
NOTRE DAME OF MARYLAND UNIVERSITY

**PROCEDURES ON SEXUAL MISCONDUCT AND
OTHER RELATED MISCONDUCT**

Notre Dame of Maryland University Notice of Non-Discrimination

Notre Dame of Maryland University (“University” or “NDMU”) values safety, cultural and racial diversity, social responsibility, lifelong learning, equity, and civic engagement. Consistent with these principles, the University does not discriminate in offering equal access to its educational programs and activities or with respect to employment terms and conditions on the basis of age, ancestry, color, creed, disability, gender, gender identity or expression, genetic information, marital status, national origin, race, religion, sex, sexual orientation, or protected veteran’s status in accordance with applicable federal, state, and local laws and regulations including but not limited to Title IX of the Education Amendments of 1972 as amended (Title IX), Title VI of the Civil Rights Act of 1964 as amended (Title VI), Title VII of the Civil Rights Act of 1964 as amended (Title VII), Section 504 of the Rehabilitation Act of 1973 (Section 504), Americans with Disabilities Act of 1990 as amended (ADA), and Age Discrimination in Employment Act of 1967 as amended.

Inquiries concerning the University’s Notice of Non-Discrimination and applications of Title IX may be referred to:

Greg FitzGerald, Title IX Coordinator
Notre Dame of Maryland University
4701 N. Charles Street
Gibbons Hall, Room 106
Baltimore, MD 21210
(410) 532-5109
TitleIX@ndm.edu

U.S. Department of Education
Office for Civil Rights
Lyndon Baines Dept. of Education Bldg.
400 Maryland Ave, SW
Washington, DC 20202
Telephone: (202) 453-6100

U.S. Department of Education
Office for Civil Rights
The Wanamaker Bldg. Region III Office
100 Penn Square, East-Suite 515
Philadelphia, PA 19107
Telephone: (215) 656-6010

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SEXUAL MISCONDUCT PROCEEDURES

I. Overview

Notre Dame of Maryland University seeks to foster and maintain an atmosphere of mutual respect and concern for all members of the University community, including students, faculty, staff, interns, employees, volunteers, contractors, guests, and others who are within the University's control (the "University Community"). The University is committed to providing an academic and work environment free from all harassment, discrimination, and misconduct on the basis of sex (including pregnancy), gender, sexual orientation, and gender identity or expression (collectively referred to as "Protected Status), examples of which can include acts of sexual and gender based harassment, sexual violence, intimate partner violence, sexual exploitation, sexual intimidation, and sex and gender based stalking.

In keeping with this commitment, the University maintains a strict policy prohibiting all forms of sexual and gender-based misconduct and unlawful discrimination and discouraging conduct that, while not unlawful, could reasonably be considered sexual misconduct and/or unlawful discrimination. Please refer to the University Policy on Sexual Misconduct and Other Related Misconduct ("Policy") for applicable definitions as well as key terms and obligations.

These procedures are designed to assist Notre Dame of Maryland University's compliance with federal, state, and local law prohibiting discrimination based on sex (including pregnancy), sexual orientation, gender, and gender identity and expression. Specifically, these procedures set forth a process for reporting, investigating, responding to, and adjudicating complaints of Sexual Misconduct (sometimes referred to as "Prohibited Conduct").

This process involves a prompt preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. If so, the University will initiate a confidential investigation that is thorough, reliable, and impartial via a process that is prompt, fair, and equitable. This investigation determines whether the university nondiscrimination policy has been violated. If so, the university will promptly implement an effective remedy designed to end the discrimination, prevent its recurrence and address its effects.

II. Reporting Prohibited Conduct

Any person, including, but not limited to, a student, faculty, staff, a visitor or guest to the campus community, local police, or a family member, alleging Prohibited Conduct against a student, faculty, staff, or third-party doing business with the University may file a complaint or report against such person(s) with the University as set forth herein. The University, on its own, may also initiate, investigate, and adjudicate complaints of Prohibited Conduct under these Procedures. The Procedures also address complaints or reports of Retaliation in connection with any Prohibited Conduct.

There are multiple reporting options available across the University, and the University recognizes that central reporting is an important tool in addressing, ending, and preventing Prohibited Conduct. A Reporting Party can make a report to the University by contacting and informing a Designated Responsible Employee. Designated Responsible Employees are Non-Confidential, which means they will disclose the known details of the incident (date, time, location, names of parties involved, description of the incident, etc.), to the Title IX Coordinator and other need-to-know University administrators. The University strongly encourages prompt reporting of incidents of Prohibited Conduct to any of the Designated Responsible Employees, identified below:

Title IX Coordinator

Gregory Fitzgerald
Chief of Staff
Gibbons Hall #106A
(410) 532-5109
TitleIX@ndm.edu

Deputy Title IX Coordinator for Student Life

Brandy Garlic
Associate Vice President for Student Life
MBK #218
(410) 532-5195
bgarlic@ndm.edu

Deputy Title IX Coordinator for Human Resources

Terri Shrader
Director of Human Resources
Theresa Hall #207
(410) 532-5155
tshrader@ndm.edu

Public Safety

Gene Taylor
Director of Public Safety
Gibbons Hall, #002
(410) 532-5324
gtaylor@ndm.edu

Please Note – Since these positions may change from time to time, Reporting Party is advised to check the University website for the current list.

Individuals may also report an incident of Sexual Misconduct to any Responsible University Employee (See Article III, Section 3 of the Policy). The Responsible University Employee will promptly refer the matter to the Title IX Coordinator and/or Deputy Title IX Coordinators.

A Reporting Party can also make a report to the University by contacting and informing a Quasi-Confidential Resource. Quasi-Confidential Resources will report incidents of Prohibited Conduct under these Procedures, without sharing any identifying information to the University's Title IX Coordinator. Reports of incidents of Prohibited Conduct can be made to any of the following Quasi-Confidential Resources identified below:

Sexual Violence Resource Coordinator

Jessie Sell
Theresa Hall #003
(410) 532-5303
jsell@ndm.edu

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

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

III. Time Frame for Reporting Prohibited Conduct

Matters must generally be filed within one year of the date of the incident. The University may in its discretion investigate matters brought to its attention that took place outside of this limitation period. Because the investigation of these matters may be negatively impacted by the passage of time and the availability of witnesses and other evidence, individuals are encouraged to report matters of Prohibited Conduct as soon as possible.

In each instance, the University will still provide any fair and reasonable support and resources to a Reporting Party designed to end the Prohibited Conduct, prevent its recurrence, and address its effects.

IV. Interim Protective Measures

Interim Protective Measures are temporary actions taken by the University prior to concluding the investigation which may be applied to the Reporting Party, Responding Party, and other involved University Community members as appropriate to ensure their safety and well-being and to limit unnecessary campus access. Interim Protective Measures may be requested by the Reporting Party or the Responding Party, or the University can initiate the Interim Protective Measures in the absence of a request, at any time, during the process. Individuals can make a request for Interim Protective Measures in-person or in-writing to the Title IX Coordinator or appropriate Deputy Coordinator.

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

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

- Access to counseling and medical service and assistance in setting up initial appointments.
- Imposition of a campus “No-Contact Order”
- Rescheduling of exams and assignments.
- Providing alternative course completion options.
- Change in class schedule, including the ability to drop a course without penalty or to transfer sections.
- Change in work schedule or job assignment.
- Arranging for class incompletes, a leave of absence, or withdrawal.
- Change in campus housing assignment or housing agreement.
- Providing alternative campus parking arrangements.
- Assistance from University support staff in completing University housing relocation.
- Restricting access to certain University facilities, resources, or activities pending resolution of the report.
- To the extent practicable, preserving eligibility for academic, athletic, or other scholarships, institution-based financial aid, or program eligibility.
- Providing academic support services, such as tutoring.
- University-imposed leave or suspension for the Responding Party.

The University may interim suspend a student or student organization or impose administrative leave on an employee pending the completion of an investigation and resolution, particularly in when in the judgment of the appropriate Deputy Title IX Coordinator, the safety or well-being of any member(s) of the University Community may be jeopardized by the presence on-campus of the Responding Party or the ongoing activity of a student organization whose behavior is in question.

In all cases in which an interim suspension or administrative leave is imposed, the student, employee or student organization will be given the opportunity to meet with the appropriate Deputy Title IX Coordinator prior to such suspension or administrative leave being imposed, or as soon thereafter as reasonably possible, to show cause why the suspension or administrative leave should not be implemented. The appropriate Deputy Title IX Coordinator, in consultation with the Title IX Coordinator, has sole discretion to implement or stay an interim suspension, and to determine its conditions and duration. Violation of an interim suspension or administrative leave under this policy is grounds for expulsion or termination.

During an interim suspension or administrative leave, a student or employee may be denied access to university housing and/or the university campus/facilities/events. As determined by the appropriate Deputy Title IX Coordinator, or designee, this restriction can include classes and/or all other university activities or privileges for which the student or employee might otherwise be eligible. At the discretion of the appropriate Deputy Title IX Coordinator alternative coursework options may be pursued to ensure as minimal an impact as possible on the Responding Party.

The University will maintain as confidential any accommodations or protective measures, provided confidentiality does not impair the University's ability to provide the accommodations or protective measures.

V. Time Frame for Resolution

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

VI. The Process

This procedure is to be used by all Reporting Parties and applies to any member of the University Community who engages in sexual- or gender-based Prohibited Conduct. Any person can report alleged harassment or discrimination, including but not limited to faculty, students, staff, guests, visitors, third-parties, family members, etc. All allegations of misconduct not involving harassment or discrimination will be addressed through the procedures elaborated in the respective student, faculty and employee handbooks.

A. Rights of the Reporting and the Responding Party

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

- To a thorough, reliable, and impartial investigation via a prompt, fair, and equitable process;
- To be treated with dignity, respect, and sensitivity by University officials during all phases of the process;
- To have the choice to be accompanied by a licensed attorney, support person, or other advisor of choice at any hearing, meeting, or interview throughout the process;
- To participate or decline to participate in the process, with the knowledge and understanding that the University may proceed with the process, despite a decision to refrain from participating;
- Timely written notice of:
 - The reported violation(s) including the date, time, and location of the alleged violation(s), and the range of potential sanctions associated with the alleged violation(s);
 - The Parties rights and responsibilities under the Policy and of available University and non-University resources, supports, and options;
 - The date, time, and location of each hearing, meeting, or interview the party is required or permitted to attend.
- To have an equal opportunity to testify, present relevant witnesses, suggest specific questions, and submit evidence throughout the investigative and adjudicative process;
- To have similar and timely access to the case file and other information relative to the incident to be used during the process; and
- To timely notification in writing, at the same time as the other party, of any decision, resolution, and/or outcome, including the basis for the determination, any sanction imposed, the right to review and provide written responses to reports and proposed findings, and the right of appeal.

B. Preliminary Review

When a report is received, an Investigator who has specialized training, experience and neutrality in investigating claims of Prohibited Conduct (the “Investigator”) will be appointed by the Title IX Coordinator. The Investigator will conduct a preliminary review (the “Preliminary Review”) within five (5) business days. This time frame may be extended on a case-by-case basis. The Investigator may consult with the Title IX Coordinator when conducting the preliminary review. The investigation is designed to provide an adequate, reliable, prompt, and impartial gathering of facts and information. The Preliminary Review will assess whether the alleged conduct, if proven, would or would not constitute Prohibited Conduct in violation of the Policy, as well as the appropriate route to resolve the report.

Based upon the information/facts gathered during the Preliminary Review, if it is determined that the alleged conduct, even if proven by a preponderance of the evidence, would NOT

constitute Prohibited Conduct in violation of the Policy, the Investigator will immediately notify the Reporting Party, in writing, of the No Action Warranted determination. The Investigator will provide the Reporting Party with the No Action Warranted notice, within five (5) business days after the conclusion of the Preliminary Review. The Reporting Party will be advised of external reporting options, and if available, other University offices that may be able to address the report.

C. Reporting Party Requests for Confidentiality or No Formal Action

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

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

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

D. Manners of Resolution

1. Informal Resolution

If the Investigator determines that, based upon the information/facts gathered, the alleged conduct, if proven by the preponderance of evidence, would constitute a violation of the

Policy, the Investigator will notify the Reporting Party and may discuss, in more detail, the option for **voluntary** informal resolution. At the option of the Reporting Party and with the subsequent agreement by the Responding Party and the Title IX Coordinator, it may be possible to resolve a misconduct complaint through an Informal Resolution process. Informal Resolution procedures are not appropriate for all forms of Prohibited Conduct, and are not available in matters that allege Sexual Violence under this policy.

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

The Reporting Party and the Responding Party may agree to meet and discuss the conduct as a way to resolve the issue. This voluntary conversation between the Reporting Party and Responding Party will be facilitated by the appropriate Deputy Title IX Coordinator or designee. The Reporting Party and Responding Party will not meet alone with each other during this process. If the Reporting Party and the Responding Party feel that a resolution has been achieved through this informal procedure, then the conversation may remain confidential and no further action need be taken. Written results of any Informal Resolution prepared by the Deputy Title IX Coordinator or designee and shall be signed by the Reporting Party and the Responding Party. Copies of the Informal Resolution will be placed in the personnel/student files of the Reporting Party and the Responding Party and kept on record with the Title IX Coordinator. Either party has the right to end the informal process and begin the formal process at any time prior to resolution.

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

2. Investigation and Formal Resolution

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

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

All investigations will be thorough, reliable, and impartial. The investigation will include written statements obtained from the Reporting Party and Responding Party, notes of any

interviews with both parties and any witnesses, the collection of relevant documentary evidence, and any other information that is relevant to the allegations against the Responding Party. Both parties may present documents, names of witnesses, suggested specific questions, and other relevant information to the Investigator. During the investigative process, the Investigator will not disseminate copies of any documents obtained as part of the investigation with either party.

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

All individuals, including the Reporting Party, the Responding Party, and any third-party witnesses, will be treated with appropriate sensitivity and respect throughout the investigation. The investigation will safeguard the privacy of the individuals involved in a manner consistent with the law and University policy. Throughout the investigative process, any participant may have a support person, subject to the provisions contained in XII below.

The Investigator will take the following steps (not necessarily in order):

- In coordination with campus partners (e.g.: the campus Title IX Coordinator), initiate any necessary interim or final remedial actions;
- Determine the identity and contact information of the Reporting Party;
- Identify the exact policies allegedly violated;
- Conduct an immediate initial inquiry to determine if there is reasonable cause to charge the Responding Party, and what policy violations should be alleged as part of the report; if there is insufficient evidence to support reasonable cause, the inquiry should be closed with no further action;
- Meet with the Reporting Party to finalize their statement;
- Prepare the Notice of Investigation on the basis of the initial inquiry;
- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the Responding Party, who may be given notice prior to or at the time of the interview;
- Complete the investigation promptly, and without unreasonable deviation from the intended timeline of ten to fifteen (10 – 15) business days;
- Provide regular updates to both the Reporting and Responding Parties, as appropriate, throughout the investigation;
- Make an investigative finding, based on a preponderance of the evidence (whether a policy violation is more likely than not);
- Share the draft report and Notice of Opportunity to Review with the parties and allow them a period of comment before the report is finalized;
- Present the Final Investigative Report and, if applicable, Notice of Charges to the Responding Party, who may accept the findings, accept the findings in part and reject them in part, or may reject all findings;
- Share the Final Investigative Report and update the reporting party on the status of the Investigation and the outcome.

At any point during the Investigation, if it is determined there is no reasonable cause to believe that University policy has been violated, the Title IX Coordinator has authority to terminate the Investigation and end resolution proceedings.

E. Standard of Review

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

F. Notices to the Reporting Party and Responding Party

All written notices/communication issued to the Reporting Party and Responding Party under these Procedures will be hand-delivered, e-mailed, or mailed by certified, return receipt requested first class mail to the address of record as maintained by the Office of the Registrar and/or Human Resources

G. Relevance and Special Considerations

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

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

1. Character Evidence

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

2. Pattern Evidence

For the purposes of these Procedures, where there is evidence of a pattern of similar conduct, either before or after the conduct in question, regardless of whether there has been a prior finding of a Policy violation against either party, this information may be deemed relevant to the determination of Policy violation or assigning of a disciplinary action. The determination of relevance will be based on an assessment of whether the previous or subsequent incident was substantially similar to the conduct cited in the report or indicates a pattern of behavior and substantial conformity with that pattern. Where there is a prior finding of a Policy violation against the Responding Party for a similar act of Prohibited Conduct, there is a presumption of relevance and the finding may be considered in making a determination as to responsibility and assigning of a disciplinary action.

3. Prior Sexual History Between the Parties

Where there was a prior or ongoing relationship between the Reporting Party and the Responding Party, and the Responding Party asserts that consent was sought and given, the prior sexual history between the parties may be relevant only under very limited circumstances to assess the manner and nature of communications between the parties. As specified in the Policy, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent.

4. Prior Sexual History with Other Parties

A party's sexual history with anyone other than the Reporting Party or Responding Party may be relevant only under very limited circumstances to prove motive, prior sexual misconduct, assess credibility if a party has put their own prior sexual conduct at issue, or to explain an injury or physical finding.

5. Mental Health

A party's history of mental health, counseling, treatment, or diagnosis will not be considered, unless the party consents.

H. Review of Draft Investigative Report

At the conclusion of the investigation, the Investigator will prepare a written draft investigative report that summarizes the information gathered, synthesizes the areas of agreement and disagreement between the parties with any supporting information or accounts and includes an investigative finding regarding whether, based upon the preponderance of the evidence, a Policy violation has have occurred.

Before the report is finalized, the Reporting Party and the Responding Party will be given an opportunity to review the draft investigative report, which will include the Investigative Finding(s), and may be presented in redacted form. The Investigator's personal notes are not considered a formal part of the case file. The Investigator will send a Notice for Opportunity to Review, with the Draft Investigative Report and all documents relied upon, to both parties.

The Reporting Party and Responding Party may submit a response/comments and additional information to the Investigator within seven (7) calendar days of the date the Notice for Opportunity to Review is sent. Either party may make a request to the Investigator for a limited extension of time to submit their comments or additional information. Requests for extension of time will be determined on a case- by-case basis, however, reasonable requests for extension of time will not be withheld.

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

or the Ad-Hoc Committee.

I. Final Investigative Report

After receiving the parties' comments and/or additional information regarding the draft investigative report, the Investigator will determine whether or not any additional investigation is needed. If the investigation is deemed complete, the Investigator will finalize the report and make an investigative finding, by the preponderance of the evidence, whether a Policy violation occurred. The report will also include the resulting sanction(s) and rationale for the decision(s). The Investigator will issue the Final Investigative Report simultaneously (i.e. without undue/unreasonable delay), via electronic mail, to the Reporting Party and the Responding Party. If the Final Investigative Report finds, via the preponderance of the evidence, that a Policy violation has occurred, a charging letter to the Responding Party will also be issued and sent to both parties.

Where the Responding Party is found not responsible for the alleged violation(s), the Investigation will be closed.

Where the Responding Party accepts the finding of the Investigation, the appropriate Deputy Title IX Coordinator will impose appropriate sanctions for the violation, in consultation with the Title IX Coordinator, when applicable. The University will act to end the discrimination, prevent its recurrence, and remedy its effects on the victim and the University Community.

In the event that the Responding or Reporting Party rejects the investigative findings in whole or in part, the Party shall alert the appropriate Deputy Title IX Coordinator within five (5) business days of receiving the charging letter.

VII. Consolidation of Reports

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

VIII. Ad-Hoc Committee Review

Upon a request from the Reporting Party or the Responding Party, the appropriate Deputy Title IX Coordinator will issue a Notice of Review by an Ad Hoc Committee to the Reporting Party and the Responding Party (without significant time delay between notification), identifying the Ad-Hoc Committee members, and will forward the Final Investigative Report (with supporting documentation) to the Ad-Hoc Committee. During

the course of the Ad Hoc Committee's review, the findings of the Investigation will be admitted, but are not binding on the Ad-Hoc Committee. The Investigator may give evidence. The Ad-Hoc Committee will determine whether it is more likely than not that the Responding Party violated the policies forming the basis of the charge. The goal of the review is to provide an equitable resolution via an equitable process, respecting the civil and legal rights of all participants.

A. Composition of the Ad-Hoc Committee

The University has selected and trained a pool of University faculty and staff for service on Ad-Hoc Committees. A quorum will be comprised of a minimum of three (3) personnel, randomly selected by the appropriate Deputy Title IX Coordinator from the pool of trained Honor Board faculty and staff. However, when the Responding Party is a faculty member, the three-member Committee shall include at least one faculty member and when the matter involves a staff member, the Ad Hoc Committee shall include at least one staff member. The Ad Hoc Committee shall strive at all times to maintain the confidentiality of the allegations and the investigation. In the absence of an Ad-Hoc Committee quorum, the University may designate an alternative means of adjudication, such as designating an individual(s) to act in the place of the Ad-Hoc Committee. A University student may not serve as an Ad-Hoc Committee member under these Procedures. The Reporting Party and the Responding Party will be informed of the Ad-Hoc Committee membership before the review process begins.

B. Review Procedures

The Ad Hoc Committee shall review all of the investigation materials which have been collected and are in the Investigator's file along with any other information or evidence which has been collected at the Committee's request by the Investigator, after which it will prepare a Committee Report. The Committee Report must summarize the investigation and must also include:

1. A summary of the facts of the matter,
2. All the material considered in making the determination, including but not limited to the complaint, response to the complaint, witness statements, etc.,
3. A determination of whether a violation of the policy occurred or did not and the rationale for the decision, and
4. Recommended sanctions, if necessary.

A majority vote of the Committee is needed to reach a conclusion that a violation of this policy occurred.

Upon completion of the Committee Report, the appropriate Deputy Title IX Coordinator will supply the Committee Report to the Reporting Party, the Responding Party, and Investigator. The Committee Report may be redacted when necessary to protect privileged or confidential information, to protect the safety or well-being of individuals involved in the investigation, or to comply with the provisions of the Family Educational Rights and Privacy Act (FERPA) and any other confidentiality requirements. Additionally, the Committee Report shall be sent to the appropriate Vice President in the Responding Party's reporting line in the case of

faculty or staff, or the Associate Vice President for Student Life in the case of a student for a Final Determination.

IX. Final Determination

Within five (5) business days of receipt of the Committee Report, the appropriate Vice President or Associate Vice President for Student Life, as the case may be will review the Committee's Report and, in consultation with the Title IX Coordinator, make a Final Determination as to the finding of whether a violation of the Sexual Misconduct Policy occurred and the imposition of sanctions and/or other administrative action. Barring unforeseen circumstances and/or intervening University holidays, the Final Determination will be completed within approximately sixty (60) days of the filing of the Complaint.

The appropriate Vice President or Associate Vice President for Student Life, as the case may be, may consult with the Office of Human Resources or Division of Student Life about any prior disciplinary actions or sanctions regarding the Responding Party and about sanctions imposed in similar cases in the past. Consistency in sanctions of similar cases is important; however, similar offenses may result in different sanctions where there are distinguishing facts and circumstances.

Factors considered when determining a sanction/responsive action may include:

- The nature, severity of, and circumstances surrounding the violation
- An individual's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment and/or retaliation
- The need to remedy the effects of the discrimination, harassment and/or retaliation on the reporting party and the community
- Any other mitigating, aggravating, or compelling circumstances to reach a just and appropriate resolution in each case.

The Final Determination will be distributed to both parties, without significant time delay between notifications. The Final Determination is the final decision of the University, and no administrative process otherwise available to the members of the University Community may be used to further appeal this decision, except in instances where the decision has been made to terminate the faculty member. Records of the Final Determination will be kept in the parties' personnel/student files and on record with the Title IX Coordinator. If the Final Determination is made to terminate a faculty member, the faculty member may avail himself/herself of the Faculty Appeal Process outlined in the Faculty Handbook.

X. Disciplinary Actions or Sanctions

The Sexual Misconduct Policy prohibits a broad range of conduct, which is serious in nature. In keeping with the University's commitment to fostering an environment that is safe, respectful, inclusive, and free of Prohibited Conduct, this Policy allows for wide latitude in the imposition of disciplinary actions or sanctions tailored to the facts and circumstances of each report, the impact of the Prohibited Conduct on the Reporting Party and surrounding University Community members, and accountability of the Responding Party. The imposition of disciplinary actions (in employment context) or sanctions (in educational context) are designed to eliminate Prohibited Conduct under the Policy, prevent its recurrence, and remedy its effects, while supporting the University's mission and federal and other legal obligations. Disciplinary actions or sanctions may include educational, restorative, rehabilitative, and punitive components. Some conduct, however, is so egregious in nature, so harmful to the individuals involved and the entire University Community, or so deleterious to the educational or working environment, that it requires severe sanction.

Disciplinary actions which may be imposed on faculty, staff, and student employees in the employment context, can include, but are not limited to the following: no contact orders, a letter of reprimand, censure, service to the University, counseling, retraining, transfer, demotion, suspension (without pay), and/or termination. The University reserves the right to delay or refuse considerations for promotions during pendency of an investigation.

Sanctions which may be imposed on students in the academic context, can include, but are not limited to the following: no contact orders, housing restrictions (including removal from on-campus housing), community service, educational requirements, written warning, reprimand, probation, suspension, and/or dismissal. The University reserves the right to delay or refuse the conferring of an academic degree—undergraduate or graduate—during the pendency of an investigation

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

In certain circumstances, even when there are no disciplinary actions or sanctions imposed, the University reserves the right to impose certain conditions, similar to the Interim Protective Measures, upon any party who is subject to this Policy. These conditions are designed to prevent any Prohibited Conduct under the Policy, cultivate a safe academic and employment environment, and maintain public order on campus, while supporting the University's mission and federal obligations. These conditions are not to be construed as disciplinary or as sanctions.

XI. Investigation Process for Certain University Administrators

When allegations of Sexual Misconduct involve the President or the Title IX Coordinator, the investigation process for each of these individuals will follow the Investigation Process with the exceptions set forth below:

Matters involving the Title IX Coordinator may be reported to the President. The investigation will be conducted by an independent, external investigator designated by the

President. The recommendation of the Ad Hoc Committee will be presented to the President for Final Determination.

Matters involving the President may be reported to the Chair of the Board of Trustees and the Title IX Coordinator. The investigation will be conducted by an independent, external investigator designated by the Chair, and the Ad Hoc Committee will include three (3) members of the Board of Trustees designated by the Chair. The recommendation of the Ad Hoc Committee will be presented to the Chair for Final Determination.

XII. Participation of Advisors in the Resolution Process

All parties are entitled to an advisor of their choosing to guide and accompany them throughout the campus resolution process. The advisor may be a friend, mentor, family member, licensed attorney, or any other supporter a party chooses to advise and/ or support them who is both eligible and available. People who will be called as witnesses may not serve as advisors. Each party is limited to no more than two advisors.

In accordance with State regulations, all student parties are entitled under State law access to a list of licensed attorneys who have indicated that they will represent reporting and responding parties in Title IX proceedings on a pro bono basis or for reduced legal fees. This list is available through the Maryland Higher Education Commission website (www.mhec.maryland.gov).

The parties are entitled to be accompanied by their advisor(s) in all meetings and interviews at which the party is entitled to be present, including meetings, interviews, and hearings. Advisors should help their advisees prepare for each meeting and exercise their rights during the process. Advisors are expected to advise ethically, with integrity and in good faith. The University cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, the University is not obligated to provide one.

All advisors are subject to the same campus rules, whether they are attorneys or not. Advisors may not present or examine witnesses on behalf of their advisee in a meeting, interview or hearing and should request or wait for a break in the proceeding if they wish to interact with campus officials. Advisors may confer quietly with their advisees as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation. Advisors will typically be given a timely opportunity to meet in advance of any interview or hearing with the administrative officials conducting that interview or meeting. This pre-meeting will allow advisors to clarify any questions they may have, and allows the university an opportunity to clarify the role the advisor is expected to take.

Advisors are expected to refrain from interference with the University investigation and resolution. Any advisor who steps out of his/her role in any meeting under the campus resolution process will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will typically continue

without the advisor being present. Subsequently, the Title IX Coordinator will determine whether the advisor may be reinstated, may be replaced by a different advisor, or whether the party will forfeit the right to an advisor for the remainder of the process.

The University expects that the parties will wish the University to share documentation related to the allegations with their advisors. The University provides a consent form that authorizes such sharing. The parties must complete this form before the University is able to share records with an advisor. The parties are not otherwise restricted from discussing and sharing information relating to allegations with others who may support them or assist them in preparing and presenting. Advisors are expected to maintain the privacy of the records shared with them by the University. These records may not be shared with third-parties, disclosed publicly, or used for purposes not explicitly authorized by the University. The University may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations.

The University expects an advisor to adjust his or her schedule to allow attendance at University meetings when scheduled. The University does not typically change scheduled meetings to accommodate an advisor's inability to attend. However, the University will make provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available.

The parties must advise the Investigators of the identity of their advisor(s) at least 48 hours before the date of their meeting with Investigators. A party may elect to change advisors during the process, and is not required to use the same advisor throughout.

The parties must provide subsequent timely notice to the Investigators if they change advisors at any time. No audio or video recording of any kind other than as required by institutional procedure is permitted during meetings with campus officials.

XIII. Conflict of Interest

The University is committed to ensuring that its resolution processes (e.g. Investigation, Ad-Hoc Committee, and Final Determination) are free from an actual or perceived conflict of interest. A conflict of interest may arise when any of those persons involved in the resolution process, has been a participant or related to a participant in the matter being investigated or reviewed, is related to or has had past association with the Reporting Party or Responding Party, is biased, and/or lacks impartiality. A Reporting Party or Responding Party who feels that there is actual or perceived conflict of interest that would materially impact the outcome must submit a written request, detailing with specificity the alleged conflict of interest, to the University's Title IX Coordinator (or to the University President in the event that the potential conflict or bias involves the Title IX Coordinator) within five (5) business days after being notified of the individual(s) participation in the resolution process. The Title IX Coordinator will determine whether a conflict exists and what action should be taken to ensure a fair and impartial process including making any substitutions that may be necessary to avoid a conflict of interest.

XIV. External Reporting Agencies:

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

Office for Civil Rights
U.S. Department of Education
The Wanamaker Building
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Phone: 215.656.8541
Website: <http://www2.ed.gov/about/offices/list/ocr/index.html>

Equal Employment Opportunity Commission (EEOC)
City Crescent Building
10 S. Howard Street, Third Floor
Baltimore, Maryland 21201
Phone: 1.800.669.4000
Website: www.eeoc.gov

Maryland Commission on Civil Rights (MCCR)
19 William Donald Schaefer Tower
6 St. Paul Street, Ninth Floor
Baltimore, Maryland 21202
Phone: 410.767.8600
Website: www.mccr.maryland.gov

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