

## REVISION HISTORY:

Approved by the President March 30, 2015, replaced VI-1.30(A) to comply with USM VI-1.60 (eff. June 27, 2014, revised June 19, 2015); Revised August 26, 2015; Revised August 14, 2020; Revised March 24, 2023 to update links; Revised August 1, 2024 to comply with revisions to USM VI-1.60 (eff. August 1, 2024) and to replaces UMB VI-1.01(A); UMB VI-1.05(A); UMB VI-1.05(B); UMB VI-1.60(A)-1; UMB VI-1.60(B); and UMB VI-1.60(C).

## VI-1.60(A) – UMB POLICY ON SEX DISCRIMINATION (TITLE IX)

### I. PURPOSE

The University of Maryland, Baltimore (“UMB” or “the University”) is committed to providing a working and learning environment free from Sex Discrimination, as defined in the Definitions section, below,<sup>1</sup> through training, education, prevention programs, and policies and procedures that promote prompt reporting, prohibit Sex Discrimination and Retaliation, and promote a timely, fair, and impartial investigation and resolution in a manner that eliminates Sex Discrimination, prevents its recurrence, and addresses its effects.

UMB also prohibits any policy, practice, or procedure, or any employment action, concerning the current, potential, or past Parental Status, family status or marital status of a Student, employee, or applicant for admission or employment, that treats persons differently on the basis of sex.

### II. APPLICABILITY

All UMB Students, faculty and staff employees, applicants for admission or employment, and third parties and contractors under UMB control, are subject to this Policy. This Policy applies to Sex Discrimination occurring within UMB’s Education Program or Activity and fulfills the obligations of UMB to address Sex Discrimination prohibited by Title IX of the Education Amendments of 1972 (“Title IX”). This Policy implements the University System of Maryland (“USM”) VI-1.60 Policy on Sex Discrimination.

Conduct described by this Policy but not prohibited under Title IX (including, but not limited to the conduct, defined in Section IV, below), conduct that amounts to discrimination on the basis of other protected classes, and conduct that violates other UMB or USM policy, shall be governed by other appropriate UMB policies, procedures, and processes.

- A. Protection of Minors.** In Maryland, a person under the age of 16 cannot consent to sexual activity. This means that sexual contact by an individual over the age of 18 with a person younger than 16 years old may be a crime, could require an immediate report to the applicable child welfare agency and/or local law enforcement agency, and represents a potential violation of this Policy, even if the minor appeared to welcome the sexual activity. See UMB VI-1.50(A) Procedures for Reporting Suspected Child Abuse and Neglect for additional mandatory requirements for

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<sup>1</sup> Capitalized terms are defined in this Policy.

sexual misconduct that involves a minor.

- B. Academic Freedom.** This Policy is not intended to inhibit or prohibit educational content or discussions inside or outside of the classroom that include controversial or sensitive subject matters protected by academic freedom.
- C. Guidance.** UMB encourages those who are unsure of whether a situation is controlled by this Policy to ask questions and seek advice through the Title IX Office or the Consultation Line, available at <https://www.umaryland.edu/oac/consult-with-us/>.

### III. DEFINITIONS

For purposes of this Policy, the following definitions apply:

- A. Complainant** is an individual who is alleged to have been subjected to Sex Discrimination who is a Student or employee, or who was participating or attempting to participate in the Education Program or Activity at the time of the alleged Sex Discrimination, whether or not that individual initiated the Complaint.<sup>2</sup>
- B. Complaint** means an oral or written request to the University that objectively can be understood as a request to investigate and make a determination about alleged Sex Discrimination.
- C. Confidential Employees** are:
  - i. Employees whose communications are privileged or confidential under Federal or State law;<sup>3</sup>
  - ii. Employees whose communications are specifically designated as confidential for the purpose of providing services related to potential Sex Discrimination; or
  - iii. Employees who are conducting an Institutional Review Board-approved human-subjects research study designed to gather information about Sex Discrimination.<sup>4</sup>
- D. Consent** is knowing and voluntary willingness to mutually participate in a particular sexual activity or behavior.
  - i. Consent must be given by a person who has the ability and capacity to do so.

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<sup>2</sup> A parent, guardian, or other authorized legal representative with the legal right to act on behalf of the Complainant may also file a Complaint on behalf of a Complainant.

<sup>3</sup> The employee's confidential status is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies.

<sup>4</sup> The employee's confidential status is only with respect to information received while conducting the study.

- ii. Consent may be expressed either by words or actions.
- iii. Consent may be withdrawn at any time.
- iv. Consent cannot be obtained by force, threat, coercion, fraud, manipulation, reasonable fear of injury, intimidation, or by using one's mental or physical helplessness or incapacity.
- v. Consent cannot be implied based on the mere fact of a previous consensual dating or sexual relationship.
- vi. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.

**E. Education Program or Activity** includes all operations of UMB in the United States, including, but not limited to, all conduct<sup>5</sup> over which UMB exercises disciplinary authority and all conduct that occurs in any building owned or controlled by a student organization that is officially recognized by UMB. UMB shall address a Sex-Based Hostile Environment under its Education Program or Activity even when some conduct alleged to be contributing to the hostile environment occurred outside UMB's Education Program or Activity or outside of the United States.

**F. Employees with Authority** are employees, other than Confidential Employees, who have the authority to institute corrective measures or who are responsible for administrative leadership, teaching, or advising.

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

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

**I. Gender Identity** means an individual's sense of their gender which may or may not be different from their sex assigned at birth.

**J. Members of the Public** mean individuals who are not Students or faculty or staff employees and who are not directly participating or attempting to participate in

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<sup>5</sup> Such conduct may occur in-person or through the use of technology such as e-mail, texts, social media applications, etc.

UMB Education Programs or Activities, but who may have connection to or be involved in such activities (e.g., patients, clients, visitors, affiliates over whom the University does not exercise control, etc.).

- K. Parental or Family Status** means the current, potential, or past status of an individual who is, with respect to another person who is under the age of 18 or is 18 or older but is incapable of self-care because of physical or mental disability:
- i. A biological, step, adoptive, or foster parent;
  - ii. A legal custodian or guardian;
  - iii. In loco parentis; or
  - iv. Actively seeking legal custody, guardianship, visitation, or adoption.
- L. Party** means a Complainant or Respondent.
- M. Pregnancy or Related Conditions** means the current, past, or potential presence of any of the following conditions:
- i. Pregnancy, childbirth, termination of pregnancy, or lactation;
  - ii. Recovery from pregnancy, childbirth, termination of pregnancy, or lactation;
- or
- iii. Medical conditions related to pregnancy, childbirth, termination of pregnancy or lactation.
- N. Protected Activity** includes making a good faith report or complaint under this Policy, opposing a practice one reasonably considers to be discriminatory under this Policy, or otherwise participating in any manner of the investigative or grievance processes covered by this Policy.
- O. Relevant** as used with respect to evidence or questions for Parties or witnesses means related to the allegations of Sex Discrimination or Retaliation under investigation as part of the grievance processes provided in this Policy. Questions are Relevant when they seek evidence that may aid in showing whether the alleged Sex Discrimination occurred, and evidence is Relevant when it may aid a decision-maker (such as the Title IX Coordinator, Title IX Coordinator's designee, Provost, or Provost's designee) in determining whether the alleged Sex Discrimination occurred.
- P. Remedies** are measures provided, as appropriate, to a Complainant or any other person the University identifies as having had their equal access to UMB's Education Program or Activity limited or denied by Sex Discrimination. These non-punitive measures are provided to restore or preserve that person's access to UMB's Education Program or Activity after the University makes a determination that Sex Discrimination occurred.

- Q. Respondent** means a person who is alleged to have violated UMB’s prohibition of Sex Discrimination under this Policy.
- R. Retaliation** means intimidating, threatening, coercing, or discriminating against any individual by the University, a Student, or an employee or other person authorized by UMB to provide aid, benefit, or service under the UMB Education Program or Activity, for the purpose of interfering with any right or privilege secured by Title IX, or because an individual has reported information, made a Complaint, testified, assisted, participated or refused to participate in any manner in an investigation, grievance process, informal resolution process, proceeding, or hearing related to Sex Discrimination.
- i. Retaliation includes bringing charges against an individual for violations of other UMB policies that do not involve Sex Discrimination but arise out of the same facts or circumstances as a Complaint, for the purpose of interfering with any right or privilege secured by Title IX.
  - ii. Retaliation may also include “peer retaliation” which means a Student retaliating against another Student, regardless of whether they were a Respondent, Complainant, or witness in a grievance process or informal resolution process under this Policy.
  - iii. Nothing in this definition or Policy precludes UMB from requiring an employee or other person authorized by UMB to provide aid, benefit, or service under UMB’s Education Program or Activity to participate as a witness in, or otherwise assist with, an investigation or other process under this Policy.
- S. Sanctions** mean consequences imposed on a Respondent following a determination that the Respondent violated UMB’s prohibition of Title IX Sex Discrimination or Retaliation.
- T. Sexual Assault** means an offense classified as a sex offense in the Uniform Crime Reporting System of the Federal Bureau of Investigation. Sex offenses are sexual acts directed against another person and include:
- i. Non-Consensual Sexual Penetration— Penetration, no matter how slight, of the genital or anal opening of the body of another person with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
  - ii. Fondling—The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.

- iii. Incest—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- iv. Statutory Rape—Nonforcible sexual intercourse with a person who is under the statutory age of consent.<sup>6</sup>

**U. Sex-Based Harassment** is a form of Sex Discrimination prohibited by Title IX,<sup>7</sup> and means sexual harassment and other harassment on the basis of sex, including Sex Stereotypes, Sex Characteristics, Pregnancy or Related Conditions, Sexual Orientation, and Gender Identity, and that satisfies one or more of the following:

- i. Quid Pro Quo Harassment— An employee, agent, or other person authorized by UMB to provide an aid, benefit, or service under UMB’s Education Program or Activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct.
- ii. Hostile Environment Harassment— Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from UMB’s Education Program or Activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
  - 1. The degree to which the conduct affected the Complainant’s ability to access UMB’s Education Program or Activity;
  - 2. The type, frequency, and duration of the conduct;
  - 3. The Parties’ ages, roles within UMB’s Education Program or Activity, previous interactions, and other factors about each Party that may be Relevant to evaluating the effects of the conduct;
  - 4. The location of the conduct and the context in which the conduct occurred; and
  - 5. Other Sex-Based Harassment directed at the Complainant in UMB’s Education Program or Activity.
- iii. Sexual Misconduct— Sexual Assault, Dating Violence, Domestic Violence, or Stalking as defined throughout this Definitions section.

**V. Sex Characteristics** means physiological sex-based characteristics, including a person’s anatomy, hormones, and chromosomes associated with male or female bodies and which may or may not be related to a person’s reproductive capacity; intersex traits; and other physiological sex characteristics that differ from or align with expectations generally associated with male or female bodies.

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<sup>6</sup> See Md. Code Ann., Crim. Law §§ 3-301 through 3-307.

<sup>7</sup> See Section IV for a definition of non-Title IX discrimination, including non-Title IX sex-based harassment, which is subject to other state and federal laws, as well as other UMB policies and procedures.

**W. Sex Discrimination** means exclusion from participation in or being denied the benefits of any Education Program or Activity of UMB on the basis of sex, including Sex Stereotypes, Sex Characteristics, Sexual Orientation, Gender Identity, and Pregnancy or Related Conditions. Sex-Based Harassment is a form of Sex Discrimination.<sup>8</sup>

**X. Sex Stereotypes** means fixed or generalized expectations regarding a person's aptitudes, behavior, self-presentation, or other attributes based on sex.

**Y. Sexual Orientation** means the identification, perception, or status of an individual as to that individual's physical, romantic, or emotional attraction to another person.

**Z. Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

**AA. Student** means a person who has gained admission to UMB.

**BB. Supportive Measures** are non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to:

- i. Restore or preserve that Party's access to the University's Education Program or Activity, including measures that are designed to protect the safety of the Parties or the University's educational environment; or
- ii. Provide support during the Title IX grievance processes or informal resolution process.

Supportive Measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, restrictions on contact applied to one or more Parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, training and education programs related to Sex-Based Harassment, no-contact or no-trespass orders, and other similar measures.

#### **IV. NON-TITLE IX DISCRIMINATION**

Unlawful discrimination, including sex-based discrimination, is regulated by other state and federal laws and prohibited by USM and UMB policies on nondiscrimination and equal opportunity.

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<sup>8</sup> In circumstances where different treatment or separation on the basis of sex is permitted, UMB prohibits different treatment or separation on the basis of sex in a manner that discriminates on the basis of sex by subjecting a person to more than de minimis harm, except as permitted by 20 U.S.C. §§ 1681 and 1686 and their corresponding regulations.

Definitions provided in this section are pursuant to Maryland or federal law other than Title IX. Sex-based discriminatory conduct that does not meet the definitions of Title IX Sex Discrimination or Title IX Sex-Based Harassment as defined in Section III shall be addressed by other applicable UMB policies and procedures.

**A. Maryland Fair Employment Practices Act (“FEPA” or “Title 20”).** Set forth in Md. Code Ann., State Gov’t § 20-601, *et seq.*

- i. Discrimination Prohibited. FEPA prohibits employers from discriminating against employees (or applicants for employment) on the basis of an individual’s race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, genetic information, or disability.
- ii. Harassment as a Form of Discrimination. FEPA prohibits harassment as a form of employment discrimination but defines harassment differently than Title IX. Sex-based harassment means unwelcome and offensive conduct, which need not be severe or pervasive, where:
  1. The conduct is based on sex, sexual orientation or gender identity;<sup>9</sup> or that consists of unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature; and
  2. Submission to the conduct is made either explicitly or implicitly a term or condition of the employment of an individual;
  3. Submission to or rejection of the conduct is used as a basis for employment decisions affecting the individual; or
  4. Based on the totality of the circumstances, the conduct creates a working environment that a reasonable person would perceive to be abusive or hostile.

**B. Title VII of the Civil Rights Act of 1964 (“Title VII”).** Set forth in 42 U.S.C. §§ 2000e–2000e-17, as amended.

- i. Discrimination Prohibited. Title VII prohibits employers from discriminating against employees (or applicants for employment) on the basis of race, color, religion, sex (including pregnancy, childbirth, and related conditions, sexual orientation, and gender identity), or national origin.
- ii. Harassment as a Form of Discrimination. Title VII prohibits harassment as a form of employment discrimination but defines harassment differently than Title IX. Sex-based harassment means unwelcome conduct that is based on sex where:
  1. Enduring the offensive conduct becomes a condition of continued employment, or
  2. The conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

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<sup>9</sup> FEPA has its own separate definitions of sexual orientation, and gender identity.



## V. REPORTING

UMB encourages the prompt reporting of an allegation of Sex Discrimination or Retaliation, whenever possible. Reporting of an incident close in time to its occurrence will enhance UMB's ability to promptly and effectively investigate complaints, protect the UMB community, and discipline and educate offenders.

- A. The following persons have a right to make a Complaints of Sex-Based Harassment, requesting that UMB investigate and make a determination about alleged discrimination under Title IX:
  - i. A Complainant;
  - ii. A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant;
  - iii. The Title IX Coordinator, after making the determination specified in Absence or Withdrawal of Complaint or Allegations Section below.
  
- B. In addition to the persons listed in paragraph above, the following individuals who observe, become aware of, or have been subjected to forms of Sex Discrimination other than Sex-Based Harassment, may also submit a Complaint:
  - i. Any Student or employee; or
  - ii. Any person other than a Student or employee who was participating or attempting to participate in a UMB Education Program or Activity at the time of the alleged Sex Discrimination.
  
- C. Any individual may report an incident of Sex Discrimination or Retaliation, regardless of whether they are the alleged victim, and such reports may be made at any time.
  
- D. Complaints or reports of Sex Discrimination or Retaliation should be made through any of the following methods:
  - i. Title IX Coordinator  
Stephanie Suerth, MPA, CCEP  
Acting Title IX Coordinator  
Office of Accountability and Compliance  
620 West Lexington Street  
Baltimore, MD 21201  
Direct Telephone: (410) 706-5212  
Email: Titleix@umaryland.edu
  - ii. UMB EthicsPoint Hotline

1. Reports may be submitted to the UMB EthicsPoint Hotline anonymously.<sup>10</sup>
  2. UMB Hotline Webpage: <https://www.umaryland.edu/umbhotline/>
  3. File a report online:  
<https://secure.ethicspoint.com/domain/media/en/gui/28588/index.html>
  4. File a report by telephone: 866-594-5220
- iii. Confidential Reporting
1. On Campus Confidential Reporting
    - a. UMB Student Counseling Center staff
    - b. UMB Employee Assistance Program staff
    - c. UMB Health Service Providers (working in their capacity as providers to assist a victim)
  2. Off Campus Confidential Reporting
    - a. Local rape crisis centers
    - b. Domestic and/or dating violence resources, including centers and safe houses
    - c. Clergy/chaplains
    - d. Local medical facilities, including those offering SAFE (Sexual Assault Forensic Exam) services
  3. The above resources will maintain confidentiality except in cases involving a threat of imminent physical injury, or abuse of a minor or vulnerable adult. Confidential Employees who are also designated as Campus Security Authorities will submit timely anonymous, aggregate statistical information for Clery Act purposes.
  4. The Student Counseling Center and the Employee Assistance Program are available resources that provide free and confidential services.
- iv. Criminal Reporting to Law Enforcement
1. Individuals who have been subjected to Sexual Assault have the right to file criminal charges with law enforcement:
    - Baltimore Police Department (Baltimore City)
    - Special Investigation Section
    - 601 E. Fayette Street
    - Baltimore, Maryland 21202
    - Emergency: 911
    - Telephone: 410-396-2411
  2. Upon request, UMB Title IX personnel are available to promptly assist Complainants alleged to have been subjected to Sexual Assault in notifying appropriate law enforcement.

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<sup>10</sup> Anonymity cannot be guaranteed. In many cases, anonymous complaints can be harder to investigate and adjudicate. UMB prohibits Retaliation against a person because that person has made a Complaint.

3. UMB has entered into an agreement with the Baltimore Police Department to clearly set the expectations and requirements, as required by Title IX, for referral of criminal matters to law enforcement.
- v. Grievance Reporting to Governmental Authorities
  1. All individuals

Individuals who have been subjected to Sex Discrimination have the right to file a formal grievance with governmental authorities:

Assistant Secretary for Civil Rights  
U.S. Department of Education Office for Civil Rights (“OCR”)  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Facsimile: 202-453-6012  
TDD#: 877-521-2172  
Email: OCR@ed.gov  
Website: <http://www.ed.gov/ocr>

2. Employees

- a. Employees who have been subjected to Sex Discrimination may file a formal charge with governmental authorities:
  - i. U.S. Equal Employment Opportunity Commission (“EEOC”)  
10 S. Howard Street, Third Floor  
Baltimore, MD 21201  
800-669-4000  
TTY 800-669-6820  
[eeoc.gov](http://eeoc.gov)
  - ii. Maryland Commission on Civil Rights (“MCCR”)  
6 St. Paul Street, Suite 900  
Baltimore, MD 21202  
410-767-8600  
800-637-6247  
[mccr@maryland.gov](mailto:mccr@maryland.gov)
- b. Applicants or employees may file a complaint with the Office of Statewide Equal Employment Opportunity Coordinator to pursue allegations of employment discrimination under Md. Code Ann., State Pers. & Pens. § 5-201 *et seq.* (“Title 5”). If an employee wishes to proceed under Title 5, the employee must specify that preference at the time the complaint is made.

## **E. Responsibilities of UMB Faculty and Staff Employees to Report.**

- i. Pregnancy or Related Conditions. If a Student, or a person who has the legal right to act on behalf of the Student, informs any employee, including faculty members and staff employees, of the Student's Pregnancy or Related Conditions, the employee must provide that person with the Title IX Coordinator's contact information and inform them that the Title IX Coordinator can coordinate specific actions to ensure equal access to the University's Education Program or Activity and the prevention of Sex Discrimination. Employees need not provide the Title IX Coordinator's contact information if the employee reasonably believes that the Title IX Coordinator has already been notified.
- ii. Confidential Employees. Confidential Employees are required to explain to any person who informs the Confidential Employee of conduct that may reasonably constitute Sex Discrimination under Title IX:
  1. The employee's status as confidential for purposes of notification under Title IX, including the circumstances in which the employee is not required to notify the Title IX Coordinator about conduct that may constitute Sex Discrimination;
  2. How to contact the Title IX Coordinator and how to make a Complaint of Sex Discrimination; and
  3. That the Title IX Coordinator may be able to offer and coordinate Supportive Measures, as well as initiate an informal resolution process or an investigation under the appropriate grievance process.
- iii. Employees with Authority. Employees with Authority are required to notify the Title IX Coordinator when the employee has information about conduct that may reasonably constitute Sex Discrimination under Title IX.
- iv. All other employees who are not Confidential Employees or Employees with Authority. All other employees are required to either:
  1. Notify the Title IX Coordinator when the employee has information about conduct that may reasonably constitute Sex Discrimination under Title IX; or
  2. Provide the contact information of the Title IX Coordinator and information about how to make a Complaint of Sex Discrimination to any person who provides the employee with information about conduct that may reasonably constitute Sex Discrimination under Title IX.
- v. Student-Employees. Student-employees will be required to adhere to the notification requirements applicable to all other employees who are not Confidential Employees or Employees with Authority, as set forth above, only to the extent that they are provided such information that may reasonably constitute Sex Discrimination under Title IX while they are on-duty as an employee (i.e., while "clocked in").

**F. Bad Faith Reports or False Statements.** Parties, witnesses, or others participating in the processes described in this Policy are prohibited from knowingly making false

statements or knowingly submitting false information during Title IX processes. Complaints or statements made in bad faith are not legally protected from reprisal or disciplinary action. Parties, witnesses, or others participating in the processes will not be disciplined for making “false statements” solely based on UMB’s eventual determination that Sex Discrimination did or did not occur.

**G. Measures to Facilitate Reporting and Participation.** UMB encourages the reporting of Sex Discrimination by individuals who have been subjected to Sex Discrimination and by witnesses. Sometimes, such individuals and witnesses are hesitant to report Sex Discrimination or to participate in resolution processes because they fear that they themselves may be accused of policy violations. It is in the best interest of the UMB community for individuals who have been subjected to Sex Discrimination and witnesses to report misconduct.

- i. Amnesty. To encourage reporting, UMB prohibits student conduct action, except for mandatory interventions for substance abuse or where UMB is required by law to make a report, for a violation of alcohol or drug use policies by a Student who reports Sex-Based Harassment to UMB or to law enforcement, or who participates in the grievance process for allegations of Sex-Based Harassment as a witness, if UMB determines that:
  1. The violation occurred during or near the time of the alleged Sex-Based Harassment;
  2. The Student made the report of Sex-Based Harassment, or is participating in an investigation as a witness, in good faith; and
  3. The violation was not an act that was reasonably likely to place the health or safety of another individual at risk.
- ii. Bystander Intervention. UMB encourages community members to assist individuals who have been subjected to Sex-Based Harassment or Sex Discrimination during or after an incident when it is safe to do so. UMB offers training in bystander intervention.
- iii. Consensual Sexual Conduct. To encourage reporting and participation, UMB will not discipline Parties, witnesses, or others participating in the process for engaging in consensual sexual conduct based solely on UMB’s eventual determination whether Sex Discrimination occurred. This provision is not intended to alter or replace the requirements of UMB VII-2.10(B) Policy Concerning Consensual Relationships.

**H. Monitoring.** The Title IX Coordinator shall:

- i. Monitor the UMB Education Program or Activity for barriers to reporting information about conduct that may reasonably constitute Sex Discrimination; and
- ii. Take steps reasonably calculated to address such barriers.

## **VI. MEDICAL ATTENTION**

Mercy Medical Center is the designated treatment center for sexual assault and domestic violence in Baltimore City where victims of sexual assault (aged 13 and older) may obtain a Sexual Assault Forensic Exam (“SAFE”), including Sexual Assault Evidence Collection Kits. A police report is not required in order to obtain an exam, which can be conducted up to five (5) days after an assault. Medical attention is recommended even if more than five (5) days have passed since the assault occurred.

Mercy Medical Center Emergency Room  
345 St. Paul Place  
Baltimore, Maryland 21202  
410-332-9000  
<https://bmoresafemercy.org/>

UMB Title IX personnel are available to promptly assist Complainants who have been subjected to Sexual Assault, in obtaining medical attention, including providing transportation to the nearest designated SAFE hospital.

Information on Maryland SAFE programs located outside of Baltimore City is available on the Title IX Coordinator’s website.

## **VII. PRIVACY**

The Title IX Coordinator, or designee, will take reasonable steps to protect the privacy of the Parties and witnesses during the grievances processes and informal resolution process set forth in this Policy and to address any unauthorized disclosures of information or evidence obtained solely through the processes set forth in this Policy, to the extent possible. These steps will not restrict the ability of the Parties to obtain and present evidence, including by speaking to witnesses; consulting with their family members, confidential resources, or advisors; or otherwise preparing for or participating in the grievance process or informal resolution process. The Parties are prohibited from engaging in Retaliation, including against witnesses. UMB is obligated to maintain the confidentiality of certain information related to students and employees as a matter of state and federal law (e.g., the Family and Educational Rights and Protection Act). To the extent that such information is received solely through a grievance process or informal resolution process, that obligation extends to the Parties, witnesses, and advisors.

- A. Title IX Coordinator or Designee.** To maintain the privacy of Parties and witnesses, the Title IX Coordinator, or designee, will only share information related to a Complaint or report of conduct that may constitute Sex Discrimination or Retaliation, information related the grievance process or informal resolution process, or other personally identifiable information obtained in the course of the grievance processes or informal resolution process set forth in this Policy with:
  - i.** Other UMB officials on a need-to-know basis for the purpose of receiving assistance in the review, investigation, or resolution of the Complaint or

report; coordinating or implementing reasonable modifications for Students who are Pregnant or experiencing Related Conditions, other reasonable accommodations for individuals with disabilities, Supportive Measures, Sanctions, Remedies; or initiating a Violence Risk Assessment.

- ii. The Complainant(s) and Respondent(s);
- iii. The Parties' advisors, if applicable; or
- iv. Any potential or actual witnesses; or
- v. Pursuant to state or federal law (e.g., the Maryland Public Information Act).

**B. Parties.** To the extent that Relevant evidence or other records obtained solely through the grievance process or informal resolution process are shared by a Complainant or Respondent with a witness, family member, advisor, or other third party, the Complainant or Respondent must inform those individuals that the information is to remain confidential and may not be shared or discussed with anyone other than those who are already known to have such knowledge (e.g., other witnesses or family members who have also been provided such information).

- i. The evidence and records obtained solely through the grievance process or informal resolution process may not be publicly disclosed by any Party, advisor, or witness.
- ii. This expectation of privacy extends to any information disclosed by the Title IX Coordinator, or designated investigator(s), to the Parties or witnesses during interviews or other meetings, particularly as it related to other witness or Party statements.

**C. Witnesses.** Any potential or actual witnesses who are contacted by the Title IX Coordinator, or designee, or by a Party, are expected to adhere to the privacy expectations set forth in this Section.

**D. Failure to Comply.** Failure to comply with this Privacy Section may result in separate disciplinary action.

**E. First Amendment.** Nothing in this Section should be construed as a restriction of an individual's First Amendment or other protected rights.

**F. Reporting to Governmental Authorities and Legal Actions.** Nothing in this Section should be construed as a restriction of an individual's protected rights to file good faith reports to applicable governmental authorities or to seek other legal action.

## VIII. PREGNANCY RELATED CONDITIONS

**A. Employees.**

Reasonable accommodations for employees experiencing Pregnancy or Related Conditions are offered pursuant to the Pregnant Fair Workers Act<sup>11</sup> as required by USM VI-1.00 Policy on Non-Discrimination and Equal Opportunity and UMB's nondiscrimination policies.

**B. Students.**

Treatment of Students experiencing Pregnancy or Related Conditions will be provided in the same manner and under the same policies as any other temporary medical conditions with respect to medical or hospital benefits, services, or any other policies the UMB operates or participates in with respect to Students in UMB's Education Program or Activity.

- i. Reasonable modifications for Students experiencing Pregnancy or Related Conditions are offered pursuant to and governed by this Policy and related processes.
- ii. Requests for reasonable modifications by Students experiencing Pregnancy or Related Conditions, or persons who have the legal right to act on behalf of the Student, should be directed to the Title IX Coordinator, or designee, such as the Office of Educational Support and Disability Services ("ESDS").
- iii. Each reasonable modification shall be based on the Student's individualized needs, in consultation with the Student, and designed to ensure equal access to UMB's Education Program or Activity.
- iv. The Title IX Coordinator, or designee, will facilitate the provision and implementation of reasonable modifications, but may either consult or coordinate with ESDS or delegate the responsibility to ESDS.
- v. A modification that would fundamentally alter the nature of UMB's Education Program or Activity is not reasonable.
- vi. Students have the discretion to accept or decline each reasonable modification offered by the Title IX Coordinator.
- vii. Students may voluntarily access any separate and comparable portion of the UMB Education Program or Activity.
- viii. Students may take a voluntary leave of absence for a period of time determined by the Student's medical provider, or the period of time permitted by UMB or school policy, whichever is greater. Upon return from a leave of absence, the Student must be reinstated to the same academic status and (to the extent possible) extracurricular status that the Student held when the leave began.
- ix. Documentation or Certification.
  1. Documentation for reasonable modifications will not be required unless it is necessary for the Title IX Coordinator, or designee, to determine what reasonable modifications are needed or whether to take additional actions.

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<sup>11</sup> See 42 U.S.C. § 2000gg(3) and implementing regulations 29 C.F.R. § 1636.



2. Certification that a Student who is Pregnant or is experiencing a Related Condition is physically able to participate in a class, program, or activity, will not be required unless:
  - a. The certified level of physical ability or health is necessary for the class, program, or activity;
  - b. UMB requires such certifications of all Students participating in the class, program, or activity; and
  - c. The information obtained through the certification is not used as a basis for prohibited discrimination.

## IX. LACTATION SPACE

UMB provides dedicated lactation spaces for all Students, faculty and staff employees, and visitors. These lactation spaces are clean, shielded from view, free of intrusion from others, and may be used for expressing milk or breastfeeding as needed. For more information about UMB's lactation spaces, see the SMC Campus Center Lactation Center website: <https://www.umaryland.edu/campuscenter/building-resources/lactation-center/>.

## X. PROCEDURES FOR ADJUDICATING COMPLAINTS SUBJECT TO TITLE IX

- A. **Initial Assessment.** The Title IX Coordinator is responsible for receiving and reviewing a broad range of concerns and complaints which may or may not implicate Title IX.
  - i. Purpose of Initial Assessment. When receiving a complaint, concern, or report, the Title IX Coordinator, or designee, shall conduct an Initial Assessment which is intended to evaluate:
    1. Whether the factual allegations contained in an initial complaint or report may reasonably constitute Sex Discrimination or Retaliation under Title IX such that they should be subject to the processes set forth below;
    2. Whether the factual allegations contained in an initial complaint or report should be investigated or reviewed under a different nondiscrimination policy and procedures; or
    3. Whether the factual allegations should be referred to another office / unit (e.g., Human Resource Services, Student Affairs, etc.) where the factual allegations would not reasonably constitute discrimination or retaliation under the University's nondiscrimination policies, but may warrant review, investigation, or other action for other reasons.
  - ii. Gathering Basic Information. As part of the Initial Assessment, the Title IX Coordinator may speak to the Complainant or gather other preliminary information necessary to complete the Assessment.
  - iii. Additional Considerations for Initial Assessment. In performing this evaluation, the Title IX Coordinator shall consider whether the individual is participating in a UMB Educational Program or Activity; the degree of control

the University has over the alleged Respondent; and the degree of control the University has over the environment in which the conduct occurred.

1. Member of the Public. The University encourages Members of the Public to bring forward complaints or concerns as appropriate. However, Members of the Public are not considered Complainants under this Policy. Any complaints or concerns brought forward by a Member of the Public will be evaluated by the Title IX Coordinator, or designee, for determination of which policy, procedures, or other process to which the matter should be referred.
2. Conduct Not Subject to Title IX. The University reserves the right, and may have obligations under other laws, to review and address concerns involving individuals for whom the University has disciplinary authority even where the factual allegations contained in an initial complaint or report do not reasonably constitute Sex Discrimination or Retaliation under Title IX. In these situations, the Title IX Coordinator will determine which other policy, procedures, or other process to which the matter should be referred.
  - a. By way of example, patient care concerns should be referred to the applicable healthcare facility.
  - b. By way of example, employee complaints of sex-based discrimination in the workplace that do not reasonably constitute Sex Discrimination or Retaliation under Title IX should be referred to UMB's nondiscrimination and retaliation policies.

**B. Steps for Adjudicating Title IX Complaints.** The steps and protocols for adjudicating Title IX Complaints are set forth below.

- i. Preliminary Review. Upon completing an Initial Assessment that a Complaint might constitute Sex Discrimination or Retaliation as defined by Title IX, the Title IX Coordinator will engage in a Preliminary Review. The order in which the Preliminary Review is completed may vary based on the nature of the allegations, but the Preliminary Review will include:
  1. Preliminary fact-finding necessary for initiating the grievance process (e.g., identifying enrollment or employment relationship of the Parties relative to UMB, UMB ownership or control of the locations of the alleged incidents, etc.).
  2. Evaluation of whether the facts, as alleged, should prompt an Emergency Removal or Violence Risk Assessment.
    - a. The Title IX Coordinator has the discretion to initiate an Emergency Removal and Violence Risk Assessment at any point in time after a Complaint has been received.
    - b. The Emergency Removal process is described in the Other Responsibilities and Authority of Title IX Coordinator section below.

3. Evaluation of Supportive Measures, which shall include:
    - a. Which Supportive Measures are reasonably available.
    - b. Inquiry into which university personnel or office has the ability to implement Supportive Measures.
    - c. Evaluation of the impact of Supportive Measures on the operations of the impacted unit.
    - d. For employees, this may include discussions with Human Resource Services and/or the appropriate supervisory officials.
    - e. For Students, this may include discussions with the VP for Student Affairs, Dean of Student Affairs, and/or other appropriate academic personnel.
  4. Preliminary discussion with Complainant about options for Informal Resolution, if appropriate.
  5. Intake interview with the Complainant, which shall also include:
    - a. Providing the Complainant with this Policy and Procedures and answering any questions about the process;
    - b. Offering to coordinate Supportive Measures as deemed reasonably available and appropriate by the Title IX Coordinator; and
    - c. For Complainants alleging they have been subjected to Sexual Assault, offering assistance in notifying appropriate law enforcement or in seeking medical attention.
  6. A determination of whether the facts, as alleged, should be:
    - a. Adjudicated as a Complaint of Title IX Retaliation or Title IX Sex Discrimination other than Sex-Based Harassment involving a Student Complainant or Student Respondent as set forth below in Grievance Process A;
    - b. Adjudicated as a Complaint of Title IX Sex-Based Harassment involving a Student Complainant or Student Respondent as set forth below in Grievance Process B; or
    - c. Dismissed pursuant to the Dismissal of Complaints section set forth below.
- ii. Grievance Process A. If, after completion of the Preliminary Review, the Title IX Coordinator determines that Grievance Process A applies, the Title IX Coordinator shall initiate the process described in this section.
1. Initiation of Grievance Process A. Initiation of Grievance Process A shall include contacting the Respondent and providing them a Notice of Allegation. A copy of the Notice of Allegation will also be provided to the Complainant.

The Notice of Allegation shall include:

- a. A copy of or link to this Policy describing the grievance process, including any informal resolution process that is available and/or has been requested by the Complainant;
- b. The allegations, including sufficient details known at the time to allow the Respondent to prepare a response before any initial interview;
- c. At minimum, sufficient details include the identities of the Parties involved in the alleged incident, the conduct allegedly constituting Title IX Sex Discrimination or Title IX Retaliation, and the dates and locations of the alleged incidents to the extent these details are known by the Title IX Coordinator at the time.
- d. A statement that Retaliation is prohibited;
- e. A statement that this Policy prohibits knowingly making false statements or knowingly submitting false information during the Title IX processes;
- f. A statement confirming that the Parties are entitled to an equal opportunity to access the Relevant and not otherwise Impermissible Evidence or an accurate description of evidence;
- g. A statement that the Parties will have an opportunity to provide Relevant and not otherwise Impermissible Evidence to the Title IX Coordinator, or designated investigator(s), who are trained and shall be impartial;
- h. A statement confirming the presumption that the Respondent is not responsible until a determination has been made as described in the Final Determination and Sanctions or Remedies (Grievance Process A) section below or at the conclusion of an appeal of the final determination (if applicable);
- i. A statement that any findings must be based on a preponderance of the evidence;
- j. An offer to meet with the Respondent prior to any initial interview to answer questions about the process in the same manner as has been afforded to the Complainant; and
- k. A notice of availability of Supportive Measures, to the extent not already discussed with the Respondent.

If, in the course of investigation, the Title IX Coordinator, or designated investigator(s), decides to investigate additional allegations of Title IX Sex Discrimination or Title IX Retaliation that were not included in the original Notice of Allegations, the Title IX Coordinator, or designated investigator(s), will provide additional written notice to the Parties whose identities are known.

2. Investigation of Complaint (Grievance Process A). To ensure an adequate, reliable, and impartial investigation of Complaints and throughout the investigation and adjudication process, the Title IX Coordinator, or designee, will ensure that the burden is on UMB, not the Parties, to conduct an investigation that gathers sufficient Relevant evidence to determine whether Title IX Sex Discrimination or Title IX Retaliation occurred.
  - a. Conflicts of Interest. The Title IX Coordinator, designated investigator(s), or any person designated to facilitate an informal resolution process, shall not have a conflict of interest or bias for or against Complainants or Respondents generally or for or against an individual Complainant or Respondent.
    - i. The Title IX Coordinator, designated investigator, or any person designated to facilitate an informal resolution process, are required to disclose any material conflict of interest or appearance of conflict in the matter. The Title IX Coordinator will disqualify any person with actual or apparent conflict of interest, which may include recusing themselves.
    - ii. The Complainant and Respondent will be informed of the designated investigator(s) or other persons designated to facilitate an informal resolution process for the purpose of identifying any conflict of interest issues in advance. Parties have an obligation to notify the Title IX Coordinator immediately upon learning of a conflict of interest or known bias. Where there is a conflict of interest involving the Title IX Coordinator, the Chief Accountability Officer or the Provost should be notified.
  - b. Outline of Investigation. The Title IX Coordinator, or designated investigator(s), shall develop a tentative outline or plan for the scope of the investigation.
    - i. The scope of investigation should be focused on determining whether a preponderance of the evidence supports a factual finding that the allegations contained in the Notice of Allegation occurred and whether a preponderance of the evidence would support a finding that the context in which any factual findings occurred constitute a finding that the Respondent has engaged in Sex Discrimination or Retaliation as defined by Title IX.
    - ii. The outline of investigation should generally include names of witnesses to be interviewed, offices to be

contacted to provide additional documentation or information, preferred order of interviews, and generally anticipated timelines.

- c. Opportunity to Pose Questions. Upon completion of the outline of investigation, the Title IX Coordinator, or designated investigator(s), shall provide each Party with a list of names of witnesses to be interviewed and shall provide the Parties with a reasonable time and opportunity to propose such questions that the Party wants asked of any Party or witness, and to have those questions asked by the Title IX Coordinator, or designated investigator(s), during one or more individual meetings, including follow-up meetings.
- d. Scheduling Interviews. The Title IX Coordinator, or designated investigator(s), may contact witnesses by email or phone to schedule interviews. All witnesses will be informed of the privacy requirements set forth in the Privacy Section and are expected to adhere to those requirements even if they are not formally interviewed pursuant to the processes set forth in this Policy.
- e. Recording of Interviews. All interviews of witnesses or Parties must be recorded in a way that either the recording or transcript can be made available to each Party. Notwithstanding this requirement, the Title IX Coordinator, or designated investigator(s), may elect to submit written questions and receive written responses from witnesses or Parties, particularly where they represent follow up.
- f. Opportunity to Pose Follow Up Questions. The Title IX Coordinator, or designated investigator(s), shall provide a copy of all recordings or transcripts of interviews (or written questions and answers where applicable) to each Party and shall provide the Parties reasonably sufficient amount of time to review the interview or statements so that the Party has a reasonable opportunity to propose any follow-up questions. This may require the Party to listen to the audio or view the audiovisual recording in-person in the office or a secured meeting place selected by the Title IX Coordinator, or designated investigator(s).
- g. List of Witnesses. The Title IX Coordinator, or designated investigator(s), has discretion to determine which witnesses should be interviewed, with consideration given to the names of witnesses provided by the Complainant and Respondent. The Title IX Coordinator, or designated investigator(s), is not obligated to interview every witness identified where the information would be unreasonably duplicative, of limited relevance to the Notice of Allegations,

or is intended to elicit the provision of otherwise Impermissible Evidence, as defined by this Policy (e.g., one Party proposing the other's Party's psychologist as a witness).

- h. Review for Relevant and Impermissible Evidence. The Title IX Coordinator, or designated investigator(s), shall review all evidence gathered through the investigation and determine what evidence is Relevant and what is Impermissible Evidence. Similarly, the Title IX Coordinator, or designated investigator(s), must determine whether a proposed question is Relevant and would not elicit Impermissible Evidence prior to the question being posed and must explain the decision to exclude any question that is not Relevant or would elicit Impermissible Evidence.
  - i. Any question that is Relevant and would not elicit Impermissible Evidence must be asked except questions that are unclear or harassing in nature. Parties must be given the opportunity to clarify questions, and if sufficiently clarified or revised so as to no longer be unclear or harassing in nature, then the question will be asked.
  - ii. The Title IX Coordinator, or designated investigator(s), may choose to place less or no weight on statements by a Party or witness who refuses to respond to questions deemed Relevant that would not elicit Impermissible Evidence. The Title IX Coordinator, or designated investigator(s), must not draw an inference about whether Sex-Based Harassment occurred based on a Party's or witness's refusal to respond to such questions.
- i. Professional Conduct During Investigation. Parties and witnesses must still adhere to the appropriate UMB codes, rules, and policies on professional and student conduct. Failure to comply may result in separate disciplinary action under the appropriate UMB policy or procedure.
- j. Draft Investigation Report. Upon completion of all interviews, including any follow-up questions or interviews, the Title IX Coordinator, or designated investigator(s), shall evaluate the Relevant evidence that has been obtained for purposes of making a determination, using the preponderance of the evidence standard, whether Sex Discrimination or Retaliation as defined by Title IX occurred. Prior to making this determination, the Title IX Coordinator, or designated investigator(s), shall compile a Draft Investigation Report, which will be reviewed and approved by the Title IX Coordinator for compliance with this Policy before it is

provided to the Parties. The form of the Draft Investigation Report is not prescribed but should minimally contain the following:

- i. A description of any allegations by the Complainant which, if true, may reasonably constitute Sex Discrimination or Retaliation as defined by Title IX.
  - ii. A description of Respondent's response or explanation provided to any allegations described.
  - iii. A summary of the investigative process which may include things such as the number of interviews, names of witnesses, relevant documents reviewed, etc.
  - iv. A description of any relevant witness statements, including, where applicable, any explanations for why certain statements have been given more or less weight or credibility.
  - v. A description of any proposed relevant factual findings to be made by a preponderance of the evidence, which should generally include a proposed finding of whether the particular factual allegations by the Complainant are substantiated and a proposed finding of whether the particular responses or explanations by the Respondent are substantiated.
- k. Opportunity for Review and Comment. Upon completion of the Draft Investigation Report, the Title IX Coordinator, or designated investigator(s), shall provide a copy of the Draft Investigation Report to both Parties. Parties shall be given five (5) business days to submit in writing any additional comments, corrections, or supplemental information. This is the final opportunity for the Parties to identify any additional Relevant information and to review statements for accuracy.
- i. Upon receipt of any additional comments, corrections, or supplemental information, the Title IX Coordinator, or designated investigator(s), should provide a copy of these comments to the other Party. Where appropriate based on the materiality of the supplemental comments, corrections, or supplemental information, the Title IX Coordinator, or designated investigator(s), may permit the other Party an additional three (3) business days to submit any response which should be limited to the scope of the additional comments, corrections, or supplemental information.



- ii. The Title IX Coordinator, or designated investigator(s), will evaluate the responses and may take additional investigative steps including posing follow-up questions to witnesses or Parties or interviewing additional witnesses consistent with the investigative steps set forth above.
  - l. End of Investigation. After the Parties have been provided an opportunity for review and comment as described above, the Draft Investigation Report will be finalized by the Title IX Coordinator, or designated investigator(s), constituting the end of the investigation.
- 3. Final Investigation Report and Recommended Determination (Grievance Process A). At the end of the investigation as set forth above, the designated investigator(s), shall make a recommended determination of whether Sex Discrimination or Retaliation as defined by Title IX has occurred using the preponderance of the evidence standard.
  - a. In making this recommendation, the designated investigator(s) shall set forth their rationale for the recommended determination in writing appended to Final Investigation Report. The form of the written rationale is not prescribed but should minimally contain a summary of the analysis used to reach the recommended determination. This should generally include evaluation of the specific elements of the definitions provided in this Policy.
    - i. By way of example, where a Complaint alleges Hostile Environment Harassment, the rationale appended to the Final Investigation Report should set forth any factual findings that establish: 1) that the conduct is sex-based and unwelcome; 2) that based on a totality of the circumstances, the conduct is subjectively and objectively offensive; and 3) that the conduct is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from UMB's Education Program or Activity. This should include consideration of:
      - 1. The degree to which the conduct affected the Complainant's ability to access UMB's Education Program or Activity;
      - 2. The type, frequency, and duration of the conduct;
      - 3. The Parties' ages, roles within UMB's Education Program or Activity, previous interactions, and other factors about each

- Party that may be Relevant to evaluating the effects of the conduct;
      - 4. The location of the conduct and the context in which the conduct occurred; and
      - 5. Other Sex-Based Harassment in UMB's Education Program or Activity.
    - ii. By way of example, where a Complaint alleges the Respondent is engaged in Stalking, the rationale appended to the Final Investigation Report should set forth any factual findings that establish that the Respondent: 1) engaged in a course of conduct; 2) directed at the Complaint; and 3) that would cause a reasonable person to fear for their safety or safety of other or suffer substantial emotional distress.
    - iii. By way of example, where a Complaint alleges the Respondent treated the Complainant differently because of their sex (i.e., engaged in Sex Discrimination), the rationale appended to the Final Investigation Report should set forth: 1) any factual findings that establish a prima facie case of Sex Discrimination; 2) any legitimate nondiscriminatory reasons for the differential treatment' and 3) any evidence of pretext.
    - iv. By way of example, where a Complaint alleges Respondent has engaged in Retaliation, the rationale appended to the Final Investigation Report should set forth: 1) the Protected Activity engaged in by the Complainant; 2) any factual findings constituting intimidation, threats, coercion, or discrimination; and 3) any factual findings demonstrating a causal connection between the Protected Activity and the Retaliatory acts.
  - b. The Final Investigation Report including the recommended determination with written rationale will be transmitted to the Title IX Coordinator for review and approval.
    - i. The Title IX Coordinator shall review the Final Investigation Report and recommended Determination for conformity with the requirements set forth above.
    - ii. Where applicable, the Title IX Coordinator may require a designated investigator to modify the Final Investigation Report or written rationale and/or conduct further investigation as necessary to fulfill the obligations of this Policy.

4. Final Determination and Sanctions or Remedies (Grievance Process A). When the Investigation steps described above are complete and the Final Investigation Report including the recommended determination, and written rationale has been transmitted to the Title IX Coordinator, the Title IX Coordinator, or designee, shall make a final determination of whether Sex Discrimination or Retaliation as defined by Title IX has occurred using the preponderance of the evidence standard.
  - a. If a determination is made that Sex Discrimination or Retaliation occurred, the Title IX Coordinator, or designee, shall consult with the appropriate University official(s) (i.e., Respondent's Dean, Vice President, or designee) in deciding the appropriate Sanctions or Remedies, if any, in accordance with the Sanctions or Remedies section below.
  - b. The Title IX Coordinator, or designee, may set forth any additional rationale for the final determination as applicable.
  - c. The Title IX Coordinator, or designee, shall contemporaneously provide both parties the Final Investigation Report, final determination and written rationale, along with a description of the permissible bases for appeal and appeal process as set forth in the Appeals section below.
  - d. Separately, the Title IX Coordinator, or designee, shall provide the Respondent with notice of any Sanctions to be imposed if a determination has been made that the Respondent is responsible for Sex Discrimination or Retaliation.
  - e. Separately, the Title IX Coordinator, or designee, shall provide the Complainant with notice of any Remedies to be provided to the Complainant if a determination has been made that the Respondent is responsible for Sex Discrimination or Retaliation.
- iii. Grievance Process B. If after completion of the Preliminary Review, the Title IX Coordinator determines that Grievance Process B applies, the Title IX Coordinator shall initiate the process described in this section.
  1. Initiation of Grievance Process B. Initiation of Grievance B Process shall include contacting the Respondent and providing them a Notice of Allegation. A copy of the Notice of Allegation will also be provided to the Complainant.

If the Title IX Coordinator, or designee, has reasonable concerns for the safety of any person as a result of the Title IX Coordinator, or designee, providing a Notice of Allegations, the Title IX Coordinator, or designee, may reasonably delay providing the Notice of Allegations in order to address the safety concerns appropriately.

Reasonable concerns must be made based on an individualized safety and risk analysis and not mere speculation or stereotypes.

The Notice of Allegation shall include:

- a. A copy of or link to this Policy describing the Grievance Process, including any Informal Resolution process that is available and/or has been requested by the Complainant;
- b. The allegations, including sufficient details known at the time to allow the Respondent to prepare a response before any initial interview;
- c. At minimum, sufficient details include the identities of the Parties involved in the alleged incident, the conduct allegedly constituting Title IX Sex-Based Harassment, and the dates and locations of the alleged incidents to the extent these details are known by the Title IX Coordinator at the time.
- d. A statement that Retaliation is prohibited;
- e. A statement that this Policy prohibits knowingly making false statements or knowingly submitting false information during the Title IX processes;
- f. A statement confirming that the Parties are entitled to an equal opportunity to access the Relevant and not otherwise Impermissible Evidence or an accurate description of evidence;
- g. A statement that the Parties will have an opportunity to provide Relevant and not otherwise Impermissible Evidence to the Title IX Coordinator, or designated investigator(s), who are trained and shall be impartial;
- h. A statement confirming the presumption that the Respondent is not responsible until a determination has been made as described in the Final Determination and Sanctions or Remedies (Grievance Process B) section below or at the conclusion of an appeal of the final determination (if applicable);
- i. A statement that any findings must be based on a preponderance of the evidence;
- j. An offer to meet with the Respondent prior to any initial interview to answer questions about the process in the same manner as has been afforded to the Complainant;
- k. A notice of availability of Supportive Measures, to the extent not already discussed with the Respondent; and
- l. A statement that an advisor is permitted and that the advisor may be, but is not required to be an attorney.

If, in the course of investigation, the Title IX Coordinator, or designated investigator(s), decides to investigate additional

allegations of Title IX Sex-Based Harassment that are not included in the original Notice of Allegations, the Title IX Coordinator, or designated investigator(s), will provide an additional Notice of Allegations to the Parties whose identities are known.

2. Investigation of Complaint (Grievance Process B). To ensure an adequate, reliable, and impartial investigation of Complaints and throughout the investigation and adjudication process, the Title IX Coordinator, or designee, will ensure that the burden is on UMB, not the Parties, to conduct an investigation that gathers sufficient Relevant evidence to determine whether Title IX Sex-Based Harassment occurred.
  - a. Conflicts of Interest. The Title IX Coordinator, designated investigator(s), or any person designated to facilitate an informal resolution process, shall not have a conflict of interest or bias for or against Complainants or Respondents generally or for or against an individual Complainant or Respondent.
    - i. The Title IX Coordinator, designated investigator, or any person designated to facilitate an informal resolution process, are required to disclose any material conflict of interest or appearance of conflict in the matter. The Title IX Coordinator will disqualify any person with actual or apparent conflict of interest, which may include recusing themselves.
    - ii. The Complainant and Respondent will be informed of the designated investigator(s) or other persons designated to facilitate an informal resolution process for the purpose of identifying any conflict of interest issues in advance. Parties have an obligation to notify the Title IX Coordinator immediately upon learning of a conflict of interest or known bias. Where there is a conflict of interest involving the Title IX Coordinator, the Chief Accountability Officer or the Provost should be notified.
  - b. Outline of Investigation. The Title IX Coordinator, or designated investigator(s), shall develop a tentative outline or plan for the scope of the investigation.
    - i. The scope of investigation should be focused on determining whether a preponderance of the evidence supports a factual finding that the allegations contained in the Notice of Allegation occurred and whether a preponderance of the evidence would support a finding that the context in

which any factual findings occurred constitute a finding that the Respondent has engaged in Sex-Based Harassment as defined by Title IX.

- ii. The outline of investigation should generally include names of witnesses to be interviewed, offices to be contacted to provide additional documentation or information, preferred order of interviews, and generally anticipated timelines.
- c. Opportunity to Pose Questions. Upon completion of the outline of investigation, the Title IX Coordinator, or designated investigator(s), shall provide each Party with a list of names of witnesses to be interviewed and shall provide the Parties with a reasonable time and opportunity to propose such questions that the Party wants asked of any Party or witness, and to have those questions asked by the Title IX Coordinator, or designated investigator(s), during one or more individual meetings, including follow-up meetings.
- d. Scheduling Party Interviews. When scheduling an interview with a Party, the Title IX Coordinator will provide that Party written notice of the date, time, location, participants, and purpose of the interview with sufficient time to prepare for the interview. It is the responsibility of the Party to convey the notice to their advisor, if applicable and if so desired.
- e. Advisors. Either Party may consult with and be accompanied by an advisor of their choice throughout the grievance process. The advisor may be, but is not required to be, an attorney.
  - i. Identification of an Advisor. Parties are expected to promptly inform the Title IX Coordinator, or designee, of the identity of their advisor upon selection of an advisor, including upon selection of any alternate advisor.
  - ii. Schedule of Advisor. It is the responsibility of the Parties to select an advisor who has a sufficiently flexible schedules to allow the advisor to attend any meeting that the Party wishes to have an advisor present; or to inform the selected advisor of this expectation. The Title IX Coordinator, or designee, will consider requests to change scheduled meetings to accommodate an advisor's schedule but will agree to change scheduled meetings if it does not cause an unreasonable burden or delay on the grievance process.
  - iii. Restrictions on Participation. The Title IX Coordinator, or designee, will not limit the Party's choice or

presence of any advisor except that the Title IX Coordinator, or designee, may establish restrictions regarding the extent to which an advisor may participate. Such restrictions will apply equally to all Parties. If a Party's advisor fails to adhere to such restrictions, the Title IX Coordinator, or designee, may ask a Party's advisor to leave the meeting.

- iv. Selection of Alternate Advisors. The Title IX Coordinator may recommend or require a Party to select an alternate advisor in the following circumstances:
  - 1. If the advisor's employment (job title) with UMB would create a conflict of interest;
  - 2. If the advisor repeatedly fails to adhere to the restrictions placed by the Title IX Coordinator, or designee;
  - 3. Upon an advisor's continuous disruptions, unprofessional conduct, or failure to abide UMB policies, procedures, and codes of conduct; or
  - 4. If an advisor is repeatedly unavailable at times requested by the Party.
- v. Communications. It is the responsibility of the Parties to inform their advisors of any communications from the Title IX Coordinator, or designee.
- f. Scheduling Witness Interviews. The Title IX Coordinator, or designated investigator(s), may contact witnesses by email or phone to schedule interviews. All witnesses will be informed of the requirements set forth in the Privacy section above, and expected to adhere to those requirements, even if they are not formally interviewed pursuant to the processes set forth in this Policy.
- g. Recording of Interviews. All interviews of witnesses or Parties must be recorded in a way that either the recording or transcript can be made available to each Party. Notwithstanding this requirement, the Title IX Coordinator, or designated investigator(s), may elect to submit written questions and receive written responses from witnesses or Parties, particularly where they represent follow up.
- h. Opportunity to Pose Follow Up Questions. The Title IX Coordinator, or designated investigator(s), shall provide a copy of all recordings or transcripts of interviews (or written questions and answers where applicable) to each Party and shall provide the Parties reasonably sufficient amount of time to review the interview or statements so that the Party

has a reasonable opportunity to consult their advisor and propose any follow-up questions. This may require the Party and their advisor to listen to the audio or view the audiovisual recording in-person in the office or a secured meeting place selected by the Title IX Coordinator, or designated investigator(s).

- i. List of Witnesses. The Title IX Coordinator, or designated investigator(s), has discretion to determine which witnesses should be interviewed, with consideration given to the names of witnesses provided by the Complainant and Respondent. The Title IX Coordinator, or designated investigator(s), is not obligated to interview every witness identified where the information would be unreasonably duplicative, of limited relevance to the Notice of Allegations, or is intended to elicit the provision of otherwise Impermissible Evidence, as defined by this Policy (e.g., one Party proposing the other's Party's psychologist as a witness).
- j. Review for Relevant and Impermissible Evidence. The Title IX Coordinator, or designated investigator(s), shall review all evidence gathered through the investigation and determine what evidence is Relevant and what is Impermissible Evidence. Similarly, the Title IX Coordinator, or designated investigator(s), must determine whether a proposed question is Relevant and would not elicit Impermissible Evidence prior to the question being posed and must explain the decision to exclude any question that is not Relevant or would elicit Impermissible Evidence.
  - i. Any question that is Relevant and would not elicit Impermissible Evidence must be asked except questions that are unclear or harassing in nature. Parties must be given the opportunity to clarify questions, and if sufficiently clarified or revised so as to no longer be unclear or harassing in nature, then the question will be asked.
  - ii. The Title IX Coordinator, or designated investigator(s), may choose to place less or no weight on statements by a Party or witness who refuses to respond to questions deemed Relevant that would not elicit Impermissible Evidence. The Title IX Coordinator, or designated investigator(s), must not draw an inference about whether Sex-Based Harassment occurred based on a Party's or witness's refusal to respond to such questions.
- k. Professional Conduct During Investigation. Parties and witnesses must still adhere to the appropriate UMB codes,



rules, and policies on professional and student conduct. Failure to comply may result in separate disciplinary action under the appropriate UMB policy or procedure.

- l. Draft Investigation Report. Upon completion of all interviews, including any follow-up questions or interviews, the Title IX Coordinator, or designated investigator(s), shall evaluate the Relevant evidence that has been obtained for purposes of making a determination, using the preponderance of the evidence standard, whether Sex-based Harassment as defined by Title IX occurred. Prior to making this determination, the Title IX Coordinator, or designated investigator(s), shall compile a Draft Investigation Report, which will be reviewed and approved by the Title IX Coordinator for compliance with this Policy before it is provided to the Parties. The form of the Draft Investigation Report is not prescribed but should minimally contain the following:
  - i. A description of any allegations by the Complainant which, if true, may reasonably constitute Sex-based Harassment as defined by Title IX.
  - ii. A description of Respondent's response or explanation provided to any allegations described.
  - iii. A summary of the investigative process which may include things such as the number of interviews, names of witnesses, relevant documents reviewed, etc.
  - iv. A description of any relevant witness statements, including, where applicable, any explanations for why certain statements have been given more or less weight or credibility.
  - v. A description of any proposed relevant factual findings to be made by a preponderance of the evidence, which should generally include a proposed finding of whether the particular factual allegations by the Complainant are substantiated and a proposed finding of whether the particular responses or explanations by the Respondent are substantiated.
- m. Opportunity for Review and Comment. Upon completion of the Draft Investigation Report, the Title IX Coordinator, or designated investigator(s), shall provide a copy of the Draft Investigation Report to both Parties. Parties shall be given five (5) business days to submit in writing any additional comments, corrections, or supplemental information. This is the final opportunity for the Parties to identify any additional Relevant information and to review statements for accuracy.

- i. Upon receipt of any additional comments, corrections, or supplemental information, the Title IX Coordinator, or designated investigator(s), should provide a copy of these comments to the other Party. Where appropriate based on the materiality of the supplemental comments, corrections, or supplemental information, the Title IX Coordinator, or designated investigator(s), may permit the other Party an additional three (3) business days to submit any response which should be limited to the scope of the additional comments, corrections, or supplemental information.
        - ii. The Title IX Coordinator, or designated investigator(s), will evaluate the responses and may take additional investigative steps including posing follow-up questions to witnesses or Parties or interviewing additional witnesses consistent with the investigative steps set forth above.
      - n. End of Investigation. After the Parties have been provided an opportunity for review and comment as described above, the Draft Investigation Report will be finalized by the Title IX Coordinator, or designated investigator(s), constituting the end of the investigation.
- 3. Final Investigation Report and Recommended Determination (Grievance Process B). At the end of the investigation as set forth above, the designated investigator(s), shall make a recommended determination of whether Sex-Based Harassment as defined by Title IX has occurred using the preponderance of the evidence standard.
  - a. In making this recommendation, the designated investigator shall set forth their rationale for the recommended determination in writing appended to Final Investigation Report. The form of the written rationale is not prescribed but should minimally contain a summary of the analysis used to reach the recommended determination. This should generally include evaluation of the specific elements of the definitions provided in this Policy.
    - i. By way of example, where a Complaint alleges Hostile Environment Harassment, the rationale appended to the Final Investigation Report should set forth any factual findings that establish: 1) that the conduct is sex-based and unwelcome; 2) that based on a totality of the circumstances, the conduct is subjectively and objectively offensive; and 3) that the conduct is so severe or pervasive that it limits or denies a person's ability to participate in or benefit

from UMB's Education Program or Activity. This should include consideration of:

1. The degree to which the conduct affected the Complainant's ability to access UMB's Education Program or Activity;
      2. The type, frequency, and duration of the conduct;
      3. The Parties' ages, roles within UMB's Education Program or Activity, previous interactions, and other factors about each Party that may be Relevant to evaluating the effects of the conduct;
      4. The location of the conduct and the context in which the conduct occurred; and
      5. Other Sex-Based Harassment in UMB's Education Program or Activity.
    - ii. By way of example, where a Complaint alleges the Respondent is engaged in Stalking, the rationale appended to the Final Investigation Report should set forth any factual findings that establish that the Respondent: 1) engaged in a course of conduct; 2) directed at the Complaint; and 3) that would cause a reasonable person to fear for their safety or safety of other or suffer substantial emotional distress.
  - b. The Final Investigation Report including the recommended determination with written rationale will be transmitted to the Title IX Coordinator for review and approval.
    - i. The Title IX Coordinator shall review the Final Investigation Report and recommended Determination for conformity with the requirements set forth above.
    - ii. Where applicable, the Title IX Coordinator may require a designated investigator to modify the Final Investigation Report or written rationale and/or conduct further investigation as necessary to fulfill the obligations of this Policy.
4. Final Determination and Sanctions or Remedies (Grievance Process B). When the Investigation steps described above are complete and the Final Investigation Report including the recommended determination, and written rationale has been transmitted to the Title IX Coordinator, the Title IX Coordinator, or designee, shall make a final determination of whether Sex-Based Harassment as defined by Title IX has occurred using the preponderance of the evidence standard.

- a. If a determination is made that Sex-Based Harassment occurred, the Title IX Coordinator, or designee, shall consult with the appropriate University official(s) (i.e., Respondent's Dean, Vice President, or designee) in deciding the appropriate Sanctions or Remedies, if any, in accordance with the Sanctions or Remedies section below.
  - b. The Title IX Coordinator, or designee, may set forth any additional rationale for the final determination as applicable.
  - c. The Title IX Coordinator, or designee, shall contemporaneously provide the Final Investigation Report, final determination and written rationale, and notice of Sanctions or Remedies to be imposed to the Parties along with a description of the permissible bases for appeal and appeal process as set forth in the Appeals section below.<sup>12</sup>
- iv. Appeals of Final Determinations (Grievance Process A & B). Either the Complainant or Respondent may appeal the final determination by submitting their written statement of appeal to the Provost, or impartial designee.
  - 1. Statement of Appeal. Statements of appeal must be submitted within ten (10) business days of receiving the Final Investigation Report and written determination. Appeals submitted after ten (10) business days may be dismissed. A statement of appeal must state the basis or bases for appeal and it must clearly identify which aspects of the grievance process, Final Investigation Report, or written rationale for determination support the appeal. New factual material not a part of that record will not be considered on appeal unless it represents new evidence that would change the outcome and was not reasonably available when the determination was made.
  - 2. Bases for Appeal. Appeals will only be considered on one or more of the following bases:
    - a. Procedural irregularity that would change the outcome of the determination;
    - b. New evidence that would change the outcome that was not reasonably available when the determination was made; or
    - c. The Title IX Coordinator, or designated Investigator(s), had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or

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<sup>12</sup> In the circumstance where a final determination of Sexual Misconduct involves a Student Complainant or Student Respondent under Grievance Process B, the Student Party may appeal the Sanction to be imposed as required by Md. Code Ann., Educ. § 11-601(d)(3)(v)(6). The Title IX Coordinator, or designee, is responsible for notifying the Student Party of this right to appeal as an additional bases of appeal.

Respondent that would change the outcome of the determination.

3. Narrowly Tailored Review. Appeals are not intended to allow for a new investigation of the matter. Instead, the review will be narrowly tailored to the specific grounds requested in the appeal. In most cases, appeals are confined to a review of the written record and the pertinent documentation.
4. Process for Reviewing Appeals. Upon receipt of a statement of appeal, the Provost, or impartial designee, will:
  - a. Request a copy of the Final Investigation Report, final determination and written rationale from the Title IX Coordinator, or designee.
  - b. Share the statement of appeal with the other Party, who may file a response or submit their own statement of appeal on separate grounds within five business days; and
  - c. Review the appeal.
    - i. The Provost, or impartial designee, will promptly review the statement of appeal, responses, and any associated documentation. Generally, this shall occur within thirty (30) days of receipt of all requested materials.
    - ii. The Provost, or impartial designee, will take one of the following actions:
      1. Dismiss an appeal if not based on a permissible basis for appeal, or if the appeal was not timely filed with the Provost, or impartial designee. In this situation, the Provost, or impartial designee, will inform the Parties of the dismissal of the appeal and the rationale for the dismissal.
      2. Affirm or modify the determination. In this situation, the Provost, or impartial designee, will inform the Parties of the result of the appeal and the rationale for the result.
      3. Return the matter to the Title IX Coordinator, or designated Investigator(s), with instructions to cure a procedural irregularity or to assess the weight and impact of newly discovered Relevant evidence.
5. Curative Actions Prompted by Appeal. If the matter is returned to the Title IX Coordinator, or designated investigator(s), to cure a procedural irregularity or to assess the weight and impact of newly discovered Relevant evidence:
  - a. The Title IX Coordinator, or designated Investigator(s), will:

- i. Maintain the same standards of investigation and review as set forth in the grievance processes.
    - ii. Amend the Final Investigation Report to include:
      - 1. A summary of the newly discovered Relevant evidence and factual findings based on a preponderance of the evidence standard;
      - 2. A description of the steps taken to cure a procedural irregularity; and
      - 3. A written rationale for whether the original determination should be affirmed or altered in whole or in part as a result of the curing of a procedural irregularity or assessment of newly discovered Relevant evidence.
    - iii. Submit the amended Final Investigation Report, amended final determination, and amended written rationale to the Parties and to the Provost, or impartial designee.
  - b. The Provost, or impartial designee, will:
    - i. Allow the Parties five (5) business days to submit any responses directly to the Provost, or impartial designee;
    - ii. Review the amended Final Investigation Report, amended final determination, amended written rationale, and any responses provided by the Parties. Based on this review, the Provost, or impartial designee, will affirm or modify the determination; and
    - iii. Inform the Parties of the result of the appeal and the rationale for the result.
- 6. Curative Actions Not Possible. In the event that the Provost, or impartial designee, determines that a basis for appeal exists which cannot be reasonably cured by the Title IX Coordinator, or designated investigator(s) (e.g., a conflict of interest that would change the outcome of the determination), the Provost, or impartial designee, shall consult with the Chief Accountability Officer and Office of University Counsel to determine which remedy should apply in consideration of the Party's due process rights and the University's interests in promptly and effectively responding to Complaints of Sex Discrimination.
- v. Conclusion of Steps for Adjudicating Title IX Complaints. Once the appeal of a determination is decided and the Provost, or designee, has informed the Parties and Title IX Coordinator, or designee, of the result, the outcome is final; further appeals will not be accepted by UMB and this will conclude the Steps for Adjudicating Title IX Complaints. If no appeal of the determination

is filed, the outcome is final on the date after which the appeals period has passed.

The Title IX Coordinator, or designee, shall take any further actions required by the final determination.

**1. Providing Notifications to Parties:**

- a. Any Sanctions or Remedies applicable to that Party;
- b. The date upon which the determination has been made final;
- c. A statement that Retaliation is prohibited;
- d. A reminder of the privacy requirements set forth in the Privacy Section, above; and
- e. A copy of the amended Final Investigation Report, if applicable and not already provided.

**2. Reevaluation of Supportive Measures:**

- a. Irrespective of the determination, the Title IX Coordinator, or designee, should reevaluate Supportive Measures.
- b. The Title IX Coordinator, or designee, may continue or modify Supportive Measures as deemed necessary and consistent with this Policy and to ensure that Supportive Measures would not otherwise violate any individual's protected rights under federal or state law.
- c. The Title IX Coordinator, or designee, should engage the same process of evaluation as set forth in the Supportive Measures section below.

**3. Providing Notifications to Others, including:**

- a. University official(s) necessary for implementation of Sanctions or Remedies;
- b. University official(s) as appropriate; and
- c. Third parties as mandated by federal and state law, or agreements or Memoranda of Understanding.

## **XI. SANCTIONS OR REMEDIES**

The process for deciding, communicating and implementing Sanctions or Remedies, and information about appealing Sanctions<sup>13</sup> (if applicable) is described in this Section.

- A. Deciding Sanctions or Remedies.** The Title IX Coordinator shall consult with the appropriate University official(s) to decide appropriate Sanctions to impose or appropriate Remedies to implement in order to restore or preserve a Party or other individual's access to a UMB Education Program or Activity after a determination

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<sup>13</sup> Remedies are non-punitive and not subject to appeal.

has been made by a preponderance of the evidence that Sex Discrimination has occurred.

- i. Sanctions. The Title IX Coordinator, or designee, shall consult with and make a recommendation for Sanctions to the Respondent's Dean, Vice President, or designee, who will make a final decision on appropriate Sanctions to be imposed.
  1. Range of Sanctions for Students. Students who have been found responsible, by a preponderance of the evidence, for engaging in Sex Discrimination or Retaliation as defined by Title IX may be subjected to one or more of the following Sanctions:
    - a. Written Reprimand: A formal statement identifying conduct that was found to be a violation of this Policy and a warning that further conduct of a similar nature may result in more severe sanctions.
    - b. Placement on Probationary Status: A formal designation that a Student is on probation.
    - c. Suspension of University Privileges: Specific terms and length of the suspension of University privileges will be articulated and may include, but are not limited to, denial of specified UMB-related social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, exclusion from participation in student leadership roles, and/or suspension from other privileges as deemed appropriate.
    - d. Suspension of Enrollment: Termination of student status for a defined period of time not to exceed two years and/or until specific criteria are met. Students who return from a Suspension of Enrollment may be placed on a Probationary Status as a condition of their re-enrollment.
    - e. Dismissal/Expulsion: Permanent termination of student status. This sanction will be noted permanently on the Student's official transcript.
    - f. No Contact Directive: Requirement that a Student not have any contact with specifically named Complainant(s) or witnesses for a defined period of time.
    - g. Campus Banning: Revocation of rights to be on campus or parts of campus or to attend UMB-sponsored events, consistent with the provisions of Md. Code Ann., Educ. § 26-102.
    - h. Withholding Degree: UMB may withhold a Student's degree for a defined period of time and/or deny a Student participation in commencement activities.
    - i. Revocation of Degree: UMB reserves the right to revoke a degree previously awarded by UMB as a Sanction if the



Student if found responsible for an alleged violation of this Policy.

- j. Transcript Notation: A permanent notation on the Student's official transcript.
- k. Other Actions: In addition to or in place of the Sanctions described above, UMB may assign any other Sanction deemed appropriate (e.g., participating in mandatory education or training).

**2. Range of Sanctions for Employees.** Employees who have been found responsible, by a preponderance of the evidence, for engaging in Sex Discrimination or Retaliation as defined by Title IX may be subjected to one or more of the following Sanctions:

- a. Written Reprimand: A formal statement identifying conduct that was found to be a violation of this Policy and a warning that further conduct of a similar nature may result in more severe sanctions.
- b. Forfeiture of Leave: A requirement that an employee forfeit up to 15 days (8 hours per day) of accrued annual leave
- c. Demotion: Lowering the employee's status, title, and, if appropriate, pay.
- d. Suspension of University Privileges: Specific terms and length of the suspension of University privileges will be articulated and may include, but are not limited to, denial of specified UMB-related social privileges, exclusion from non-work related UMB-sponsored activities, exclusion from designated areas of campus, exclusion from participation in employee leadership roles, and/or suspension from other privileges as deemed appropriate.
- e. Suspension Without Pay: A requirement that an employee not work and not receive pay for a defined period of time equal to one (1) or more full days and generally no more than thirty (30) days.
- f. Termination: The separation of an employee in accordance with applicable UMB policies or procedures. This may include, as appropriate under the circumstances, termination for cause/misconduct, termination with notice, an option for resignation in lieu of termination, ineligibility for rehire by UMB, and/or termination with prejudice.
- g. Campus Banning: Revocation of rights to be on campus or parts of campus or to attend UMB-sponsored events, consistent with the provisions of Md. Code Ann., Educ. § 26-102.

- h. No Contact Directive: Requirement that an employee not have any contact with specifically named Complainant(s) or witnesses for a defined period of time.
      - i. Other Actions: In addition to or in place of the Sanctions described above, UMB may assign any other Sanction deemed appropriate (e.g., participating in mandatory education or training).
    - 3. External Sanctions. 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.
  - ii. Remedies. If the Title IX Coordinator, or designee, makes a decision by a preponderance of the evidence that a Complainant or other individual's equal access to a UMB Education Program was limited or denied by Sex Discrimination, the Title IX Coordinator should consult with appropriate University official(s) to decide upon and implement reasonably available Remedies designed to preserve or restore the Complainant or other individual's access to the UMB Education Program or Activity. Possible Remedies may include, but are not limited to:
    1. Referral to counseling and health services;
    2. Referral to the Employee Assistance Program or Student Counseling Center;
    3. Providing or facilitating education to the community;
    4. Temporary or permanent alteration of housing assignments;
    5. Temporary or permanent, non-punitive, alteration of work arrangements for employees (where also approved by the appropriate University official(s));
    6. Provision of campus safety escorts;
    7. Environmental changes;
    8. Conducting climate surveys;
    9. Provision of reasonable transportation accommodations; or
    10. Reasonable adjustments to academic deadlines, course schedules, etc. (where also approved by the appropriate University official(s)).

**B. Communicating and Implementing Sanctions or Remedies.** The Title IX Coordinator shall communicate Sanctions to be imposed or Remedies to be implemented, if any, as set forth in Grievance Process A or Grievance Process B above.

- i. Timing of Sanctions or Remedies. Disciplinary Sanctions will not be imposed on a Respondent alleged to have engaged in Sex Discrimination or Retaliation unless there is a determination at the conclusion of the grievance process or appeal process that the Respondent is responsible for engaging in Sex Discrimination or Retaliation.
- ii. Notifications. Upon Conclusion of Steps for Adjudicating Title IX Complaints, the Title IX Coordinator shall communicate information about

Sanctions or Remedies as necessary to facilitate implementation and/or as necessary to make any mandatory notifications.

**C. Appeals of Sanctions.** Upon Conclusion of Steps for Adjudicating Title IX Complaints, if a final determination has been made that the Respondent is responsible for Sex Discrimination or Retaliation pursuant to Grievance Process A or Grievance Process B, the Respondent may appeal the Sanctions to be imposed where allowed by separate UMB grievance policies and procedures.

- i. Employee Respondents. UMB Employees may grieve disciplinary actions depending on the rights afforded to them based on their employee status (e.g., Exempt Staff, Non-Exempt Staff, Faculty) and the applicable USM or UMB Appointment, Rank and Tenure Policies, other faculty policies, applicable collective bargaining agreements, or other procedures under state law or USM or UMB policy. Employees may not grieve administrative and/or other remedies that do not constitute formal disciplinary action. For more information, employee Respondents should contact the Title IX Coordinator or Human Resource Services.
- ii. Student Respondents. Rights and processes to appeal disciplinary actions depend on the policies of the applicable School or program. For more information, Student Respondents should contact the Title IX Coordinator or their Student Affairs Dean.
- iii. Student Rights in Sexual Misconduct Matters: In the circumstance where a final determination of Sexual Misconduct involves a Student Complainant or Student Respondent under Grievance Process B, the Student may appeal the Sanction to be imposed as required by Md. Code Ann., Educ. § 11-601(d)(3)(v)(6).
  1. Appeals pursuant to this subsection shall be made at the same time and using the same process set forth in the Appeals section above.
  2. The Title IX Coordinator, or designee, is responsible for notifying Students of this right to appeal Sanctions.

## **XII. SUPPORTIVE MEASURES**

Upon notification of a Complaint of Sex Discrimination, the Title IX Coordinator will offer and coordinate Supportive Measures as deemed reasonably available by the Title IX Coordinator, or designee.

- A. Any request(s) for Supportive Measures should be made to the Title IX Coordinator.
  - i. The Title IX Coordinator, or designee, will consult with the appropriate UMB personnel to determine, coordinate, and implement Supportive Measures with consideration of the operational needs of the unit.
  - ii. Examples of Supportive Measures are provided in Definitions section above.
  - iii. Supportive Measures are not Sanctions.

- B.** Supportive Measures are available to:
  - i.** Complainants after a Complaint has been made; and
  - ii.** Respondents after the initiation of the grievance process.
  
- C.** In some instances, Supportive Measures such as no-contact directives, may extend beyond the conclusion of informal or formal resolution of a Complaint.
  
- D.** Information about Supportive Measures provided to a Party will not be disclosed to persons other than the individual to whom they apply. Supportive Measures of one Party will not be disclosed to the other Party unless necessary to provide the Supportive Measure, restore or preserve the Party's access to the Education Program or Activity, or when an exception applies.
  
- E.** Parties are entitled to timely challenge the decision of the Title IX Coordinator, or designee, to provide, deny, modify, or terminate Supportive Measures applicable to them. Parties may also timely challenge a decision regarding Supportive Measures applicable to them if circumstances change materially.
  - i.** Challenges made pursuant to this Section will be reviewed by an impartial decision-maker (i.e., someone other than the Title IX Coordinator, or designee, who made the challenged decision) who has authority to modify or reverse the decision of the Title IX Coordinator, or designee, if the impartial decision-maker determines that the initial decision to provide, deny, modify, or terminate the Supportive Measures was inconsistent with the definition of Supportive Measures.
  - ii.** In most cases, the Provost shall serve as the impartial decision-maker unless the Provost was otherwise involved in the implementation of challenged decision in which case the Provost shall identify an impartial designee.
  
- F.** Where appropriate, the Title IX Coordinator, or designee, may modify or terminate Supportive Measures at the conclusion of the grievance process or informal resolution process, or may continue Supportive Measures beyond that point.
  
- G.** If the Complainant or Respondent is a Student with a disability, the Title IX Coordinator, or designee, may consult, as appropriate, with the Office of Educational Support and Disability Services ("ESDS") to determine how to comply with Section 504 of the Rehabilitation Act in implementation of Supportive Measures.

### **XIII. OTHER RESPONSIBILITIES AND AUTHORITY OF TITLE IX COORDINATOR**

- A. Absence or Withdrawal of Complaint or Allegations.** In the absence of a Complaint or the withdrawal of any of the allegations in a Complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator, or

designee, has the authority to determine whether to initiate a Complaint of Sex Discrimination or Retaliation. Factors for consideration include:

- i. Whether the Complainant has requested not to proceed with the Complaint;
- ii. The Complainant's reasonable safety concerns regarding initiating a Complaint;
- iii. The risk that additional acts of Sex Discrimination or Retaliation would occur if a Complaint were not initiated;
- iv. The severity of the alleged Sex Discrimination or Retaliation, including whether the Sex Discrimination, if established, would require the removal of the Respondent from campus or imposition of another disciplinary Sanction to end the Sex Discrimination and prevent recurrence;
- v. The age and relationship of the Parties, including whether the Respondent is an employee;
- vi. The scope of the alleged Sex Discrimination or Retaliation, including information suggesting a pattern, ongoing Sex Discrimination or Retaliation, or Sex Discrimination or Retaliation alleged to have impacted multiple individuals;
- vii. The availability of evidence to assist the Title IX Coordinator, Title IX Coordinator's designee, Provost, or Provost's designee, in determining whether Sex Discrimination or Retaliation occurred; and
- viii. Whether UMB could end the alleged Sex Discrimination or Retaliation and prevent its recurrence without initiating the grievance process.

After considering these factors, as well as other relevant factors, if the Title IX Coordinator, or designee, determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other persons, or that the conduct, as alleged, prevents UMB from ensuring equal access on the basis of sex to its Education Program or Activity, the Title IX Coordinator, or designee, may initiate a Complaint. If the Title IX Coordinator, or designee, initiates a Complaint, the Title IX Coordinator, or designee, must notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing Supportive Measures.

The Title IX Coordinator, or designee, need not initiate a Complaint or consider these factors if the Title IX Coordinator, or designee, reasonably determines that the conduct as alleged could not constitute Sex Discrimination or Retaliation. In such circumstances, the Title IX Coordinator, or designee, has the discretion to investigate the conduct under other UMB policies or procedures, or to refer the matter to another appropriate UMB or School department (e.g., Human Resource Services, Student Affairs, etc.).

**B. Ongoing Remedial or Supportive Measures.** Regardless of whether a Complaint is initiated, the Title IX Coordinator, or designee, is authorized to take other

appropriate and effective steps to effectuate Supportive Measures or other remedial measures consistent with this Policy and Title IX that would not otherwise violate any individual's protected rights under federal or state law.

**C. Consolidation of Complaints.** The Title IX Coordinator, or designee, is authorized to consolidate Complaints of Sex Discrimination against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations of Sex Discrimination arise out of the same facts or circumstances.

**D. Student Employees.** When a Complainant alleging Sex-Based Harassment is both a Student and an employee, the Title IX Coordinator will make a fact-specific determination as to whether the requirements of Grievance Process B apply. This determination will include, but is not limited to:

- i. Whether the Parties' primary relationship is employment or education; and
- ii. Whether the alleged conduct occurred while the Student-employee was performing employment-related work.

**E. Equitable Treatment.** The Title IX Coordinator, or designee, is responsible for treating Complainants and Respondents equitably throughout the Title IX grievance process. Equitable treatment includes:

- i. Providing Remedies designed to restore or preserve equal access to UMB's Education Program or Activity to a Complainant where a determination of responsibility for Sex Discrimination or Retaliation has been made against the Respondent, and by using procedures that comply with Title IX when investigating and adjudicating allegations of Sex Discrimination or Retaliation before the imposition of any Sanctions or other actions that are not Supportive Measures against a Respondent;
- ii. Providing an equal opportunity for the Parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence; and
- iii. Applying any provisions, rules, or practices used to investigate and adjudicate Complaints under Title IX equally to both Parties.

**F. Presumption that Respondent is Not Responsible.** UMB is committed to due process. It operates with the presumption that the Respondent is not responsible for the reported Sex Discrimination or Retaliation unless and until the Respondent is determined to be responsible for a Policy violation by a preponderance of the evidence at the conclusion of these Procedures. The Title IX Coordinator, or designee, is responsible for ensuring this presumption is adhered to appropriately.

**G. Emergency Removal.**

- i. At any point in time after receiving a Complaint or employee notification of conduct that may reasonably constitute Sex Discrimination or Retaliation,

the Title IX is authorized to determine that an imminent and serious threat to the health or safety of a Complainant or any Students, employees, or other persons arising from the allegations of Sex Discrimination justifies removal of the Respondent on an emergency basis.

- ii. In such cases, a Violence Risk Assessment (“VRA”) should be conducted by the UMB Behavioral Awareness and Threat Assessment (“BETA”) team. The VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology. The VRA is an individualized safety and risk analysis. It is not an evaluation for an involuntary behavioral health hospitalization, nor is it a psychological or mental health assessment.
- iii. Refusal to cooperate in the VRA may result in a charge of failure to comply within the appropriate Student or employee conduct process.
- iv. Respondents who are removed from a UMB Education Program or Activity under this Section will be provided with notice and an opportunity to challenge the decision immediately following the removal.
- v. For more information, see UMB XI-3.00(A) Behavioral Evaluation and Threat Assessment Policy.

**H. Administrative Leave.** Employee Respondents may be placed on administrative leave from employment responsibilities during the pendency of the grievance process. Such placement will be for non-disciplinary and non-punitive reasons. In consultation with an employee Respondent’s supervisor, the Title IX Coordinator, or designee, is authorized to recommend administrative leave be approved by the President.

- I. Evidence.** Evidentiary evaluations and determinations are the responsibility and authority of the Title IX Coordinator, or designated investigator(s).
  - i. Objective Evaluation of Evidence. The Title IX Coordinator, or designated investigator(s), shall objectively evaluate all Relevant evidence—including both inculpatory and exculpatory evidence. Furthermore, credibility determinations shall not be based on a person’s status as a Complainant, Respondent, or witness.
  - ii. Impermissible Evidence. The Title IX Coordinator, or designated investigator(s), will not elicit, consider, require, rely upon, allow, disclose, access, or otherwise use any of the following as evidence (“Impermissible Evidence”), regardless of whether they are Relevant, unless an exception has been determined by the Title IX Coordinator, or designated investigator(s), to apply:
    - 1. Information protected under a legally recognized privilege or evidence provided to a Confidential Employee, unless the person holding such privilege has voluntarily waived the privilege;

2. Records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the treatment of a Party or witness, unless the Title IX Coordinator obtains that Party's or witness's voluntary, written consent to do so.
3. A Student's history of mental health counseling, treatment, or diagnosis, unless the Student consents.
4. Evidence relating to a Complainant's sexual interests or prior sexual conduct, except the following is permitted:
  - a. Evidence about the Complainant's prior sexual conduct that is offered to prove that someone other than the Respondent committed the alleged conduct; or
  - b. Evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to alleged Sex-Based Harassment. The fact of prior consensual sexual conduct between Complainant and Respondent does not by itself demonstrate or imply that the Complainant's consent occurred in the events alleged.
5. Evidence relating to a Respondent's prior sexual history with an individual other than a Party to the proceedings, except to prove prior sexual misconduct; support a claim that a Respondent has an ulterior motive; or impeach a Respondent's credibility after that Respondent has put the Respondent's own prior sexual conduct at issue.

#### **XIV. DISMISSAL OF COMPLAINTS**

- A. Reasons for Dismissal.** At any point during the Steps for Adjudicating Title IX Complaints, the Title IX Coordinator may dismiss a Complaint for any of the following reasons:
- i. The Title IX Coordinator, or designee, is unable to identify the Respondent after taking reasonable steps to do so;
  - ii. The Respondent is not participating in the UMB Education Program or Activity or is not employed by UMB;
  - iii. The Complainant voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint on behalf of UMB, and the Title IX Coordinator determines that without the Complainant's withdrawn allegations any conduct that remains would not constitute Sex Discrimination, if proven.
  - iv. The Title IX Coordinator determines that the conduct alleged, if proven, would not constitute Sex Discrimination, after taking reasonable steps to clarify the allegations with the Complainant.



**B. Notification of Dismissal.** Upon dismissal, the Title IX Coordinator will promptly notify the Parties of the dismissal, including the basis of dismissal and the Complainant's opportunity to appeal dismissal in accordance with Appeals of Dismissal section below.

- i. If the dismissal occurs before the Respondent has been notified of the allegations, then the Notice of Dismissal will only be provided to the Complainant.
- ii. If the dismissal occurs after the Respondent has been notified of the allegations, then the Notice of Dismissal will be provided contemporaneously to both the Complainant and the Respondent or provided to the Respondent promptly after being provided to the Complainant.

**C. Bases for Appeal of Dismissal.** The following are permitted bases for appeal:

- i. Procedural irregularity that would change the outcome of the dismissal;
- ii. New evidence that would change the outcome of the dismissal that was not reasonably available when the dismissal was made; or
- iii. The Title IX Coordinator, or designated Investigator(s), had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome of the dismissal.

**D. Appeals of Dismissal.** Appeals of dismissals must be submitted to the Provost, or impartial designee, within five (5) business days of receipt of the dismissal. If a dismissal is appealed, the Title IX Coordinator, or designee, must:

- i. Notify the Parties, including providing the Notice of Allegations to the Respondent if not previously notified.
- ii. Implement appeal of dismissal processes equally for the Parties;
- iii. Ensure that the Provost, or impartial designee, has received training and did not participate in the investigation or dismissal;
- iv. Provide the Parties a reasonable and equal opportunity to make a written statement in support of or challenging the outcome; and
- v. Notify the Parties of the result of the appeal of dismissal and the basis for the result.

**E. Post Dismissal Supportive Measures.** Upon dismissal, the Title IX Coordinator, or designee, must offer Supportive Measures to Complainant or Respondent, as appropriate.

**F. Post Dismissal Remedial Measures.** Upon dismissal, the Title IX Coordinator must take other appropriate prompt and effective remedial measures to ensure that Sex Discrimination does not continue or occur within UMB's Education Program or Activity.

## **XV. PROMPT ADJUDICATION OF COMPLAINTS**

The Title IX Coordinator, or designee, will make a good faith effort to complete all stages of the grievance process as promptly as circumstances permit and will communicate regularly with the Parties to update them on the progress and timing of the investigation.

- A. Timeframes of Major Stages of Procedures for Adjudicating Complaints Subject to Title IX.** UMB has established reasonably prompt timeframes of the major stages of the grievance process. Generally, these timeframes are as follows. However, the nature of a particular Complaint, number of witnesses, responsiveness or availability of Parties or witnesses, existence/absence of documentary evidence to be reviewed, and other factors may affect the timeframes:
- i. Preliminary Review – Ten (10) business days
  - ii. Investigation of Complaint (which includes preparation of Draft Investigation Report and providing Parties opportunity to review and comment)
    1. Grievance Process A – Ninety (90) business days
    2. Grievance Process B – One Hundred (100) business days
  - iii. Final Determination (Grievance Process A & B) – Twenty (20) business days
  - iv. Appeals of Final Determination (Grievance Process A & B) – Thirty (30) business days
- B. Delays or Extensions of Timeframes.** The Title IX Coordinator, or designee, has the discretion to permit reasonable delays or extensions of timeframes on a case-by-case basis.

The Title IX Coordinator, or designee, will provide written notice to the Complainant and Respondent of any extension of the timeframe and the reasons for delay.

## **XVI. INFORMAL RESOLUTION PROCESS**

At any time prior to reaching a final determination regarding responsibility, the Title IX Coordinator, or designee, may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication.

To facilitate an informal resolution process, the Title IX Coordinator, or designee:

- A.** Must obtain the voluntary, written consent of all Parties to proceed with the informal resolution process. UMB may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of Complaints of Sex Discrimination.
- B.** May not require the Parties to participate in an informal resolution process.

- C.** Shall provide the Parties a written Notice of Informal Resolution disclosing:
  - i.** The allegations;
  - ii.** The requirements of the informal resolution process, including that at any time prior to the Parties' agreement to a resolution, any Party may withdraw from the informal resolution process and initiate the appropriate grievance process;
  - iii.** That the Parties' agreement to a resolution at the conclusion of the informal resolution process precludes the Parties from initiating or resuming a grievance process arising from the same allegations;
  - iv.** The potential terms that may be requested or offered in an informal resolution agreement, including a notice that the agreement is binding only on the Parties; and
  - v.** What information will be maintained by UMB and how UMB could disclose such information for use in a grievance process, if initiated or resumed.
  
- D.** May not offer or facilitate an informal resolution process to resolve allegations of Sexual Assault or sexual coercion.
  
- E.** May not use the same facilitator for informal resolution to investigate or decide a matter under the appropriate grievance process.
  
- F.** Will maintain the requirement that any person designated to facilitate an informal resolution process must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent; and will be appropriately trained.
  
- G.** Have the discretion to decline to offer an informal resolution:
  - i.** Despite one or more of the Parties' wishes; or
  - ii.** If it is determined by the Title IX Coordinator, or designee, that the alleged conduct would present a future risk of harm to others.

**XVII. STUDENT RIGHTS IN SEXUAL MISCONDUCT MATTERS**

Student Complainants and Student Respondents have certain rights under Maryland law<sup>14</sup> when participating in Grievance Process B for Complaints alleging Sexual Misconduct, including:

- A.** Treatment with dignity, respect, and sensitivity by Institution officials during all phases of the grievance process.
  
- B.** A fair and impartial investigation.

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<sup>14</sup> See Md. Code Ann., Educ. § 11-601.

- C.** Grievance processes and resolutions that are prompt and equitable and provide an opportunity for the Parties to be heard.
  
- D.** Timely written notice of:
  - i.** The reported violation, including the date, time, and location of the alleged violation, and the range of potential Sanctions associated with the alleged violation;
  - ii.** The Party's rights and responsibilities under UMB's policies and procedures and information regarding other civil and criminal options;
  - iii.** The date, time, and location of each meeting or interview that the Party is required or permitted to attend;
  - iv.** A final determination made by the Title IX Coordinator, or designee, regarding whether a Policy violation occurred and the basis for the determination;
  - v.** Any Sanction imposed, as permitted by law; and
  - vi.** The Party's rights to appeal and a description of the appeal process.
  
- E.** Participation in the grievance process, including:
  - i.** Access to the case file and evidence regarding the incident obtained by UMB during the investigation or considered by the Title IX Coordinator, or designee, with personally identifiable or other information redacted as required by applicable law;
  - ii.** The opportunity to be interviewed and/or offer statements to the Title IX Coordinator, or designee;
  - iii.** Submitting evidence, witness lists, and suggested specific questions to be posed to the other Party involved in the grievance process by the Title IX Coordinator, or designated investigator(s);
  - iv.** Providing and reviewing testimony electronically or in a way in which the Parties are not required to be in the physical presence of one another;
  - v.** Reviewing and providing written responses to reports and proposed factual findings; and
  - vi.** Appealing a determination of whether Sexual Misconduct occurred or appealing a Sanction.
  
- F.** Assistance by a licensed attorney, an advocate supervised by an attorney, or a trained advocate throughout the grievance process, including by the attorney or advocate's:
  - i.** Attendance at meetings or interviews with the Party;
  - ii.** Private consultations with the Party during meetings or interviews, except during questioning of the Party during an interview; and
  - iii.** Assistance with the Party's exercise of any right during the grievance process.

- G.** Notwithstanding whether a Student accesses counsel paid for by the Maryland Higher Education Commission (“MHEC”), the presence of no more than two people, including a personal supporter of the Party’s choice, an attorney, or an advocate, at any meeting or interview during the grievance process.
  
- H.** Notice to a Student Party, presented in an appropriate and sensitive format, before the start of the disciplinary proceedings, of:
  - i.** The Student’s right to the assistance of an attorney or an advocate;
  - ii.** The legal service organizations and referral services available to the Student; and
  - iii.** The Student’s right to have a personal supporter of the Student’s choice at any meeting or interview during the grievance process.
  
- I.** Access to counsel paid for by MHEC for a current or former student who makes a Complaint or responds to a Complaint on which a Title IX investigation is initiated, and who was enrolled as a student at UMB at the time of the incident that is the basis of the Complaint, unless the student knowingly and voluntarily chooses not to have counsel, in accordance with COMAR 13B.09.01:
  - i.** A student may select and retain an attorney before the conclusion of the formal Title IX grievance process;
  - ii.** A student may obtain from MHEC, through MHEC’s website, a list of licensed attorneys who have indicated that they will represent such students in Title IX grievance process on a pro bono basis or for reduced legal fees; and
  - iii.** A student’s attorney may seek reimbursement of certain legal costs and fees from MHEC’s Legal Representation Fund for Title IX grievance process, subject to the availability of funding.

**XVIII. RECORDKEEPING**

For seven (7) years, UMB shall maintain records of:

- A.** Each Complaint of Title IX Sex Discrimination, records documenting the grievance process or informal resolution process, and the resulting outcome;
- B.** Records documenting any action taken for each notification the Title IX Coordinator receives of information about conduct that may reasonably constitute Title IX Sex Discrimination; and
- C.** All materials used for Title IX training of Students and employees.