



# Policies and Procedures

## Accountability and Compliance Procedures

### UMB Procedures for Resolving Sexual Misconduct Complaints Outside the Jurisdiction of Title IX of the Education Amendment of 1972 "Non-Title IX Procedures"

ADMINISTRATION, ACCOUNTABILITY AND COMPLIANCE | *Approved August 14, 2020*

#### Purpose

To describe how UMB will respond to allegations of harassment or discrimination on the basis of protected class status involving students, staff, faculty members, or third parties, that do not fall into under the jurisdiction of the federal regulations implementing Title IX of the Education Amendment of 1972 (Title IX).

#### Applicability

The procedures described below apply to all allegations of harassment or discrimination on the basis of protected class status involving students, staff, faculty members, or third parties, that do not fall into under the jurisdiction of the federal regulations implementing Title IX of the Education Amendment of 1972 (Title IX).

#### Procedure

UMB will act on any formal or informal allegation or notice of violation of the UMB Policy on Sexual Misconduct that is received by the Title IX Coordinator or a member of the administration, faculty, or other employee, with the exception of confidential resources, as articulated in UMB's Policy on Sexual Misconduct.

##### 1. Overview

The procedures described below apply to all allegations of harassment or discrimination on the basis of protected class status involving students, staff, faculty members, or third parties, that do not fall into under the jurisdiction of the federal regulations implementing Title IX of the Education Amendment of 1972 (Title IX). Allegations that are assessed to be potential violations of the UMB Policy on Sexual Misconduct that are within the scope of Title IX will be processed using the UMB Procedures for Resolving Sexual Misconduct Complaints Under the Jurisdiction of Federal Regulations Implementing Title IX of the Education Amendment of 1972 "Title IX Procedures." VAWA Section 304 requirements apply to this, or any alternative process, for reports that fall under VAWA. Title IX requirements outside of Section 106.30 (based on the original 1975 regulations, the 2001 Revised Guidance, etc.) may also apply to these Non-Title IX Procedures.

These procedures may also be used to resolve non-sexual misconduct violations of UMB policy if the collateral misconduct arises from the investigation of or occurring in conjunction with the alleged discriminatory sexual conduct. Other allegations of misconduct unrelated to sexual misconduct allegations will be addressed through other appropriate UMB procedures.

These procedures incorporate by reference the definitions in the UMB Policy.

## 2. Initial Assessment

Following intake, receipt of notice, or a complaint of an alleged violation of the UMB's Policy on Sexual Misconduct (the "Policy"), the Title IX Coordinator engages in a prompt Initial Assessment and a reasonable cause assessment to determine if there is sufficient evidence to support further review of the complaint under the UMB Policy, and to determine the next steps UMB will take. The Initial Assessment typically takes one to five business days.

If the initial assessment determines the alleged misconduct does not fall under the scope of Title IX but may be violation of the UMB Policy the Title IX Coordinator will send a Notice of Dismissal under the Title IX Procedures that includes confirmation these Non-Title IX Procedures will be applied to assess and address the alleged misconduct.

The initial assessment includes, but is not limited to:

The Title IX Coordinator reaches out to the Complainant to offer supportive measures.

The Title IX Coordinator works with the Complainant to ensure they have an Advisor.

The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive response or an Administrative Resolution.

If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their preferences and then seeks to facilitate implementation. The Administrative Resolution process is not initiated, though the Complainant can elect to initiate it later, if desired.

If an Informal Resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution, [which informal mechanism may serve the situation best or is available] and may seek to determine if the Respondent is also willing to engage in Informal Resolution.

If Administrative Resolution is preferred, the Title IX Coordinator initiates the investigation process and determines whether the scope of the investigation will address:

Incident, and/or

A potential pattern of misconduct, and/or

A culture/climate issue.

In many cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the UMB Behavioral Awareness and Threat Assessment (BETA) Team as part of the Initial Assessment. A VRA can aid in ten critical and/or required determinations, including:

Interim suspension of a Respondent who is a threat to health/safety;

Whether the Title IX Coordinator should pursue Administrative Resolution absent a willing/able Complainant;

Whether to put the investigation on the footing of incident and/or pattern and/or climate;

To help identify potentially predatory conduct;

To help assess/identify grooming behaviors;

Whether to permit a voluntary withdrawal by the Respondent;

Whether to impose transcript notation or communicate with a transfer about a Respondent;

Whether a Clery Act Timely Warning/Trespass order/Persona-non-grata is needed.

Based on the Initial Assessment, UMB will initiate one of two responses under these Non-Title IX Procedures:

Informal Resolution – typically used for less serious offenses and only when all parties agree, or when the Respondent is willing to accept responsibility for violating policy. This can also include a remedies-only response.

Administrative Resolution following Formal Investigation – formal investigation of allegation(s) and recommended findings, subject to a determination by a Decision-maker and the opportunity to appeal to an Appeal Panel/Appeal Decision-maker.

The Formal Investigation and the subsequent Administrative Resolution determine whether the UMB Policy has been violated. If so, UMB will promptly implement effective remedies designed to end the discrimination, prevent recurrence, and address the effects.

The process followed considers the preference of the parties but is ultimately determined at the discretion of the Title IX Coordinator. At any point during the Initial Assessment, the Informal Resolution or the Administrative Resolution, the process will end if the Title IX Coordinator determines that the alleged misconduct is subject not to the jurisdiction of the UMB Policy or that there is insufficient evidence to support further Informal Resolution or Administrative Resolution activity under the UMB Policy. In which case, the process will end, and the parties will be notified.

The Complainant may request that the Title IX Coordinator review the determination to end the Informal Resolution or Administrative Resolution and/re-open the investigation. This decision lies in the sole discretion of the Title IX Coordinator, with oversight of the Chief Accountability Officer, and must be based on good cause shown.

### **3. Counterclaims**

Counterclaims by the Respondent may be made in good faith but are also sometimes made for purposes of retaliation. UMB is obligated to ensure that any process is not abused for retaliatory purposes.

UMB permits the filing of counterclaims, and uses the Initial Assessment, described above, to assess whether the allegations are made in good faith and if there is evidence supporting a conclusion the allegation was made for purposes of retaliatory or other improper purposes, in which case the Title IX Coordinator may dismiss the counterclaim, subject to a Respondent's request that the Title IX Coordinator review the dismissal and re-open the investigation. This decision lies in the sole discretion of the Title IX Coordinator with oversight of the Chief Accountability Officer and must be based on good cause shown. This decision may be appealed by either party within five (5) days of receipt of the written decision to dismiss through the process included for appeals herein. Counterclaims will be processed using the resolution procedures below, typically after resolution of the underlying allegation.

A delay in the processing of counterclaims is permitted, accordingly. Occasionally, allegations and counterclaims can be resolved through the same Informal Resolution or Administrative Resolution - Formal Investigation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory, and may constitute a violation of UMB Policy.

### **4. Advisors**

#### ***a. Expectations of an Advisor***

An individual serving as an Advisor should not accept role the before considering UMB's expectations as follows:

UMB generally expects an Advisor to have a sufficiently flexible schedule to allow the Advisor to attend all meetings when planned. UMB will consider requests to change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable burden or delay.

UMB may also make reasonable provisions to allow an Advisor who cannot attend a meeting in person to attend a meeting by telephone, video conferencing, or other similar technology as may be convenient and available.

Parties whose Advisors are disruptive or who do not abide by UMB policies and procedures may be required to select an alternative Advisor.

Advisors are expected to consult with their advisees without disrupting UMB meetings or interviews. Advisors do not represent parties in the process as legal advocates. The Advisor's role is only to advise their advisee.

#### ***b. Expectations of the Parties with Respect to Advisors***

Each party may choose an Advisor who is eligible and available to accompany them throughout the process. The Advisor can be anyone, including an attorney, but cannot be someone who is also a witness in the process or whom otherwise may be involved in or have a direct interest in the circumstances of the complaint. A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout.

The parties are expected to inform the investigator(s) of the identity of their Advisor at least two (2) business days before the date of their first meeting with the Investigator(s) (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Investigator(s) and/or the Title IX Coordinator if they change Advisors at any time.

UMB will not copy the Advisor on all communications between the UMB and the party. It is the responsibility of the parties to keep their Advisors informed. The Advisor may be asked to sign a non-disclosure agreement (NDA) regarding private, sensitive records and information.

For parties who are entitled to union representation, UMB will allow the unionized employee to have their union representative (if requested by the party) as well as an Advisor of their choice present for all resolution-related meetings and interviews. To uphold the principles of equity, the other party (regardless of union membership) will also be permitted to have two Advisors. Witnesses are/are not permitted to have union representation or Advisors in grievance process interviews or meetings.

At the discretion of the Title IX Coordinator, more than one Advisor may be permitted to the parties, upon request. For equity purposes, if one party is allowed another Advisor, the other party must be allowed one to as well.

### ***c. Assistance in Securing an Advisor***

UMB does not provide Advisors under this Non-Title IX Procedure.

For representation, Respondents may wish to contact organizations such as:

FACE (<http://www.facecampusequality.org>)

SAVE (<http://www.saveservices.org>)

Complainants may wish to contact organizations such as:

The Victim Rights Law Center (<http://www.victimrights.org>)

The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association

The Time's Up Legal Defense Fund: <https://nwlc.org/times-up-legal-defense-fund/> 

## **5. Resolution Options**

Proceedings under the Policy, records of the matter, including copies of evidence and related communications, are confidential. All persons present at any time during the resolution process are expected to maintain the confidentiality of the proceedings.

While there is an expectation of confidentiality regarding interviews, the parties have discretion to share their own experiences with others if they so choose, provided confidential and legally protected information is not improperly shared. Parties are also encouraged to discuss the appropriateness of sharing information with their Advisors first before making disclosures.

### ***a. Informal Resolution***

Informal Resolution is applicable when the parties voluntarily agree to resolve the matter through Alternate Resolution, or when the Respondent accepts responsibility for violating the Policy, or when the Title IX Coordinator can resolve the matter informally by providing remedies to resolve the situation.

It is not necessary to pursue Informal Resolution first in order to pursue Administrative Resolution, and any party participating in Informal Resolution can stop the process at any time and request the Administrative Resolution process. Further, if an Informal Resolution fails, Administrative Resolution may be pursued.

#### ***i. Alternate Resolution***

Alternate Resolution is a type of Informal Resolution process, and includes options such as mediation or restorative practices, by which the parties mutually agree to resolve an allegation. It may be used for less serious, yet potentially offensive, behaviors and is encouraged as an alternative to the Administrative Resolution process (described below) to resolve conflicts. The parties must consent to the use of Alternate Resolution.

The Title IX Coordinator determines if Alternate Resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue, and the susceptibility of the conduct to Alternate Resolution.

In an Alternate Resolution meeting, a trained administrator facilitates a dialogue with the parties to reach an effective resolution, if possible.

The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution can result in appropriate corrective actions to achieve compliance.

Alternate Resolution is not typically the primary resolution mechanism used to address reports of violent behavior of any kind or in other cases of serious violations of policy, though it may be made available after the Administrative Resolution process is completed should the parties and the Title IX Coordinator believe it could be beneficial. The results of Alternate Resolution are not appealable.

#### ***ii. Respondent Accepts Responsibility for Alleged Violations***

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent accepts responsibility, the Title IX Coordinator makes a determination that the individual has admitted to violation of UMB Policy.

The Title IX Coordinator then determines appropriate sanction(s) or remedial actions, which are promptly implemented in order to effectively stop the harassment, discrimination, and/or retaliation; prevent its recurrence; and remedy the effects of the conduct, both on the Complainant and the community.

If the Respondent accepts responsibility for all of the alleged policy violations and the Title IX Coordinator or designee has determined appropriate sanction(s) or remedial actions, which are promptly implemented, the resolution process is over. The Complainant will be informed of this outcome. And conclusion of the complaint will be recorded in the Title IX Coordinator files.

If the Respondent accepts responsibility for some of the alleged policy violations but not others. The Title IX Coordinator will determine appropriate sanction(s) or remedial actions, to be promptly implemented, for admitted violations. The remaining allegations will continue to be investigated and resolved. The Complainant will be informed of this outcome. The parties are still able to seek Alternate Resolution on the remaining allegations, subject to the procedures above.

#### ***iii. Negotiated Resolution***

The Title IX Coordinator, with the consent of the parties, may negotiate and implement an agreement to resolve the allegations that satisfies UMB and all parties.

#### ***b. Administrative Resolution – Formal Investigation***

Administrative Resolution can be pursued for any behavior for which the Respondent has not accepted responsibility that constitutes conduct covered by the UMB Policy which is outside the scope of Title IX at any time during the process. Administrative Resolution starts with a thorough, reliable, and impartial investigation.

If Administrative Resolution is initiated, the Title IX Coordinator will provide written notification of the investigation to the parties. Typically, notice to a party or witness of an Investigation interview is given at least 48 hours in advance of the interview. Advanced notice facilitates the parties' ability to identify and choose an Advisor, if any, to accompany them to the interview.

Notification of an Investigation will include a meaningful summary of the allegations, will be made in writing, and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official UMB records, or emailed to the parties' UMB-issued or designated email account.

Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The notification of an Investigation will identify the policies allegedly violated, if known at the time. Alternatively, the policies allegedly violated can be provided at a later date, in writing, as the investigation progresses, and details become clearer.

UMB aims to complete all investigations within a thirty (30) business days, which can be extended as necessary by the Title IX Coordinator when good cause has been shown, with notice to the parties as appropriate. Investigations are completed expeditiously, though some investigations take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

UMB will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

UMB may undertake a short delay in its investigation (several days to weeks) to allow evidence collection when criminal charges based on the same behaviors that invoke UMB's resolution process are being investigated by law enforcement. UMB will promptly resume its investigation and resolution process once notified by law enforcement that the initial evidence collection process is complete.

UMB action(s) are not typically delayed, altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

Once the decision is made to commence an investigation, the Title IX Coordinator assigns an Investigator to conduct the investigation, usually within two (2) business days of determining that an investigation should proceed. At the sole discretion of the Title IX Coordinator, more than one Investigator may be assigned.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no conflicts of interest or disqualifying bias.

The parties may, at any time during this process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Investigator will be assigned and the impact of the bias or conflict, if any, will be remedied if necessary. If the bias or conflict relates to the Title IX Coordinator, concerns should be raised with the Chief Accountability Officer.

Investigations involve interviews with all relevant parties and witnesses, obtaining available, relevant evidence, and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to fully review and respond to all relevant evidence, on the record.

## **6. Investigation**

The Investigators typically take the following steps, if not already completed (not necessarily in this order):

Determine the identity and contact information of the Complainant

In coordination with campus partners (e.g., the Title IX Coordinator), initiate or assist with any necessary supportive measures

Identify all policies implicated by the alleged misconduct

Assist the Title IX Coordinator with conducting an initial assessment to determine if there is reasonable cause to believe the Respondent has violated policy

If there is insufficient evidence to support an Investigation of the allegation, the process is closed with no further action. The decision to close the Investigation on this basis is appealable for reconsideration to the Investigator or the Title IX Coordinator.

Commence a thorough, reliable, and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all parties and witnesses

Meet with the Complainant to obtain information for a full and final statement, if necessary

Prepare the initial Notice of Investigation and Allegation (NOIA) on the basis of the initial assessment. Notice may be one step or multiple steps, depending on how the investigation unfolds, and potential policy violations may be added or dropped as more is learned. Investigators will update the NOIA accordingly and provide it to the parties.

Notice should inform the parties of their right to have the assistance of an Advisor of their choosing present for all meetings attended by the advisee

When formal notice is given, it should provide the parties with a written description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/remedial actions that could result

Give an instruction to the parties to preserve any evidence that is directly related to the allegations

Provide the parties and witnesses with an opportunity to review and verify the accuracy of Investigator's summary notes from interviews and meetings with that specific party or witness.

Make good faith efforts to notify the parties of any meeting or interview involving the other party for informational purposes, in advance when possible

Interview all relevant individuals and conduct follow-up interviews as necessary

Allow each party the opportunity to submit questions they wish the Investigator(s) to ask of the other party and witnesses for review and approval of the Title IX Coordinator. The decision of final questions to be presented is made by the Title IX Coordinator in consultation with the Investigator.

Complete the investigation promptly and without unreasonable deviation from the intended timeline

Provide regular status updates to the parties throughout the investigation

Prior to the conclusion of the investigation, summarize for the parties the list of witnesses whose information will be used to determine a finding

Write a comprehensive investigation report fully summarizing the investigation and all evidence

Provide parties with a copy of the draft investigation report when it is completed.

Provide each party with a full and fair opportunity to respond to the report in writing within seven (7) days and incorporate that response into the report

Investigators may choose to respond in writing in the report to the responses of the parties, and/or to share the responses between the parties for their responses, while also ensuring that reasonable limits on opportunities to comment are observed so the investigation is not unduly delayed.

Share the report with the Title IX Coordinator or legal counsel for review and feedback.

Provide the final report to the Title IX Coordinator that summarizes, assesses, and synthesizes evidence without making a finding, conclusion, determination or recommendation.

Provide the final report to the Title IX Coordinator.

## **7. Determination**

Within five (5) business days of receiving the Investigator's report, the Chief Accountability Officer will designate a Decision-maker to review the report, any evidence, and all responses, then make the final determination on the basis of the preponderance of the evidence. At the sole discretion of the Chief Accountability Officer, the Investigator's report may be provided to a team of decision-makers for review and determination.

If the record is incomplete, the Title IX Coordinator/Decision-maker may return the report to the Investigator for re-opening of the investigation, or may direct or conduct any additional inquiry necessary, including meeting with the parties or any witnesses, if needed.

The Title IX Coordinator or Decision-maker may invite and consider impact statements from the parties if and when determining appropriate sanction(s), if any.

The Title IX Coordinator then timely provides the parties with a written Notice of Outcome to include findings, any sanction(s), and a detailed rationale, delivered simultaneously (without undue delay) to the parties.

## **8. Additional Details of the Investigation Process**

### ***a. Witness responsibilities***

Witnesses (as distinguished from the parties) who are faculty or staff of UMB are required to cooperate with and participate in UMB's investigation and resolution process. Failure of a witness to cooperate with and/or participate in the investigation or resolution process constitutes a violation of Policy and may be subject to discipline.

### ***b. Remote processes***

Parties and witnesses may be interviewed remotely by phone, video conferencing, or similar technologies if the Investigator(s) or Decision-maker determine that timeliness or efficiency dictates a need for remote interviewing. Witnesses may also provide written statements in lieu of interviews, or respond to questions in writing, if deemed appropriate by the Investigator(s), though this

approach is normally considered not ideal. Where remote technologies are used, UMB makes reasonable efforts to ensure privacy, and that any technology does not work to the detriment of any party or subject them to unfairness.

**c. Recording**

No unauthorized audio or video recording of any kind is permitted during the resolution process. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of and consent to audio and/or video recording.

**d. Evidence**

Any evidence that is relevant and credible may be considered, including an individual's prior misconduct history as well as evidence indicating a pattern of misconduct. The process should exclude irrelevant or immaterial evidence and may disregard evidence lacking in credibility or that is improperly prejudicial.

**e. Sexual history/patterns**

Unless the Title IX Coordinator determines it is appropriate, the investigation and the finding do not consider: (1) incidents not directly related to the possible violation, unless they evidence a pattern; (2) the sexual history of the parties (though there may be a limited exception made with regard to the sexual history between the parties); or (3) the character of the parties.

**f. Previous allegations/violations**

While previous conduct violations by the Respondent are not generally admissible as information supporting the current allegation, the Investigator(s) may supply the Title IX Coordinator with information about previous good faith allegations and/or findings, when that information suggests potential pattern and/or predatory conduct. This information will be included in the Investigator's Report.

Previous disciplinary action of any kind involving the Respondent may be considered in determining the appropriate sanction(s), if UMB uses a progressive discipline system.

**g. Character witnesses**

Neither the Title IX Coordinator nor the Investigator(s) will meet with character witnesses, but the Investigator(s) may accept up to two (2) letters supporting the character of each of the parties. Such letters must be provided to the Investigator(s) prior to the report being finalized; otherwise, the parties have waived their right to provide such letters. Any impact letters provided to the Investigator will become part of the evidentiary file.

**h. Notification of outcome**

If the Respondent admits to the violation(s), or is found in violation, the Decision-maker, in consultation with other administrators as appropriate, determines sanction(s) and/or remedial actions, which are promptly implemented in order to effectively to stop the harassment, discrimination, and/or retaliation; prevent its recurrence; and remedy the effects of the discriminatory conduct, both on the Complainant and the community. This process will include consultation with the appropriate Dean or Conduct Review Board, as applicable. If the admission occurs prior to referral for Administrative Review, the Chief Accountability Officer will assign a Decision-maker for the purpose of determining the sanction.

The Title IX Coordinator informs the parties of the determination within five (5) business days of the decision, ideally simultaneously, but without significant time delay between notifications. Notifications are made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official UMB records; or emailed to the parties' UMB-issued or designated email account. Once mailed, emailed, and/or received in-person, notice is presumptively delivered.

The Notification of Outcome specifies the finding for each alleged policy violation, any sanction(s) that may result which UMB is permitted to share pursuant to state or federal law, and the rationale supporting the essential findings to the extent UMB is permitted to share the information under applicable law.

The notice will detail when the determination is considered final and will detail any changes that are made prior to finalization.

Unless based on an acceptance of violation by the Respondent, the determination may be appealed by either party. The Notification of Outcome also includes the grounds on which the parties may appeal and the steps the parties may take to request an appeal of the findings. More information about the appeal procedures can be found below.



## 9. Sanctions

Factors considered when determining any sanction(s)/remedial action(s) may include, but are not limited to:

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/remedial actions to bring an end to the discrimination, harassment, and/or retaliation

The need for sanctions/remedial 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 Complainant and the community

The impact on the parties

Any other information deemed relevant by the Decision-maker

In determining sanctions, the process will include consultation with the appropriate Dean or Conduct Review Board, as applicable.

The sanction(s) will be implemented as soon as is feasible. The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by outside authorities.

### a. Student Sanctions/Remedial Actions

The following are examples of remedial responses and sanctions that may be recommended singly or in combination:

**Warning:** A formal statement identifying conduct that was found to be a violation and a warning that further violation of any UMB policy, procedure, or directive will result in more or potentially more severe sanctions/remedial actions.

**Probation:** A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified UMB-related social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.

**Suspension:** Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at UMB.

**Dismissal:** Permanent termination of student status and revocation of rights to be on campus for any reason or to attend UMB-sponsored events. This sanction will be noted permanently as a Conduct Expulsion on the student's official transcript.

**Required Counseling:** A mandate to meet with and engage in either UMB-sponsored or external counseling to better comprehend the misconduct and its effects.

**Required Training or Education:** A mandate to engage in either UMB-sponsored or external training or educational programs to better comprehend the misconduct and its effects.

**Withholding Degree:** UMB may withhold a student's degree for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.

**Revocation of Degree:** UMB reserves the right to revoke a degree previously awarded by UMB as a sanction if the student is found responsible for an alleged violation.

**Transcript Notation:** A permanent notation on the student's official transcript of the policy violation.

**Other Actions:** In addition to or in place of the above sanctions, UMB may assign any other sanctions as deemed appropriate.

### b. Employee Sanctions/Remedial Actions

The following are examples of remedial responses and sanctions that may be recommended singly or in combination:

**Warning – Verbal or Written:** A formal verbal or written statement that the conduct was unacceptable and a warning that further violation of any UMB policy, procedure, or directive will result in more severe sanctions/remedial actions.

**Performance Improvement Plan:** Inclusion of the violation on the employee's Performance Improvement Plan with corrective actions to be taken by the employee.

**Required Counseling:** A mandate to meet with and engage in either UMB-sponsored or external counseling to better comprehend the misconduct and its effects.

**Required Training or Education:** A mandate to engage in either UMB-sponsored or external training or educational programs to better comprehend the misconduct and its effects.

**Demotion:** Lowering the employee's status, title, and, if appropriate, pay.

**Suspension with pay:** Termination of employee's status for a definite period of time not to exceed two years and/or until specific criteria are met. Employees who return from suspension with pay are automatically placed on probation for a period to be determined at the time of suspension. The employee will continue to receive their base salary during the suspension period.

**Suspension without pay:** Termination of employee's status for a definite period of time not to exceed two years and/or until specific criteria are met. Employees who return from suspension with pay are automatically placed on probation for a period to be determined at the time of suspension. The employee will not receive their salary during the suspension period.

**Termination:** UMB will end its employment agreement with the employee. The employee will not be eligible to be re-hired by UMB.

**Other Actions:** In addition to or in place of the above sanctions/remedial actions, UMB may assign any other remedial actions as deemed appropriate.

## **10. Withdrawal or Resignation While Charges Pending**

### **a. Students**

The UMB Policy on Sexual Misconduct provides the potential outcomes should a student withdrawal or resign with charges are pending.

### **b. Employees**

The UMB Policy on Sexual Misconduct provides the potential outcomes should an employee resign with charges are pending.

## **11. Appeals**

All requests for appeal consideration must be submitted in writing to the Title IX Coordinator within five (5) business days of the delivery of the written finding of the Title IX Coordinator or Decision-maker. Any party may appeal the findings only under the grounds described below.

The President, or the President's designee, is appointed as the Appeal Decision-maker. Any party may appeal, but appeals are limited to the following grounds:

A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g., substantiated bias, material deviation from established procedures, failure to correctly apply the evidentiary standard).

To consider new evidence, unknown or could not be made available during the investigation, and that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included in the appeal.

The Title IX Coordinator, investigator(s), or Decision-maker(s) had a significant conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent, or a related interest not disclosed that materially affected the outcome of the matter.

When any party requests an appeal, the Title IX Coordinator will share the appeal request with the other party(ies) or other appropriate persons such as the Investigator(s), who may file a response within five (5) business days. The other party may also bring their own appeal on separate grounds.

If new grounds are raised, the original appealing party will be permitted to submit a written response to these new grounds within five (5) business days. These responses or appeal requests will be shared with each party. The Appeal Decision-maker will review the appeal request(s) within seven (7) business days of completing the pre-appeal exchange of materials. If grounds are not sufficient for an appeal, or the appeal is not timely, the appeal will be dismissed.

When the Appeal Decision-maker finds that at least one of the grounds is met by at least one party, additional principles governing the review of appeals include the following:

Decisions by the Appeal Decision-maker are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/remedial action(s) only if there is compelling justification to do so.

Appeals are not intended to be full re-hearings (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the investigation and pertinent documentation regarding the grounds for appeal.

An appeal is not an opportunity for the Appeal Decision-maker to substitute their judgment for that of the original Investigator(s) or Title IX Coordinator/Decision-maker merely because they disagree with the finding and/or sanction(s).

Appeals granted based on new evidence should normally be remanded to the Investigator(s) for reconsideration. Other appeals should be remanded at the discretion of the Appeal Decision-maker.

Sanctions imposed as the result of Administrative Resolution are implemented immediately unless the Title IX Coordinator stays their implementation in extraordinary circumstances, pending the outcome of the appeal.

For students: Graduation, study abroad, internships/ externships, etc., do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal.

All parties will be informed in writing within (7) business days of the outcome of the appeal without significant time delay between notifications, and in accordance with the standards for Notice of Outcome as defined above.

Once an appeal is decided, the outcome is final; further appeals are not permitted, even if a decision or sanction is changed on remand.

In rare cases when a procedural [or substantive] error cannot be cured by the original Investigator(s) and/or Decision-maker (as in cases of bias), the Appeal Decision-maker may recommend a new investigation and/or Administrative Resolution process, including new resolution Decision-maker(s).

In cases in which the appeal results in Respondent's reinstatement to UMB or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

## **12. Long-Term Remedies/Actions**

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement long-term remedies or actions with respect to the parties and/or the campus community to stop the harassment, discrimination, and/or retaliation; remedy its effects; and prevent its reoccurrence.

These remedies/actions may include, but are not limited to:

Referral to counseling and health services

Referral to the Employee Assistance Program

Education to the community

Permanent alteration of housing assignments

Permanent alteration of work arrangements for employees

Provision of campus safety escorts

Climate surveys

Provision of transportation accommodations

Implementation of long-term contact limitations between the parties

Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, long-term remedies may also be provided to the Complainant even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedial requirements that may appropriately be made available by UMB to the Respondent.

### **13. Failure to Complete Sanctions/Comply with Interim and Long-term Remedies/Remedial Actions**

All Respondents are expected to comply with sanctions, remedial actions, and corrective actions within the timeframe specified by the Title IX Coordinator.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/remedial/corrective action(s), including suspension, expulsion, and/or termination from UMB and may be noted on a student's official transcript.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

### **14. Recordkeeping**

In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be kept for a minimum of seven (7) years, or as required by state or federal law or institutional policy, by the Title IX Coordinator in the Title IX case database.

### **15. Disabilities Accommodation in the Resolution Process**

UMB is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the UMB's resolution process.

Students needing such accommodations or support should complete the Disability and Reasonable Accommodations form located on the Educational Support and Disability Services website located at: <https://www.umaryland.edu/disabilityservices/for-students/how-to-request-accommodations/>. Employees should complete the Request for Reasonable Accommodation form and submitting it to Human Resource Services (HRS) Employee Labor Relations (ELR), Office of Diversity, ADA and Affirmative Action located at <https://www.umaryland.edu/hrs/current-employees/diversity-ada-aa/americans-with-disabilities-act/>. Students and employees seeking accommodations or support should inform the Title IX Coordinator when they have submitted the request(s) to allow for consultation to determine which accommodations are appropriate and necessary for full participation in the process.

### **16. Revision**

These procedures will be reviewed and updated annually by the Title IX Coordinator. UMB reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect.

The Title IX Coordinator may make minor modifications to these procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules.

The Title IX Coordinator may also vary procedures materially with notice (in the Policy and Procedures section of UMB's Title IX website located at <https://www.umaryland.edu/titleix/policies-and-procedures/>, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this procedure.

At the discretion of UMB, Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution, unless the parties consent to be bound by the current policy.

If government regulations change in a way that impacts this document, this document will be construed to comply with the most recent government regulations.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

THESE PROCEDURES WERE ADAPTED FROM ATIXA 2020 ONE POLICY, TWO PROCEDURES MODEL

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**RELATED PROCEDURES**

[Reporting Through The UMB Hotline](#)

**RELATED POLICIES**

[UMB POLICY ON SEXUAL MISCONDUCT](#)

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