships in which one party maintains a supervisory or evaluative responsibility over the other also reflect an imbalance of power, leading to doubt as to whether such relationships are truly consensual. For these reasons, the University strongly discourages such relationships.

Because of the potential conflicts of interest, persons involved in consensual sexual relationships with anyone over whom they have supervisory and/or evaluative responsibilities must inform their supervisor(s) of the relationship(s). Supervisory or evaluative responsibilities may be reassigned, as appropriate. While no relationships are expressly prohibited by this policy, failure to self-report such relationships in a timely manner, as required by this policy, may result in disciplinary action.

XIV. GOVERNMENT AGENCIES THAT ADDRESS COMPLAINTS OF SEXUAL MISCONDUCT

Complaints of sexual misconduct may also be filed with:

Equal Employment Opportunity Commission
City Crescent Building
10 S. Howard Street, Third Floor
Baltimore, MD 21201
Phone: 1-800-669-4000
Fax: 410-962-4270
TTY: 1-800-669-6820
Website: https://egov.eeoc.gov/eas/

Maryland Commission on Civil Rights
William Donald Schaefer Tower
6 Saint Paul Street, Ninth Floor
Baltimore, MD 21202-1631
Phone: 410-767-8600
Fax: 410-333-1841
TTY: 410-333-1737
Website: http://mccr.maryland.gov/
E-mail: jcole@mccr.state.md.us

It is important to note that in order to protect the legal rights and remedies available to a complainant, a complainant must comply with certain time limits and deadlines. Affected persons should contact
the relevant agencies to verify the time limits. Failure to meet required deadlines may result in a loss of rights to seek a legal remedy.

Complaints involving violations of Title IX in the State of Maryland should be directed to:

**Office for Civil Rights**
U.S. Department of Education
The Wanamaker Building
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Phone: 215-656-8541
Fax: 215-656-8605
TDD: 800-877-8339
E-mail: OCR.Philadelphia@ed.gov
Website: [http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html](http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html)

Replacement for:
*VI-1.20(A) University of Maryland Policy and Procedures on Sexual Harassment*
*VI-1.30(A) University of Maryland Procedures on Sexual Assault and Misconduct*
APPENDIX A

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I. OVERVIEW

These procedures accompany the University of Maryland Sexual Misconduct Policy and are to be used when responding to, investigating and adjudicating complaints of sexual misconduct against UMD Students. Sexual misconduct is an umbrella term that encompasses dating violence, domestic violence, sexual harassment, sexual assault, sexual violence, sexual exploitation, sexual intimidation, relationship violence and stalking.

Definitions

Administrative Review refers to the Director of Student Conduct making an independent determination about whether there are grounds to challenge the Finding from the final Investigative Report.

Deputy Title IX Coordinator is generally someone who has received significant training on sexual misconduct investigation and adjudication, is an administrator at the University, and provides managerial assistance and support to the Office of Sexual Misconduct and Relationship Violence (OSM).

Notice of Investigation refers to formal notification to each party that the University is conducting an investigation into the complaint of sexual misconduct.

Notice of Opportunity to Review Draft Investigative Report refers to the formal notification informing the parties of their opportunity to review and take notes on the draft investigative report.

Investigation Outcome Notice refers to formal notification to each party of the outcome of the investigation, the formal charges and a request to contact the Director of Student Conduct or designee for an outcome conference meeting.

Standing Review Committee (SRC) is the formal body composed of a combination of five students, faculty and staff who are specifically trained to hold conferences with all the parties and any witnesses in order to review the information presented by the Special Investigator (and others as the SRC deems appropriate) to make a determination as to whether a Policy violation has occurred and impose sanctions as applicable.

SRC Roster refers to the current list of persons on campus who have been adequately trained and are qualified to act as members of the SRC.

SRC Coordinator refers to an administrative staff person who is responsible for a range of administrative duties related to the logistics of scheduling SRC members for adjudication conferences and appellate review.

SRC Appellate Body refers to three members of the SRC who have been adequately trained and are qualified to review Appeals.
SRC Conference Notice is the formal notification each party receives that a SRC Conference will be held, including the date and time.

SRC Conference Outcome Notice is the formal notification to each party of the SRC’s final decision. It also includes information about appeals.

Voluntary Resolution is an informal resolution process that does not involve any disciplinary action.

Time Frame for Resolution
Consistent with the goal to maximize educational opportunities and minimize the disruptive nature of the investigation, adjudication and resolution, the Office of Sexual Misconduct & Relationship Violence (OSM) seeks to resolve all reports within sixty (60) days, depending on when the report is received. In general, an Investigation may last up to thirty-five (35) business days, from the date the complainant informs the OSM of their intent to proceed with an Investigation and sufficient information for the OSM to determine that the report falls under Section II (Applicability) and raises a potential violation under Section IV (Prohibited Conduct) of the Policy.

Adjudication will generally take up to twenty-one (21) business days from the date of the Investigative Finding. Business days do not include weekends or holidays. The Title IX Officer may set reasonable time frames for required actions under the Policy. Those time frames may be extended for good cause as necessary to ensure the integrity and completeness of the Investigation, comply with a request by external law enforcement, accommodate the availability of witnesses, accommodate delays by the parties, account for University breaks or vacations, or address other legitimate reasons, including the complexity of the Investigation (including the number of witnesses and volume of information provided by the parties) and the severity and extent of the alleged conduct. Any extension of the timeframes, and the reason for the extension, will be shared with the parties in writing. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

Filing A Complaint
A complaint of sexual misconduct should be made directly to:

- The Office of Sexual Misconduct & Relationship Violence, (OSM) or
- The Office of Student Conduct (OSC), or
- The Department of Resident Life, Office of Rights and Responsibilities (R&R).

The University encourages all individuals to promptly report Prohibited Conduct so that immediate and corrective action can be taken to eliminate the conduct, prevent its recurrence, and address its effects. The University will provide support and assistance and will respond consistent with the procedural options available at the time of the report. Upon receipt of a
report, the Title IX Officer or designee within the OSM will make an immediate assessment of the risk of harm to the parties or to the broader campus community and will take steps necessary to address any risks. These steps will include contacting the OSC to facilitate Protective Interim Measures that provide for the safety of the parties and the campus community when appropriate.

The University recognizes that deciding whether to make a report and choosing how to proceed are personal decisions that may evolve over time. At the time a report is made, a complainant does not have to decide whether to request any particular course of action. Through coordinated efforts the OSM, OSC, and R&R will provide support to assist each individual in making these important decisions; and consistent with the goal of safety for all community members, these staff will make every effort to respect an individual’s autonomy in making the determination as to how to proceed. Any individual can also make a report to external law enforcement agencies.

### Notification to Complainant

Upon receipt of a complaint, the Title IX Officer or designee such as a Deputy Title IX Coordinator within either the OSC, or R&R, will ensure that the complainant is provided with a copy of the Sexual Misconduct Policy and Student Sexual Misconduct Investigation & Adjudication Procedures. Additionally the complainant will be informed of the following:

- The option to: (1) notify law enforcement for possible criminal investigation and the filing of criminal charges; (2) file a complaint with the university for investigation and adjudication under University administrative processes; (3) proceed with both criminal and University complaints; or (4) pursue neither option;
- How to file a complaint under the University’s administrative process and how the internal University investigative and adjudicative processes work;
- The right to seek medical assistance, as necessary;
- Guidance regarding the preservation of evidence;
- Available community and campus resources and services;
- The right to an advisor and the advisor’s role;
- The right to a support person and the support person’s role;
- The University’s prohibition against retaliation;
- The University’s potential obligation to proceed with an investigation and possible adjudication to ensure the safety and well-being of the complainant and/or others in the campus community in the absence of a formal complaint and/or desire of the complainant to remain anonymous.

### Initial Assessment of Complaint

When a report is made, the Title IX Officer or designee will conduct an Initial Assessment. The assessment will determine whether the alleged conduct would present a potential violation of the Policy and whether further action is warranted based on the alleged conduct.
The first step of the Initial Assessment will usually be a preliminary meeting between the Complainant and the Special Investigator from the OSM to gather facts that will enable the OSM, in consultation with other offices as appropriate, to:

- Assess the nature and circumstances of the allegation, including the severity of the conduct;
- Assess for pattern evidence or other similar conduct by the respondent;
- Assess the safety of the individual complainant and of the campus community;
- Assess the complainant’s expressed preference regarding resolution, including any request that no further action be taken;
- Assess any request from the complainant for confidentiality or anonymity;
- Assess the reported conduct for possible referral to UMPD for a timely warning under the Clery Act.

Where possible, the OSM will seek action consistent with the complainant’s expressed wishes. The University’s ability to fully investigate and respond to a report may be limited if the complainant requests that her/his name not be disclosed to the respondent or declines to participate in an Investigation. When a complainant requests her/his name or other identifiable information not be disclosed and/or that no further action be taken, the Title IX Officer will balance this request with its obligation to provide a safe and non-discriminatory environment for all community members.

At the conclusion of the Initial Assessment, the OSM will determine the appropriate resolution route. Resolution may include:

- No further action,
- Voluntary Resolution, or
- The initiation of an Investigation and Adjudication that may lead to disciplinary action.

Regardless of the manner of resolution, a respondent may choose to accept responsibility at any stage in the process.

**Protective Interim Measures**
Based on the nature and circumstances of the report, the Director of the OSC or designee may authorize interim protective measures to ensure the safety and well being of the complainant and others in the campus community, as appropriate. Either party may request Protective Interim Measures regardless of whether any particular course of action is sought. Information about interim protective measures can be found on page 12 of the Sexual Misconduct Policy.

**Role of the Support Person, Attorney, and Non-Attorney Advisor**
Throughout the process, any participant may have a Support Person present at any meeting related to resolution of a report under the Policy. The Support Person may be anyone over the
Notice and Meeting with the OSM

The parties must provide five (5) business days _advance_ notice to the OSM of the name(s) and relationship of any individual(s) who will accompany them to any investigation or adjudication proceedings, and what their respective roles are (i.e. Support Person, Non-Attorney Advisor, Attorney). Once chosen by a student to serve as a Support Person, Non-Attorney Advisor or Attorney, each designated individual must meet with a representative from the OSM before they are allowed participation. This is to ensure participants understand the expectations of their respective roles, privacy considerations, and appropriate decorum. A party’s inclusion of a Support Person, Attorney, or Non-Attorney Advocate is at the sole expense of the party.

**Support Person:** A complainant and respondent may choose to be assisted by a Support Person of their choice. A Support Person is someone who can provide emotional, logistical, or other kinds of assistance. The Support Person cannot be a fact witness or provide statements in the proceedings. The Support Person is a non-participant who is present to assist a complainant or respondent by taking notes, providing emotional support and reassurance, organizing documentation, or consulting directly with the party in a way that does not disrupt or delay the proceeding. The Support Person may accompany the party to any investigative, administrative, or adjudicative proceeding under the Policy.

It is each party’s decision whether and how they choose to engage a Support Person throughout the Investigation and Adjudication processes. Therefore if a party requests or submits any type of form authorizing the Support Person to receive information or documents regarding the party, such a request will be denied. The Office of Sexual Misconduct and Office of Student Conduct, will at all times communicate and correspond directly with the party.

**Attorney or Non-Attorney Advisor:** An Attorney or Non-Attorney Advisor may assist a complainant or respondent at their own initiative and expense. The role of the Attorney or Non-Attorney Advisor is limited to providing advice and consultation directly to the party they are accompanying. It is not to provide representation of behalf of the party, as an attorney would do in a formal legal proceeding. In this way the Attorney or Non-Attorney Advisor is a participant who is present solely to advise and consult with the party throughout any proceeding. An Attorney or Non-Attorney Advisor may accompany the party to any investigative, administrative, or adjudicative meeting or proceeding under the Policy. A party’s Attorney or Non-Attorney Advisor may not delay, or otherwise interfere with the investigative and adjudication processes.
UNIVERSITY OF MARYLAND

STUDENT SEXUAL MISCONDUCT INVESTIGATION & ADJUDICATION PROCEDURES

If a party has an Attorney or Non-Attorney Advisor, it is each party’s responsibility to communicate and share information with their Attorney or Non-Attorney Advisor. If a party submits any type of form authorizing the Attorney or Non-Attorney Advisor to receive information or documents regarding the party, such a request will be denied. The Office of Sexual Misconduct and the Office of Student Conduct, will at all times communicate and correspond directly with the party.

When scheduling a SRC conference in which a party has notified the SRC Coordinator that an Attorney or Non-Attorney Advisor and Support Person plan to participate, the SRC Coordinator will make reasonable efforts to accommodate the Attorney or Non-Attorney Advisor’s and Support Person’s schedule, while balancing the University’s commitment to a prompt and equitable process. The University will prioritize the availability of the parties, witnesses, and SRC members assigned to the matter when determining the date and time for the proceeding.

Voluntary Resolution
Voluntary Resolution does not involve an Investigation or disciplinary action against a respondent, and is not appropriate for all forms of conduct under the Policy. Voluntary Resolution, when selected by the complainant and deemed appropriate by the Title IX Officer, is a path designed to eliminate the conduct at issue, prevent its recurrence, and remedy its effects in a manner that meets the expressed preference of the complainant and the safety and welfare of the campus community. In cases in which Voluntary Resolution involves either the notification to or participation by the respondent, it is the respondent’s decision whether to accept and/or participate in Voluntary Resolution.

As the title implies, participation in Voluntary Resolution is a choice, and either party can request to end this manner of resolution and pursue an Investigation and Adjudication at any time, including if Voluntary Resolution is unsuccessful at resolving the report. Similarly, a complainant can request to end an Investigation and pursue Voluntary Resolution at any time.

Voluntary Resolution may include: establishing Protective Interim Measures; conducting targeted or broad-based educational programming or training for relevant individuals or groups; providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; facilitating a meeting with the respondent with the complainant present (in cases that do not involve Sexual Assault); and any other remedy that can be tailored to the involved individuals to achieve the goals of the Policy. In some forms of Voluntary Resolution, the remedies imposed will focus on supporting the complainant with no participation or involvement by the respondent. In other forms of Voluntary Resolution, the respondent may agree to participate. Depending on the type of remedy used, it may be possible for a complainant to maintain anonymity.
The OSM retains the discretion to determine, when selected by the complainant, which cases are appropriate for Voluntary Resolution. If a complainant requests Voluntary Resolution, and the Title IX Officer concludes that Voluntary Resolution is appropriate based on the factors outlined in the Initial Assessment, the Director of OSC or designee will take appropriate action by imposing individual and community remedies designed to maximize the complainant’s access to all employment, educational, and extracurricular opportunities and benefits at the University and to eliminate a potential hostile environment. A complainant may request and decide to pursue Voluntary Resolution at any time.

**Notification to the Respondent**

In facilitating any form of Voluntary Resolution that involves the respondent, (and if an investigation is to occur) the Special Investigator will meet with the respondent and provide her/him with a copy of the Sexual Misconduct Policy and *Student Sexual Misconduct Investigative and Adjudicative Procedures*. At that meeting, the respondent will be informed of the following:

- The nature of the complaint;
- The issuance of a no contact order (and provided a copy of the order if issued by OSC);
- Available community and campus resources and services;
- The right to a support person and the support person’s role;
- The right to an advisor and the advisor’s role;
- The University’s prohibition against retaliation; and
- How the voluntary resolution and investigative and adjudicative processes work.

Voluntary Resolution may also include restorative principles that are designed to allow a respondent to accept responsibility for misconduct and acknowledge harm to the complainant or to the University community. Restorative models will be used only with the consent of both parties, under the supervision of the Director of OSC or designee (i.e. University-sanctioned trained professionals) and following a determination by the OSM that the matter is appropriate for a restorative approach.

The complainant will not be compelled to engage in mediation, to confront directly the respondent or to participate in any particular form of informal resolution. Mediation, even if voluntary, shall not be used in cases involving Sexual Assault.

To assess pattern or systemic behavior fairly, the OSM will maintain records of all reports and conduct referred for Voluntary Resolution. Information disclosed during the Voluntary Resolution process may be considered during a subsequent Investigation or Adjudication of a similar nature involving either or both parties, as may be relevant. The time frame for completion of Voluntary Resolution may vary, but the OSM and OSC will seek to complete the process.
within thirty (30) business days of the complainant’s request.

II. SEXUAL MISCONDUCT INVESTIGATION

Following the Initial Assessment, and in consultation with the complainant, the OSM will initiate a prompt, thorough, and impartial Investigation of conduct that is a potential violation of the Policy and is not being addressed through Voluntary Resolution. The OSM will designate a Special Investigator who has training and experience investigating allegations of Prohibited Conduct. The Special Investigator will coordinate the gathering of information to make an investigative finding regarding whether the alleged conduct constitutes a violation of the Policy by a preponderance of the evidence. A preponderance of the evidence means that it is more likely than not that the conduct occurred.

Information gathered during the Investigation will be used to evaluate the appropriate course of action, provide for individual and campus safety, and identify the need for Interim Protective Measures and other remedies as necessary to eliminate the alleged conduct and to address its affects.

Notice of Investigation

The Director of OSC or designee will send the complainant and the respondent a written Notice of Investigation. This Notice will generally be issued within five (5) business days of receipt of notice from the complainant of the intent to proceed with Investigation and sufficient information for the OSM. The Notice of Investigation will contain a summary of the conduct at issue, the range of potential violations under the Policy, and the range of potential sanctions. Where appropriate, the Notice of Investigation will also contain notification that expulsion is a potential sanction and that expulsion precludes re-enrollment or re-admission to UMD. Upon receipt of the Notice of Investigation, or at any stage in the process, the respondent may choose to accept responsibility for the Policy violation. Once the Notice of Investigation has been delivered to the parties, the Investigation phase begins.

The OSM will oversee the Investigation. The Investigation is designed to provide a fair and reliable gathering of the facts. All individuals, including the complainant, the respondent, and any third party witnesses, will be treated with appropriate sensitivity and respect throughout the Investigation. The Special Investigator will safeguard the privacy of the individuals involved in a manner consistent with federal law and University policy.

During the Investigation, the complainant and respondent will have an equal opportunity to be heard, to submit information, and to identify witnesses who may have relevant information. The Special Investigator will speak separately with the complainant, the respondent, and any other individuals who are willing to participate and have information relevant to the investigation. The
Special Investigator may gather or receive information that is relevant to the determination of an appropriate sanction or remedy, including information about the impact of the alleged incident on both parties. The Special Investigator will also gather any available physical or documentary evidence, including prior statements by the parties or witnesses, any communications between the parties, email messages, social media materials, text messages, and other records as appropriate and available.

**Investigation Timeline**

The University will seek to conclude the Investigation within thirty (30) business days from the issuance of the Notice of Investigation. The time frame for completion of the Investigation, or any designated time frames of steps in the Investigation, may be extended for good cause as necessary to ensure the integrity and completeness of the Investigation, to comply with a request by external law enforcement, to accommodate the availability of witnesses, to account for University breaks or vacations, to account for complexities of a case (including the number of witnesses and volume of information provided by the parties), or to address other legitimate reasons. Any extension of the timeframes, and the reason for the extension, will be shared with the parties in writing. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

Where the OSM is made aware that there is a concurrent criminal investigation, the Special Investigator will coordinate with law enforcement so that any University processes do not interfere with the integrity or the timing of the law enforcement investigation. At the request of law enforcement, the Title IX Officer may agree to defer the fact-finding portion of its Investigation until after the initial stages of a criminal investigation. The Title IX Officer or designee will nevertheless communicate with the parties regarding resources and accommodations, procedural options, anticipated timing, and the implementation of any necessary Interim Protective Measures for the safety and well-being of all affected individuals.

The Special Investigator will promptly resume fact gathering as soon as law enforcement has released the case for review following the initial criminal investigation. All community members, including students, faculty and other University employees, are expected to cooperate with the OSM, and the Special Investigator in the Investigation, as well as the Adjudication, of any report to assure fairness and procedural due process. The Title IX Officer or designee may request the appearance of persons from the University community who can provide substantial, relevant evidence. Both a complainant and a respondent may decline to participate in proceedings under the Policy. The Title IX Officer will determine whether the Investigation and Standing Review Committee Conference will proceed without the complainant or the respondent.
Special Considerations

The Special Investigator has discretion to determine whether any witness or other evidence is relevant to the finding of a policy violation. The Special Investigator may exclude information that is irrelevant, immaterial, or more prejudicial than informative from the Final Investigative Report. The Special Investigator may also exclude statements of personal opinion by witnesses and statements as to general reputation for any character trait, including honesty. Any information the Special Investigator does not include as relevant in the Final Investigative Report will be attached as appendices. The Special Investigator will not exclude direct observations or reasonable inferences drawn from the facts. Other information will be considered as outlined below:

Character: Any documents submitted that speak to the character, or lack thereof, of either party will not be included in the investigative report.

Pattern Evidence: The Special Investigator may consider information (when known) about prior allegations of sexual misconduct by either party if the prior or pending incident(s) are substantially similar to the present incident and/or is indicative of a pattern of behavior.

Prior Sexual History between the Parties: Where there was a prior or ongoing relationship between the complainant and the respondent, and the respondent asserts that Consent was sought and given, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. As noted in other sections of the Policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute Consent.

Prior Sexual History with Other Parties: A party’s sexual history with an individual other than the complainant or respondent may be relevant under very limited circumstances to prove intent, motive, absence of mistake, or to explain an injury or physical finding.

Consolidation of Reports: At the discretion of the OSM, multiple reports may be consolidated in one Investigation or one Standing Review Committee Conference if the information related to each incident would be relevant and probative in reaching a determination on the other incident(s). This includes matters where the determination has been made that there is relevant Pattern Evidence or where the evidence of the other conduct is inextricably intertwined with Prohibited Conduct under the Policy. Matters may be consolidated where they involve multiple complainant, multiple respondents or related conduct involving the same parties that would otherwise have been heard under the Code of Student Conduct (provided that it does not delay the prompt resolution of conduct under the Policy).

Impact Statement: The complainant and respondent will be provided the opportunity to submit a written Impact Statement. These written Impact Statements will not be considered in the determination of responsibility, but will be provided to the Special Investigator, and at the appropriate stage of the process, to the SRC members for consideration in the
determination of the sanction and remedy. The Impact Statement may be submitted at any
time in the process, provided that it is received no later than five (5) days after the parties
have completed their review of the Investigative Findings. The parties may submit a
supplemental Impact Statement to the SRC if there is a change in circumstances warranting
an updated Impact Statement. The Impact Statements will be shared with the parties, and
may be redacted at the discretion of the OSC, R&R, and Title IX Officer, or in accordance
with FERPA.

Review of Draft Investigation Report
At the conclusion of the Investigation, the Special Investigator will prepare a written report that
summarizes the information gathered, synthesizes the areas of agreement and disagreement
between the parties with any supporting information or accounts, and includes an Investigative
Finding as to whether a Policy violation has likely occurred. However, before the report is
finalized, the complainant and respondent will be given the opportunity to review a draft
Investigation Report, which will not include the Investigative Finding, and may be presented in
redacted format. The parties will not receive an electronic or written copy, nor may they
photograph or copy the draft Investigation Report, but they will be permitted to take notes on the
content.

A complainant and respondent may submit any additional comment or information to the Special
Investigator within five (5) business days of the date of the notice of the opportunity to review of
the draft Investigation Report. This is the final opportunity for the parties to identify any
additional information or witnesses. In the absence of good cause, information discoverable
through the exercise of due diligence that is not provided to the Special Investigator at this
juncture will not be considered by the Special Investigator or SRC.

Investigative Finding and Notification
Upon receipt of any additional information from the complainant or respondent or after the five
(5) business day comment period has lapsed without comment, the Special Investigator will
make an Investigative Finding. The finding is based on the Special Investigator’s current
assessment of the outcome of the investigation, and whether it is more likely than not, that a
violation of the Policy has occurred. In reaching this determination, the Special Investigator will
consult with the Title IX Officer. The Special Investigator may also seek information regarding
prior disciplinary history and UMPD regarding prior criminal history. Once the report is
finalized it will be sent to the Director of Student Conduct.

Outcome Conference
Upon issuance of the Investigative Finding, and where appropriate, the Director of Student
Conduct will recommend sanctions and issue formal charges. Both the complainant and
respondent will be notified of the Investigative Finding and the proposed sanction(s) and/or
remedy (ies) in writing at the same time. The OSC will issue an Investigation Outcome Notice to each party, and invite them to schedule an outcome conference with the Director to discuss the outcome. Each party will have the opportunity to meet, separately, with the Director of Student Conduct or Assistant Director of Rights & Responsibilities depending on where the complaint originated. The Director/Assistant Director will share the Investigative Finding and, as applicable, the recommended sanction with the complainant and the respondent, and the remedy with the complainant. During the Outcome Conference, the parties will each have an opportunity to review the full Investigation Report. The parties will not, however, receive an electronic or written copy, nor may they photograph or copy the Investigation Report. The parties will be permitted to take notes on the content.

Where there has been an Investigative Finding that a Policy violation has likely occurred, the parties may:
- Accept both the Investigative Finding and proposed sanction;
- Accept the Investigative Finding, but request a SRC Conference on the recommended sanction; or,
- Reject the Investigative Finding and sanction recommendation and request a SRC Conference on both; or,
- Reject the Investigative Finding and request a SRC Conference, on the Investigative Finding to determine whether a Policy violation was committed and/or to determine an appropriate sanction.

Where there has been an Investigative Finding that no Policy violation has likely occurred, the complainant may:
- Accept the Investigative Finding (on one or all of the alleged violations); or
- Reject the Investigative Finding (on one or all of the alleged violations) and request Administrative Review.

The complainant and respondent must communicate their chosen course of action to the Director of Student Conduct, or designee in writing (e.g., email, fax, letter) within five (5) business days of notification of the Investigative Finding.

### III. IMPOSITION OF SANCTIONS

The Policy prohibits a broad range of behaviors, which are serious in nature. In keeping with the University’s commitment to a learning and working environment free from sexual misconduct, the Policy provides the Director of Student Conduct and the SRC with wide latitude in the imposition of sanctions tailored to the facts and circumstances of each report, the impact of the misconduct on the complainant and surrounding community, and accountability for the respondent. The imposition of sanctions is designed to eliminate prohibited conduct under the...
Policy, prevent its recurrence, and remedy its effects, while supporting the University’s educational mission and federal obligations. Sanctions may include educational, restorative, rehabilitative, and punitive components such as removal from University housing, removal from specific courses or activities, and disciplinary probation. Some behavior, however, is so egregious in nature, harmful to the individuals involved, or so deleterious to the educational process that it requires severe sanctions, including suspension or expulsion from the University.

In cases that are resolved at the Outcome Conference after the Investigation, the Director of Student Conduct is responsible for determining the appropriate sanction. In cases that are resolved through a Conference with the SRC, the SRC is responsible for determining the appropriate sanction. In reaching this determination, the SRC may solicit information from the complainant, the respondent and any other individual who can provide information relevant to a determination regarding potential sanctions. The SRC may also review any written Impact Statements submitted by the complainant and the respondent when determining sanctions.

In determining the appropriate sanction, the Director of Student Conduct and the SRC shall consider the following factors:

- The nature and violence of the conduct at issue;
- The impact of the conduct on the complainant;
- The impact or implications of the conduct on the community or the University;
- Prior misconduct by the respondent, including the respondent’s relevant prior discipline history, both at the University or elsewhere, including criminal convictions;
- Whether the respondent has accepted responsibility for the conduct;
- Maintenance of a safe and respectful environment conducive to learning;
- Protection of the University community; and,
- Any other mitigating, aggravating, or compelling circumstances to reach a just and appropriate resolution in each case.

The Director of OSC and the SRC may also consider restorative outcomes that, taking into account the safety of the community as a whole, allow a respondent to develop insight about his or her responsibility for the behavior, learn about the impact of the behavior on the complainant and the community, and identify how to prevent or change the behavior.

Where the Director of Student Conduct or SRC concludes that a sanction of suspension or expulsion is appropriate, and the respondent has not already been suspended on an interim basis, there will be an immediate assessment by the Director of Student Conduct or designee to determine whether the respondent poses a serious threat of disruption of the academic process or a continuing danger to other members of the University community or University property. The Director of Student Conduct or designee may impose interim suspension pending the conclusion of any appeal. Where the sanction is other than suspension or expulsion, the imposition of
sanction will be deferred pending the conclusion of any appeal. Protective Interim Measures in effect for the respondent will continue pending the conclusion of any appeal.

**Sanctions that Impact a Student’s Status**
Sanctions may be imposed individually or in combination. Sanctions that affect a student’s status with the University include the following:

- **Expulsion**, which must be approved by the Vice President of Student Affairs, and the President of the University, means that a student is removed from the University permanently and may not re-enroll or be re-admitted to UMD.

- **Suspension for a Definite or Indefinite Period**, which must be approved by the Vice President of Student Affairs, means that the student is removed from good standing and must leave the University for a definite or indefinite period. This form of suspension anticipates that the student may eventually return if applicable conditions are satisfied.

- **Disciplinary Probation for a Definite or Indefinite Period**, including probation with associated conditions or requirements as set by the Director of Student Conduct or designee, or the SRC, means that a student may remain at the University but may be required to satisfy specified conditions or requirements, report regularly to a designated administrator, and be barred from holding any office or participating in any activity in which the student represents the University, including athletics or other competitive teams, or from participating in any University-recognized student organizations either within or outside the University community. The sanction of probation prohibits graduation until the period of probation has ended and the student has complied with all requirements.

Expulsion, suspension for a definite or indefinite period, and disciplinary probation will be noted on a student’s transcript.

**Sanctions that Do Not Impact a Student’s Status**
Sanctions that do not affect a student’s good standing status with the University include, but are not limited to:

- **Educational Requirements**, Completion of projects, programs, or requirements designed to help the student manage behavior and understand why it was inappropriate.

- **“No Contact” Orders**, Compliance with orders of no contact that limit access to specific University areas or forms of contact with particular persons.

- **Housing Restrictions**, Exclusion from University housing or change in housing arrangements.

- **Community Service**, The OSC will monitor completion of up to sixty (60) hours of community service over a period not to exceed twelve (12) weeks under guidelines established by the Office of Sexual Misconduct in consultation with the Office of Student Conduct and/or Rights & Responsibilities.
Disciplinary Reprimand. Written warning in the form of an official reprimand that is formally communicated by a letter giving the student notice that any subsequent Policy violation will carry more serious sanctions.

Failure to comply with any of the sanctions listed above may result in further disciplinary action that could impact a student’s status.

Records of Student Discipline and Effect of Withdrawal
The existence of a pending Investigation or Adjudication under the Policy will be noted as part of a student’s transcript. In addition, currently active sanctions of probation, suspension, or expulsion will be noted as part of a student’s transcript. In the event that a respondent chooses to withdraw from the University prior to the resolution of disciplinary charges under the Policy, the matter will be resolved without the student. In some cases, the transcripts may be withheld until the matter is resolved, or marked with, “Disciplinary Action Pending.” In the event of a withdrawal, or where the respondent declines to participate in proceedings under the Policy, the SRC Conference Meeting may proceed without the respondent. After withdrawing, the respondent will not be eligible to return to the University until the proceedings under the Policy have been finally concluded.

IV. REMEDIES

The Title IX Officer or designee in consultation with the OSC and the R&R, as appropriate, will identify reasonable long-term or permanent remedies to address the effects of the conduct on the complainant, restore the complainant’s safety and well-being, and maximize the complainant’s educational and employment opportunities. Such remedies should seek to restore to the complainant, to the extent possible and within reason, all benefits and opportunities lost as a result of the Prohibited Conduct. The Title IX Officer will also identify remedies to address the effects of the conduct on the University community.

The Director of Student Conduct and Title IX Officer will consider the appropriateness of remedies, including Protective Measures, on an ongoing basis to assure the safety and well-being of the parties throughout the process. Long-term remedies may include extending or making permanent any Interim Protective Measures or implementing additional measures tailored to achieve the goals of the Policy. Many of the remedies and supports that a Reporting Party might need after a finding of responsibility will have already been provided as Interim Protective Measures, including but not limited to academic accommodations, short term counseling, and housing arrangements. The Title IX Officer or designee will in all cases, consider whether there is a need for additional remedies. Additional remedies or supports may be included in the proposed sanctions, such as reassignment or removal of the respondent from a class or a dormitory.

Appendix A – Student Procedures
V. ADJUDICATION OPTIONS

At the conclusion of the Outcome Conference, one of the following will occur:

**Imposition of Final Finding, Sanction, and Remedy**
Where both the complainant and the respondent agree to the Investigative Finding and recommended sanction(s), or where neither party rejects the Investigative Findings and sanction recommendations, the Director of Student Conduct may adopt the Findings as final and impose the sanction(s). The finality of the outcome, which is not subject to further appeal or review, will be communicated to the parties, in writing at the same time.

If the proposed sanction involves dismissal from the University (suspension or expulsion), the Director of Student Conduct will delay imposition of the final findings and sanction based on acceptance, in order for the party accepting responsibility to consult with either the Attorney, Non-Attorney Advisor, Parent or Legal Guardian, before the acceptance and imposition is considered final.

**Administrative Review by Director of Student Conduct: Investigative Finding of No Policy Violation**
Where the complainant requests Administrative Review of the Investigative Finding that no Policy violation occurred, both the respondent and the complainant will have the opportunity to meet with the Director of Student Conduct or submit additional information in writing. The Director may agree with the Investigative Finding, reverse the finding, or request additional investigative follow-up. The Director of Student Conduct will render a decision in writing to both parties at the same time within ten (10) business days of receipt of the request for Administrative Review. This timeframe may be extended for good cause provided that both the delay and the reason for the delay are communicated to the parties in writing.

Where the Director of Student Conduct agrees with the Investigative Finding, this determination is final and is not subject to further appeal or review. Where the Director reverses the Investigative Finding that there is no Policy violation, the matter will be immediately forwarded for Adjudication by the SRC. Where the Director of Student Conduct requests additional Investigation, the matter will be returned to the Special Investigator for further review.

**Adjudication by Standing Review Committee: Review of an Investigative Finding that a Policy Violation Occurred**
If the respondent challenges the Investigative Finding that a Policy violation has likely occurred, the OSC or designee will issue a Standing Review Committee Conference Notice to the complainant and the respondent and forward the Investigative Final Report to the SRC for adjudication. The SRC’s role is twofold: determination that a Policy violation occurred by a
Appendix A – Student Procedures

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preponderance of the evidence whether a Policy violation has occurred. Preponderance of the evidence means that it is more likely than not that the conduct occurred. The SRC’s determination must be reached by a majority vote.

If the SRC finds that a violation has occurred, it will determine and impose the sanction. Prior to doing so, it will offer to listen to and/or review a written Impact Statement. It will meet separately with a party wishing to make an Impact Statement in a session closed to the other party and the Special Investigator.

The public, except for the immediate members of the parties’ families, may not attend the SRC Conference.

**Notice of SRC Conference Outcome**

Within five (5) business days of the conclusion of the SRC closed session conferences the Office of Student Conduct will provide a written Notice of Outcome from the SRC to the complainant and the respondent at the same time. The OSC will also provide written notice, at the same time to both parties, of any change in the Outcome that occurs before the Outcome becomes final.

The SRC Notice of Outcome will include the finding by the SRC as to whether there is a Policy violation, the rationale for the result, and a brief summary of the evidence on which the decision is based, as appropriate. Where there is a finding of a Policy violation, the respondent will be informed of any sanctions, the date by which the requirements must be satisfied (if applicable), and the consequences of failure to satisfy the requirements. The complainant will be informed of any sanctions and remedies that directly relate to the complainant, including information about the respondent’s presence on campus (or in a shared class or residence hall), that may help a complainant make informed decisions or work with the University to eliminate Prohibited Conduct and prevent its recurrence.

The SRC Notice of Outcome will also include information about the appeal process, including the available grounds for an appeal, and the time frame for submitting an appeal. If neither party seeks an appeal within five (5) business days of the SRC Notice of Outcome, any sanction imposed by the SRC will take effect immediately.

**VI. APPEAL**

The parties may appeal the portions of the SRC Outcome that directly relate to that party. This means that the complainant and the respondent may only appeal the portions of the SRC Outcome articulated in the SRC Notice of Outcome as described above. Mere dissatisfaction with the Outcome is not a valid basis for appeal. The appeal must be submitted in writing using
the Notice of Appeal form\(^1\), to the SRC Coordinator within five (5) business days of receipt of the SRC Notice of Outcome. The scope of the appeal is limited only to the three permissible grounds that have been accepted for review (listed below). If the appeal request moves forward, the other party will be notified and given five (5) business days to respond. Responses shall be submitted directly to the SRC Coordinator or designee. Appeals filed by each party will be considered together in one appeal review process. Receipt of the written appeal will be acknowledged in writing. The parties may have their Attorney or Non-Attorney Advisor submit written responses on their behalf.

**Grounds for Appeal**

Grounds for appeal shall be limited to:

- **Procedural Error**: A violation of procedural due process means that the decision was negatively influenced by a failure of the SRC to take a procedural step or fulfill a procedural requirement established by this policy.
- **New Evidence**: New evidence is significant evidence that could not have been previously discovered and presented by the appellant through reasonable diligence.
- **Substantive Due Process**: A violation of substantive due process means that the SRC decision was based upon an illegal or constitutionally impermissible consideration (e.g. party’s gender, race, age, national origin, sexual orientation or a party’s exercise of first amendment freedoms)

If neither party submits an appeal, the SRC Outcome becomes final after five (5) business days. Appeals submitted after five (5) business days will be denied.

**Considerations**

In any request for an appeal, the burden of proof lies with the party requesting the appeal because the SRC Outcome is presumed to be a reasonable and just determination. Appeals are not intended to allow for a rehearing of the complaint. A review of the matter will be prompt and narrowly tailored to the stated appeal grounds. In most cases, appeals are confined to a review of the written record and the pertinent documentation regarding the grounds for appeal (i.e. the Final Investigative Report, SRC Outcome, and the written record as contained in the Notice of Appeal submitted by the appellant. However, depending on the nature of the appeal, the SRC Appellate Body may speak to the Special Investigator, the SRC Conference Chair, or the parties, as appropriate.

**SRC Appellate Body**

The SRC Appellate Body is composed of three (3) members from the Standing Review

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\(^1\) Notice of Appeal – Sexual Misconduct Adjudication Process from, is included here as Appendix A-1, and may be found on the Student Conduct website: [http://osc.umd.edu/OSC/Default.aspx](http://osc.umd.edu/OSC/Default.aspx)
University of Maryland
Student Sexual Misconduct Investigation & Adjudication Procedures

Committee who did not participate previously in adjudicating the case. Depending on the basis of the requested appeal, the SRC Appellate Body may:

- Affirm the Outcome;
- Alter the Outcome;
- Return the matter to the SRC with instructions to reconvene to cure a procedural or substantive error or to assess the weight and impact of newly discovered information.

An Appellate conference will be convened before a newly constituted SRC Appellate Body where the procedural or substantive error cannot be cured by returning the matter to the original SRC. The SRC Appellate Body Chair will render a written decision on the appeal to both parties within fifteen (15) business days from the date of the submission of all appeal documents. Appeal decisions by the SRC Appellate Body are final with the exception of cases involving suspension or expulsion that allow for further review.

VII. FINAL OUTCOME

The President of the University must review and approve any sanction of expulsion, if this sanction is so recommended by the Vice President of Student Affairs. The Vice President of Student Affairs must also approve any sanction of suspension.

After all review processes are concluded, the Title IX Officer or designee will promptly notify the complainant and respondent, in writing, and in person when possible, of the final outcome of the sexual misconduct complaint.

Post-Resolution Follow Up

After a sanction or remedy is issued, the OSM may periodically contact the complainant to ensure the Prohibited Conduct has ended and to determine if additional remedies are necessary and will contact the respondent to assure compliance with any sanctions that have been imposed. The complainant may decline future contact. Any violation by a respondent of a sanction or protective measure imposed under the Policy or a failure by a University employee to provide a specified remedy should be reported to the Title IX Officer. The complainant and respondent are encouraged to provide the OSM with feedback about their experience with the process and recommendations regarding ways to improve the effectiveness of the campus’ implementation of the Policy.

END OF DOCUMENT
NOTICE OF APPEAL FORM

In the matter of: ________________________________________________________________.

Under the Student Sexual Misconduct Investigation & Adjudication Procedures, either party has a right to appeal. An appeal must be submitted within five (5) business days of receipt of the SRC’s Notice of Adjudication Outcome.

Appeals submitted after the five (5) business day period, will not be considered. The other party(s) will be notified if an appeal is submitted and will be provided five (5) business days to submit a response.

Appeals are not intended to allow for a rehearing of the complaint. A decision to grant an appeal is made only where there is clear error.

Appellate procedures can be found in the Student Sexual Misconduct Investigation & Adjudication Procedures, Appendix A, on pages 19-20.

Appellant (Submitted By): __________________________________________________________.

You must check the basis for your appeal:

☐ Procedural Error: A violation of procedural due process means that the decision was negatively influenced by a failure of the SRC to take a procedural step or fulfill a procedural requirement established by this policy.

☐ New Evidence: New evidence is significant evidence that could not have been previously discovered and presented by the appellant through reasonable diligence.

☐ Substantive Due Process: A violation of substantive due process means that the SRC decision was based upon an illegal or constitutionally impermissible consideration (e.g. party’s gender, race, age, national origin, sexual orientation or a party’s exercise of first amendment freedoms)

Please state all the information that should be considered by the SRC Appellate Body in support of your appeal (under one of the grounds noted above.) Please do not restate any information already contained in the Investigative and/or SRC Adjudication Outcome Report. Those documents will be provided to the appellate body.

_____________________________________________________________________________
_____________________________________________________________________________
_____________________________________________________________________________
VERIFICATION

I ____________________________ acknowledge and agree that this statement is truthful and complete to the best of my knowledge.

Acknowledged and Agreed.

By: ____________________________ Date: ____________________________

Appellant Signature
INTRODUCTION

I. FILING A COMPLAINT
A. Initial Assessment
B. Interim Measures

II. COMPLAINT RESPONSE
A. Sexual Misconduct Investigation
B. Notice of Review Option
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III. APPEAL
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IV. DISCIPLINE, REMEDIES & OTHER ADMINISTRATIVE ACTIONS

V. GRIEVANCE RIGHTS
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VI. OUTCOME
A. Records Retention
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INTRODUCTION

These procedures accompany the University of Maryland Sexual Misconduct Policy and are to be used when responding to, investigating and adjudicating complaints of sexual misconduct against UMD staff. These procedures replace all procedures previously in effect pertaining to the investigation and adjudication of sexual misconduct against staff at the University of Maryland, College Park. For purposes of this Policy and Procedures, Staff include University coaches and all University employees other than those with faculty rank as described in II-1.00(A) University of Maryland Policy on Appointment, Promotion and Tenure of Faculty at http://www.president.umd.edu/policies/2014-ii-100a.html.
I. FILING A COMPLAINT

A complaint of sexual misconduct against staff should be made to the Office of Sexual Misconduct & Relationship Violence (OSM). The Complainant will be interviewed and asked to submit a signed written complaint. The Complainant will also be provided with Notice of her/his Rights and Responsibilities.

Disclosures of sexual misconduct to persons or entities other than those specifically listed as Confidential Resources in Section VI of the Policy are not confidential. Any report of sexual misconduct that is brought to the attention of a Responsible University Employee (“RUE”) as defined in Section III of the Policy must be reported promptly to the Title IX Officer in the OSM. An RUE includes any University administrator, supervisor, faculty member, campus police, coach, trainer, resident assistant¹ or non-confidential first responder who has the authority to take action to redress sexual misconduct or whom a student or staff person could reasonably believe has such authority or duty.

No persons other than the Title IX Officer or designee are authorized to investigate allegations of sexual misconduct in violation of this Policy.

A. Initial Assessment

Upon receipt of a complaint of sexual misconduct, the Title IX Officer or designee, will conduct an Initial Assessment to determine whether the complaint may constitute a violation of the Policy, and whether further action is warranted based on the alleged conduct. The Initial Assessment will be based on the following considerations:

- The nature and circumstances of the allegation, including the severity and duration of the conduct;
- Pattern evidence or other similar conduct by the Respondent;
- The safety of Complainant and others in the campus community; and
- Complainant’s expressed preference regarding resolution.

B. Interim Measures

Based on the nature and circumstances of the complaint, the Title IX Officer may authorize Interim Measures in consultation with the supervisor or unit head/administrator(s) and/or Director of University Human Resources, or designee, as necessary, on a need-to-know basis.

¹ Under the Policy, for purposes of reporting, a student who is a resident assistant is an RUE and is obligated to report sexual misconduct that comes to her/his attention to the Title IX Officer. If a student who is a resident assistant is the subject of allegations of sexual misconduct, the complaint is handled under the Student Investigation and Adjudication Procedures (see Appendix A).
II. COMPLAINT RESPONSE

Following the Initial Assessment, the Title IX Officer or designee will determine whether to proceed with an investigation, take no action, or refer the report back to the relevant unit head and/or supervisor to be considered as a personnel matter because it does not rise to the level of Prohibited Conduct as defined under the Policy in Section IV, pages 4-6. If the complaint is referred back to the unit or office from which it originated, the Complainant will be notified.

OSM may proceed with an investigation to ensure the safety and well being of the Complainant and/or others in the campus community even in the absence of a written complaint.

A. Sexual Misconduct Investigation

Following the Initial Assessment, and in consultation with the Complainant, the OSM will initiate a prompt, thorough, and impartial Investigation of the conduct that constitutes a potential violation of the Policy. The OSM will designate a Special Investigator who has training and experience investigating allegations of Prohibited Conduct. The Special Investigator will coordinate the gathering of information to make an investigative finding regarding whether the alleged conduct constitutes a violation of the Policy by a preponderance of the evidence. A preponderance of the evidence means that it is more likely than not that the conduct occurred.

OSM will take immediate and appropriate steps to eliminate sexual misconduct in violation of the Policy, address its affects and prevent its recurrence. Information gathered during the Investigation will be used to evaluate the appropriate course of action, provide for individual and campus safety, and identify the need for Interim Protective Measures and other remedies as necessary.

1. Notice of Investigation

The Title IX Officer or designee will send the Complainant and the Respondent a written Notice of Investigation. Once the Notice of Investigation has been delivered to the parties, the Investigation phase begins. The Notice of Investigation will contain a summary of the allegations at issue, the range of potential violations under the Policy, and the range of potential disciplinary sanctions and/or administrative and other remedies. Upon receipt of the Notice of Investigation, or at any stage in the process, the Respondent may choose to accept responsibility for the Policy violation.

Along with the Notice of Investigation, the Respondent will receive a Notice of Rights and Responsibilities.

The OSM will oversee the Investigation. The Investigation is designed to provide a fair and reliable gathering of the facts. All individuals, including the Complainant, the Respondent, and any third party witnesses, will be treated with appropriate sensitivity and respect throughout the Investigation. The Special Investigator will safeguard the privacy of the individuals involved in a manner consistent with federal and state law and University policy.
During the Investigation, the Complainant and Respondent will have an equal opportunity to be heard, to submit information, and to identify witnesses who may have relevant information. The Special Investigator will speak separately with the Complainant, the Respondent, and any other individuals who are willing to participate and have information relevant to the investigation. The Special Investigator may gather or receive information that is relevant to the determination of an appropriate sanction or remedy, including information about the impact of the alleged incident on the parties. The Special Investigator will also gather any available physical or documentary evidence, including prior statements by the parties or witnesses, any communications between the parties, email messages, social media materials, text messages, and other records as appropriate and available.

Members of the University community are expected to cooperate with the Investigation.

B. Notice of Review Option

At the conclusion of the Investigation, the Special Investigator will prepare a draft written report that summarizes the information gathered, synthesizes the areas of agreement and disagreement between the parties with any supporting information or accounts. Prior to finalizing the Investigation Report and before reaching a finding, the Special Investigator will provide the Complainant and Respondent an opportunity to review the draft Investigation Report (absent a Finding).

A Complainant and Respondent may submit any additional comment or information to the Special Investigator within five (5) business days of the date of the Notice of Review Option to review the draft Investigation Report. This is the final opportunity for the parties to identify any additional information or witnesses and review their statements for accuracy. Both parties will be provided electronic password protected access to the report. In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the Special Investigator at this juncture will not be considered by the Special Investigator or Standing Review Committee (SRC).

C. OSM Investigation Outcome

Once the draft Investigation Report is reviewed by the parties and any additional information is incorporated, or after the five (5) business day comment period has lapsed without comment by either party, the Special Investigator will finalize the Investigation Report and make a finding as to whether there has been a violation of the Policy.

The finding will be based on the Special Investigator’s assessment of the evidence gathered in the course of the investigation, using a standard of preponderance of evidence (e.g., whether it is more likely than not that a violation of the Policy has occurred). In reaching this determination, the Special Investigator will consult with the Title IX Officer. The Special Investigator may also rely on information regarding the employee’s prior disciplinary history and prior criminal history. All information relied on by the Special Investigator shall be included in the final Investigation Report. The OSM Finding will be appended to the Investigation Report and will constitute the OSM Investigation Outcome. The OSM Investigation Outcome will then be sent to
the Standing Review Committee for an independent evaluation.

D. Independent Review by the Standing Review Committee

The Standing Review Committee (SRC) is an independent body, composed of five (5) persons made up of a combination of faculty, staff and students with a minimum of three (3) staff. All members of the SRC are adequately trained and are qualified to review findings of sexual misconduct policy violations and grounds for appeal related to those findings.

The Standing Review Committee will conduct an independent assessment of the OSM Investigation Outcome and determine whether there has been a violation of the Policy. The SRC may affirm or reject the finding of the OSM Outcome regarding the policy violation, and/or return the OSM Outcome to the Special Investigator to conduct additional investigation before completing its review. All SRC decisions require a super majority vote (4-1) and shall be accompanied by an explanation of the SRC’s stated rationale for the decision.

The SRC will have five (5) business days to make a determination as to whether there is a violation of the Policy. In the event the SRC rejects the OSM Finding and requests additional investigation, the SRC shall review the revised OSM Outcome upon completion of any additional investigation by the Special Investigator. The five (5) day timeline may be extended by the Title IX Officer to accommodate any additional investigation and reconsideration by the SRC, as needed.

The SRC shall issue its determination (SRC Finding) to the Title IX Officer.

E. Notice of Standing Review Committee Finding

The Title IX Officer or designee will then issue a formal Notice of SRC Finding to both parties, separately and simultaneously. (In the event the investigation was initiated by the OSM without a formal Complainant, only the Respondent shall be notified.) The Notice of SRC Finding shall include a reference to the specific prohibited conduct at issue, a summary of the investigation findings and the SRC's stated rationale for its decision. Copies of the Notice of SRC Finding shall also be sent to the appropriate supervisor and unit head, on a need-to-know basis, and to the Director of University of Human Resources, or designee.

III. APPEAL

Either party may appeal the SRC Finding to the SRC Appellate Body. Mere dissatisfaction with the outcome is not a valid basis for appeal. The appeal must be submitted in writing, within five (5) business days of receipt of the Notice of SRC Finding to OSM, using the Notice of Appeal form. The scope of the appeal is limited to three permissible grounds (listed below). If the appeal request moves forward, the other party will be notified and given five (5) business days to respond. Responses shall be submitted directly to the OSM. Appeals filed by each party will be considered together in one appeal review process. Receipt of any written appeals will be acknowledged in writing by the OSM.
UNIVERSITY OF MARYLAND  
STAFF SEXUAL MISCONDUCT INVESTIGATION & ADJUDICATION PROCEDURES

A. Grounds for Appeal

Grounds for appeal shall be limited to:

- **Procedural Error:** A violation of procedural due process means that the SRC Finding was negatively influenced by a failure of the Special Investigator and/or SRC to take a procedural step or fulfill a procedural requirement established by this Policy.

- **New Evidence:** New evidence is significant evidence that could not have been previously discovered and presented by the appellant through reasonable diligence.

- **Substantive Due Process:** A violation of substantive due process means that the SRC Finding was based upon an illegal or constitutionally impermissible consideration (e.g. party’s gender, race, age, national origin, sexual orientation or exercise of first amendment rights).

If neither party submits an appeal, the SRC Finding becomes final after five (5) business days. Once an SRC Finding becomes final, the Title IX Office will issue a formal Notice of Policy Violation as described in Section D, below. Appeals submitted after five (5) business days will be denied.

B. Considerations

In any request for an appeal, the burden of proof lies with the party requesting the appeal. Appeals are not intended to allow for a rehearing of the complaint or a de novo investigation by the SRC Appellate Body. A review of the matter will be prompt and narrowly tailored to the specific grounds requested for appeal. In most cases, appeals are confined to a review of the written record and the pertinent documentation underlying the appeal. However, depending on the nature of the appeal, the SRC Appellate Body may speak to the Special Investigator, the SRC Conference Chair, or the parties, as deemed appropriate.

C. Standing Review Committee Appellate Body

The SRC Appellate Body is composed of three (3) members from the Standing Review Committee who did not participate previously in a review of the case. Depending on the basis of the requested appeal, the SRC Appellate Body may:

- Affirm the SRC Finding;
- Alter the SRC Finding; or
- Return the matter to the Title IX Officer with instructions to cure a procedural or substantive error or to assess the weight and impact of newly discovered information.

1. **Notice of Appeal Outcome**

   An Appellate conference will be convened before a newly constituted SRC Appellate Body when the procedural or substantive error cannot be corrected by returning the matter to the
original SRC. The SRC Appellate Body Chair will render a written decision on the appeal referred to as the Notice of Appeal Outcome, within ten (10) business days from the date the OSM receives all appeal documents. SRC Appellate determinations must be unanimous. In the event the SRC Appellate Body is unable to reach a unanimous decision, the appeal is deemed denied and the SRC Finding is affirmed. All SRC Appellate Body decisions are final and will be communicated to the parties via the Office of Sexual Misconduct.

D. Final Outcome Notice
After the SRC Finding becomes final and all appeals, if any, are exhausted, the Title IX Officer or designee shall issue a Final Outcome Notice to both parties, separately and simultaneously, in writing, and in person, when possible. Issuance of the Notice completes the investigation and adjudication of the complaint under this Policy.

IV. DISCIPLINE AND ADMINISTRATIVE OR OTHER REMEDIES
Discipline and/or administrative and/or other remedies may be imposed if the Final Outcome Notice reflects a Policy violation. In such an event, the appropriate supervisor and unit head, in consultation with other relevant administrators, as needed, shall consider the following to determine what type of discipline and/or administrative and/or other remedies is most appropriate:

- The nature of the misconduct at issue;
- The impact of the misconduct on the Complainant;
- The impact or implications of the misconduct on the community or the University;
- Any prior sexual misconduct by the Respondent at the University or elsewhere that is known to the University;
- Respondent’s prior disciplinary history at the University; and
- Any other mitigating, aggravating, or compelling circumstances.

Discipline, remedies and other administrative action may include, but is not limited to, the following:

- Unit transfers;
- Reassignment of duties;
- Mandatory individualized sexual misconduct training;
- Oral Reminders;
- Written Reminders/Letters of Reprimand;
- Suspension without Pay;
- Suspension Pending Charges of Removal; and
- Termination
V. GRIEVANCE RIGHTS

Employees may grieve disciplinary action depending on the rights afforded to them based on their employee status. Employees may not grieve administrative and/or other remedies that do not constitute formal disciplinary action.

A. Exempt Employees

Regular exempt employees found to have violated the Sexual Misconduct Policy may be terminated pursuant to VII-1.22 Policy on Separation for Regular Exempt Employees at http://www.president.umd.edu/policies/2014-VII-122.html either under Section III Termination by Period of Notice or under Section IV Termination for Cause.

A grievance of a termination action may be made pursuant to VII-8.00 USM Policy on Grievances for Exempt and Nonexempt Staff Employees at http://www.usmh.usmd.edu/regents/bylaws/SectionVII/VII800.html and VII-8.10 USM Policy on Special Action Appeals for Classified Employees at http://www.usmh.usmd.edu/regents/bylaws/SectionVII/VII810.html.

B. Nonexempt Employees

Regular nonexempt employees found to have violated this Policy may be terminated in accordance with VII-8.00 USM Policy on Grievances for Exempt and Nonexempt Staff Employees at http://www.usmh.usmd.edu/regents/bylaws/SectionVII/VII800.html and VII-8.10 Policy on Special Action Appeals for Classified Employees at http://usmh.usmd.edu/regents/bylaws/SectionVII/VII810.html.

C. Contingent I and II Employees

Contingent employees found to have violated this Policy may be terminated in accordance with the terms of their contract. Contingent employees do not have grievance rights. Any dispute regarding termination may be brought to the attention of the employee’s supervisor or department head, or alternatively, may be brought to the attention of the University Human Resources-Office of Staff Relations.

D. Staff with Vested Status

Associate Staff, Classified-Exempt and employees with a Librarian job title employed at the time of implementation of Phase II-USM Exempt Pay Program (January 2, 2000) shall have grievance rights according to Sections III and IV of VII-9.01 USM Policy on Implementation of Phase II-Exempt of the USM Pay Program at http://www.usmh.usmd.edu/regents/bylaws/SectionVII/VII901.html
VI. FINAL OUTCOME

A. Records Retention

The OSM shall maintain investigation and outcome records in accordance with the University’s record retention schedule.

The Respondent’s Department and the Department of University Human Resources shall maintain records of any discipline, administrative and/or other remedies in accordance with the University’s record retention schedule and standard University protocols regarding the retention of personnel records.

B. Additional Notification Following Any Grievance Initiated by the Respondent

After the completion of any grievance process initiated by the Respondent as a result of a personnel action taken based on a violation of this Policy, the Title IX Officer or designee will promptly notify the Complainant of any modification of the Final Outcome, except as prohibited by State or Federal law.

END OF DOCUMENT
INTRODUCTION

I. FILING A COMPLAINT
   A. Initial Assessment
   B. Interim Measures

II. COMPLAINT RESPONSE
   A. Sexual Misconduct Investigation
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IV. DISCIPLINE AND ADMINISTRATIVE OR OTHER REMEDIES

V. GRIEVANCE RIGHTS

VI. OUTCOME
   A. Records Retention
   B. Additional Notification Following Any Grievance Initiated by the Respondent

INTRODUCTION

These procedures accompany the University of Maryland Sexual Misconduct Policy and are to be used when responding to, investigating and adjudicating complaints of sexual misconduct against UMD faculty. Faculty include all University employees with faculty rank as described in II-1.00(A) University of Maryland Policy on Appointment, Promotion and Tenure of Faculty at http://www.president.umd.edu/policies/2014-ii-100a.html. These procedures replace all procedures previously in effect pertaining to the investigation and adjudication of sexual misconduct against faculty at the University of Maryland, College Park. For purposes of this Policy and Procedures, coaches are deemed staff and are governed by the Staff Sexual Misconduct Investigation & Adjudication Procedures (See Appendix B).
I. FILING A COMPLAINT

A complaint of sexual misconduct against faculty should be made to the Office of Sexual Misconduct & Relationship Violence (OSM). The Complainant will be interviewed and asked to submit a signed written complaint. The Complainant will also be provided with Notice of her/his Rights and Responsibilities.

Disclosures of sexual misconduct to persons or entities other than those specifically listed as Confidential Resources in Section VI of the Policy are not confidential. Any report of sexual misconduct that is brought to the attention of a Responsible University Employee ("RUE") as defined in Section III of the Policy must be reported promptly to the Title IX Officer in the OSM. An RUE includes any University administrator, supervisor, faculty member, campus police, coach, trainer, resident assistant\(^1\) or non-confidential first responder who has the authority to take action to redress sexual misconduct or whom a student or staff person could reasonably believe has such authority or duty.

No persons other than the Title IX Officer or designee are authorized to investigate allegations of sexual misconduct in violation of this Policy.

A. Initial Assessment

Upon receipt of a complaint of sexual misconduct, the Title IX Officer or designee will conduct an Initial Assessment to determine whether the complaint may constitute a violation of the Policy, and whether further action is warranted based on the alleged conduct. The Initial Assessment will be based on the following considerations:

- The nature and circumstances of the allegation, including the severity and duration of the conduct;
- Pattern evidence or other similar conduct by the Respondent;
- The safety of Complainant and others in the campus community; and
- Complainant’s expressed preference regarding resolution.

B. Interim Measures

Based on the nature and circumstances of the complaint, the Title IX Officer may authorize Interim Measures in consultation with the relevant supervisor, Department Chair/Unit Head and/or Dean and Provost or designee or other administrators, as appropriate on a need-to-know basis.

\(^1\) Under the Policy, for purposes of reporting, a student who is a resident assistant is an RUE and is obligated to report sexual misconduct that comes to her/his attention to the Title IX Officer. If a student who is a resident assistant is the subject of allegations of sexual misconduct, the complaint is handled under the Student Investigation and Adjudication Procedures (see Appendix A).
II. COMPLAINT RESPONSE

Following the Initial Assessment, the Title IX Officer or designee will determine whether to proceed with an investigation, take no action, or refer the report back to the relevant Department Chair and/or Dean to be considered as a personnel matter because it does not rise to the level of Prohibited Conduct as defined under the Policy in Section IV, pages 4-6. If the complaint is referred back to the unit or office from which it originated, the Complainant will be notified.

OSM may proceed with an investigation to ensure the safety and well-being of the Complainant and/or others in the campus community even in the absence of a written complaint.

A. Sexual Misconduct Investigation

Following the Initial Assessment, and in consultation with the Complainant, the OSM will initiate a prompt, thorough, and impartial Investigation of the conduct that constitutes a potential violation of the Policy. The OSM will designate a Special Investigator who has training and experience investigating allegations of Prohibited Conduct. The Special Investigator will coordinate the gathering of information to make an investigative finding regarding whether the alleged conduct constitutes a violation of the Policy by a preponderance of the evidence. A preponderance of the evidence means that it is more likely than not that the conduct occurred.

OSM will take immediate and appropriate steps to eliminate sexual misconduct in violation of the Policy, address its affects and prevent its recurrence. Information gathered during the Investigation will be used to evaluate the appropriate course of action, provide for individual and campus safety, and identify the need for Interim Protective Measures and other remedies as necessary.

1. Notice of Investigation

The Title IX Officer or designee will send the Complainant and the Respondent a written Notice of Investigation. Once the Notice of Investigation has been delivered to the parties, the Investigation phase begins. The Notice of Investigation will contain a summary of the allegations at issue, the range of potential violations under the Policy, and the range of potential disciplinary sanctions and/or administrative and other remedies. Upon receipt of the Notice of Investigation, or at any stage in the process, the Respondent may choose to accept responsibility for the Policy violation.

Along with the Notice of Investigation, the Respondent will receive a Notice of Rights and Responsibilities.

The OSM will oversee the Investigation. The Investigation is designed to provide a fair and reliable gathering of the facts. All individuals, including the Complainant, the Respondent, and any third party witnesses, will be treated with appropriate sensitivity and respect throughout the Investigation. The Special Investigator will safeguard the privacy of the individuals involved in a manner consistent with federal and state law and University policy.

During the Investigation, the Complainant and Respondent will have an equal opportunity to
be heard, to submit information, and to identify witnesses who may have relevant information. The Special Investigator will speak separately with the Complainant, the Respondent, and any other individuals who are willing to participate and have information relevant to the investigation. The Special Investigator may gather or receive information that is relevant to the determination of an appropriate sanction or remedy, including information about the impact of the alleged incident on the parties. The Special Investigator will also gather any available physical or documentary evidence, including prior statements by the parties or witnesses, any communications between the parties, email messages, social media materials, text messages, and other records as appropriate and available.

Members of the University community are expected to cooperate with the Investigation.

**B. Notice of Review Option**

At the conclusion of the Investigation, the Special Investigator will prepare a draft written report that summarizes the information gathered, synthesizes the areas of agreement and disagreement between the parties with any supporting information or accounts. Prior to finalizing the Investigation Report and before reaching a finding, the Special Investigator will provide the Complainant and Respondent an opportunity to review the draft Investigation Report (absent a Finding).

A Complainant and Respondent may submit any additional comment or information to the Special Investigator within five (5) business days of the date of the *Notice of Review Option* to review the draft Investigation Report. This is the final opportunity for the parties to identify any additional information or witnesses and review their statements for accuracy. Both parties will be provided electronic password protected access to the report. In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the Special Investigator at this juncture will not be considered by the Special Investigator or Standing Review Committee (SRC).

**C. OSM Investigation Outcome**

Once the draft Investigation Report is reviewed by the parties and any additional information is incorporated, or after the five (5) business day comment period has lapsed without comment by either party, the Special Investigator will finalize the *Investigation Report* and make a finding as to whether there has been a violation of the Policy.

The finding will be based on the Special Investigator’s assessment of the evidence gathered in the course of the investigation, using a standard of preponderance of evidence (e.g., whether it is more likely than not that a violation of the Policy has occurred). In reaching this determination, the Special Investigator will consult with the Title IX Officer. The Special Investigator may also rely on information regarding the employee’s prior disciplinary history and prior criminal history. All information relied on by the Special Investigator shall be included in the final Investigation Report. The OSM Finding will be appended to the Investigation Report and together constitute the OSM Investigation Outcome. The OSM Investigation Outcome will then be sent to the Standing Review Committee for an independent evaluation.
D. Independent Review by the Standing Review Committee

The Standing Review Committee (SRC) is an independent body of five (5) persons made up of a combination of faculty, staff and students with a minimum of three (3) faculty members. All members of the SRC are adequately trained and are qualified to review findings of sexual misconduct policy violations and grounds for appeal related to those findings.

The Standing Review Committee will conduct an independent assessment of the OSM Investigation Outcome and determine whether there has been a violation of the Policy. The SRC may affirm or reject the OSM Finding regarding the policy violation, and/or return the OSM Outcome to the Special Investigator to conduct additional investigation before completing its review. All SRC decisions require a super majority vote (4-1) and shall be accompanied by an explanation of the SRC’s stated rationale for the decision.

The SRC will have five (5) business days to make a determination as to whether there is a violation of the Policy. In the event the SRC rejects the OSM Finding and requests additional investigation, the SRC shall review the revised OSM Outcome upon completion of any additional investigation by the Special Investigator. The five (5) day timeline may be extended by the Title IX Officer to accommodate any additional investigation and reconsideration by the SRC, as needed.

The SRC shall issue its determination (SRC Finding) to the Title IX Officer.

E. Notice of Standing Review Committee Finding

The Title IX Officer or designee will then issue a formal Notice of SRC Finding to both parties, separately and simultaneously. (In the event the investigation was initiated by the OSM without a formal Complainant, only the Respondent shall be notified.) The Notice of SRC Finding shall include a reference to the specific prohibited conduct at issue, a summary of the investigation findings and the SRC’s stated rationale for its decision. Copies of the Notice of SRC Finding will be sent to the appropriate supervisor, department chair or unit head, Dean, and Provost or designee and other administrators, as necessary on a need-to-know basis.

III. APPEAL

Either party may appeal the SRC Finding to the SRC Appellate Body. Mere dissatisfaction with the outcome is not a valid basis for appeal. The appeal must be submitted in writing, within five (5) business days of receipt of the Notice of SRC Finding to OSM, using the Notice of Appeal form. The scope of the appeal is limited to three permissible grounds (listed below). If the appeal request moves forward, the other party will be notified and given five (5) business days to respond. Responses shall be submitted directly to the OSM. Appeals filed by each party will be considered together in one appeal review process. Receipt of any written appeals will be acknowledged in writing by the OSM.
A. Grounds for Appeal

Grounds for appeal shall be limited to:

- **Procedural Error:** A violation of procedural due process means that the SRC Finding was negatively influenced by a failure of the Special Investigator and/or SRC to take a procedural step or fulfill a procedural requirement established by this Policy.

- **New Evidence:** New evidence is significant evidence that could not have been previously discovered and presented by the appellant through reasonable diligence.

- **Substantive Due Process:** A violation of substantive due process means that the SRC Finding was based upon an illegal or constitutionally impermissible consideration (e.g. party’s gender, race, age, national origin, sexual orientation or exercise of first amendment rights).

If neither party submits an appeal, the SRC Finding becomes final after five (5) business days. Once an SRC Finding becomes final, the Title IX Office will issue a formal Notice of Policy Violation as described in Section D, below. Appeals submitted after five (5) business days will be denied.

B. Considerations

In any request for an appeal, the burden of proof lies with the party requesting the appeal. Appeals are not intended to allow for a rehearing of the complaint or a de novo investigation by the SRC Appellate Body. A review of the matter will be prompt and narrowly tailored to the specific grounds requested for appeal. In most cases, appeals are confined to a review of the written record and the pertinent documentation underlying the appeal. However, depending on the nature of the appeal, the SRC Appellate Body may speak to the Special Investigator, the SRC Conference Chair, or the parties, as deemed appropriate.

C. Standing Review Committee Appellate Body

The SRC Appellate Body is composed of three (3) members from the Standing Review Committee who did not participate previously in a review of the case. Depending on the basis of the requested appeal, the SRC Appellate Body may:

- Affirm the SRC Finding;
- Alter the SRC Finding; or
- Return the matter to the Title IX Officer with instructions to cure a procedural or substantive error or to assess the weight and impact of newly discovered information.

1. Notice of Appeal Outcome

An Appellate conference will be convened before a newly constituted SRC Appellate Body when the procedural or substantive error cannot be corrected by returning the matter to the original SRC. The SRC Appellate Body Chair will render a written decision on the appeal referred to as the Notice of Appeal Outcome within ten (10) business days from the date the
OSM receives all appeal documents. SRC Appellate determinations must be unanimous. In the event the SRC Appellate Body is unable to reach a unanimous decision, the appeal is deemed denied and the SRC Finding is affirmed. All SRC Appellate Body decisions are final and will be communicated to the parties via the Office of Sexual Misconduct.

D. Final Outcome Notice

After the SRC Finding becomes final and all appeals, if any, are exhausted, the Title IX Officer or designee shall issue a Final Outcome Notice to both parties, separately and simultaneously, in writing, and in person, when possible. Issuance of the Notice completes the investigation and adjudication of the complaint under this Policy.

IV. DISCIPLINE AND ADMINISTRATIVE OR OTHER REMEDIES

Discipline and/or administrative and/or other remedies may be imposed if the Final Outcome Notice reflects a Policy violation. In such an event, the appropriate supervisor, department chair or unit head, Dean and Provost or designee as deemed necessary, in consultation with the Title IX Office and other administrators, shall consider the following to determine what type of discipline and/or administrative and/or other remedies is most appropriate:

- The nature of the misconduct at issue;
- The impact of the misconduct on the Complainant;
- The impact or implications of the misconduct on the community or the University;
- Any prior sexual misconduct by the Respondent at the University or elsewhere that is known to the University;
- Respondent’s prior disciplinary history at the University; and
- Any other mitigating, aggravating, or compelling circumstances.

Discipline and/or administrative and/or other remedies may include, but is not limited to, the following:

- Reassignment of duties;
- Mandatory individualized sexual misconduct training;
- Oral Reminders;
- Written Reminders/Letters of Reprimand;
- Suspension with or without Pay; and
- Termination

V. GRIEVANCE RIGHTS

Faculty may grieve disciplinary action depending on the rights afforded to them based on their faculty status. Faculty may not grieve administrative and/or other remedies that do not constitute formal disciplinary action.
A tenured or tenure-track faculty member may be terminated in accordance with Section III. C. 7(a)-(c) and (8) of II-1.00 University System Policy on Appointment, Rank and Tenure of Faculty and Section III.C.6 (a)-(c) and 7 of the University of Maryland Policy on Appointment, Promotion and Tenure of Faculty (“APT policy”) at [http://www.president.umd.edu/policies/2014-ii-100a.html](http://www.president.umd.edu/policies/2014-ii-100a.html).

A tenured or tenure-track faculty member whose employment has been terminated for cause by the President may appeal to the Board of Regents in accordance with II-1.04 Procedures for Appeals to the University System of Maryland (USM) Board of Regents of Decisions to Terminate Tenured or Tenure-Track Faculty Members at [http://www.us mh.usmd.edu/regents/bylaws/SectionII/II104.html](http://www.usmh.usmd.edu/regents/bylaws/SectionII/II104.html).

Any faculty member holding an appointment at ranks set forth in Paragraphs I.A. through I.E. of the University Policy II-1.00(A) University of Maryland Policy on Appointment, Promotion and Tenure of Faculty may be suspended in accordance with II-9.00(A) University of Maryland Policy on Suspension of Faculty at [http://www.president.umd.edu/policies/2014-ii-900a.html](http://www.president.umd.edu/policies/2014-ii-900a.html).

Any faculty member who receives a disciplinary action other than suspension or termination based on a violation of this Policy may grieve the discipline and/or other action in accordance with the procedures set forth in II-4.00(A) University of Maryland Policies and Procedures Governing Faculty Grievances (“Faculty Grievance policy”) at [http://www.president.umd.edu/policies/2014-ii-400a.html](http://www.president.umd.edu/policies/2014-ii-400a.html).

VI. FINAL OUTCOME

A. Records Retention

The OSM shall maintain investigation and outcome records in accordance with the University’s record retention schedule.

The Respondent’s Department Chair and/or Dean and the Office of the Provost shall maintain records of any discipline, administrative and/or other remedies in accordance with the University’s record retention schedule and standard University protocols regarding the retention of personnel records.

B. Additional Notification Following Any Grievance Initiated by the Respondent

After the completion of any grievance process initiated by the Respondent as a result of a personnel action taken based on a violation of this Policy, the Title IX Officer or designee will promptly notify the Complainant of any modification of the Final Outcome, except as prohibited by State or Federal law.

END OF DOCUMENT