


Appendix 1



University Senate CHARGE

Date:	March 23, 2016
To:	Stacey Locke Chair, Equity, Diversity, and Inclusion (EDI) Committee
From:	Willie Brown Chair, University Senate 
Subject:	Review of Interim University of Maryland Non-Discrimination Policy & Procedures
Senate Document #:	15-16-28
Deadline:	April 11, 2016

The Senate Executive Committee (SEC) requests that the Equity, Diversity, and Inclusion (EDI) Committee review the revised interim University of Maryland Non-Discrimination Policy and Procedures and make recommendations on whether it is appropriate or on needed revisions.

Specifically, we ask that you:

1. Review the interim University of Maryland Non-Discrimination Policy and Procedures ([VI-1.00\[B\]](#)).
2. Review similar policies and procedures for non-discrimination at peer institutions and other Big 10 institutions.
3. Consult with the University's Office of General Counsel on any recommended policy language.
4. If appropriate, recommend whether the interim policy should be revised and submit recommended revisions to the interim policy for Senate consideration.

We ask that you submit your report and recommendations to the Senate Office no later than April 11, 2016. If you have any questions or need assistance, please contact Reka Montfort in the Senate Office at 301-405-5804 or reka@umd.edu.

Attachment



VI-1.00(B) UNIVERSITY OF MARYLAND NON-DISCRIMINATION POLICY AND PROCEDURES

(Approved on an Interim Basis by the President October 1, 2015, amended March 22, 2016)

I. POLICY STATEMENT

The University of Maryland is committed to creating and maintaining an educational, working and living environment that is free from discrimination and harassment. This Policy prohibits discrimination on grounds protected under Federal and Maryland law and Board of Regents policies. University programs, activities and facilities are available to all without regard to race, color, sex¹, gender identity or expression, sexual orientation, marital status, age, national origin, political affiliation, physical or mental disability², religion, protected veteran status, genetic information, or any other legally protected class. Retaliation against any individual who files a complaint, or participates in an investigation, under this Policy is strictly prohibited. In furtherance of the University's commitment to equal opportunity, this Policy and associated procedures are established to address and remedy complaints of discrimination, harassment and retaliation based on a protected class.

The **Office of Civil Rights & Sexual Misconduct (OCRSM)** shall receive all complaints of discrimination and harassment made pursuant to this Policy. Complaints may also be filed online [here](#).

Office of Civil Rights & Sexual Misconduct

University of Maryland
4113 Susquehanna Hall, 4200 Lehigh Road
College Park, MD 20742-5031
E-mail: civilrights@umd.edu
Phone: 301-405-1142 | Fax: 301-405-2837
<http://www.umd.edu/ocrsm/>

II. APPLICABILITY

This policy applies to members of the University community, including students, trainees, faculty, staff, and certain third parties (e.g., visitors, volunteers, applicants for admission or

¹ Complaints based on sexual misconduct will be addressed under the University's Sexual Misconduct Policy VII.60(A) as appropriate. Complaints of discrimination based on sex or gender that do not involve misconduct of a sexual nature will be addressed under this Non-Discrimination Policy.

² The University's policy and procedures for requesting disability accommodations may be found in the VI-1.00(D) University of Maryland Disability and Accessibility Policy and Procedures. Complaints of discrimination on the basis of disability may be made under this Non-Discrimination Policy.

employment, vendors and contractors) while on University property or while participating in University sponsored activities who either carry out discrimination or are subject to it.

This policy applies to discrimination, harassment, or retaliation:

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

III. DEFINITIONS

“Discrimination” is unequal treatment based on a legally protected status that is sufficiently serious to unreasonably interfere with or limit an individual’s opportunity to participate in or benefit from a University program or activity, or that otherwise adversely affects a term or condition of the individual’s employment or education.

“Harassment” is a form of discrimination (as defined above) that encompasses unwelcome conduct based on a person’s protected status. Harassment is conduct that negatively affects the particular individual and also would negatively affect a reasonable person under the same circumstances. Harassment in violation of this Policy depends on the totality of the circumstances, including the nature, frequency and duration of the conduct in question, the location and context in which it occurs, and the status of the individuals involved. Harassing behaviors may include, but are not limited to, the following, when based on a person’s protected status:

- Conduct, whether verbal, physical, written, graphic, or electronic that threatens, intimidates, offends, belittles, denigrates, or shows an aversion toward an individual or group;
- Epithets, slurs, or negative stereotyping, jokes, or nicknames;
- Written, printed or graphic material that contains offensive, denigrating, or demeaning comments or pictures; and
- The display of offensive, denigrating or demeaning objects, e-mails, text messages or cell phone pictures.

“Retaliation” refers to action that is taken against an individual because she/he reported discrimination, filed a complaint of discrimination, or participated in an investigation or proceeding concerning a discrimination complaint.

IV. COMPLAINT PROCEDURES

Generally, a complaint filed under another University Policy or Maryland statute cannot also be addressed under this Policy. Students, staff and faculty must choose between the different complaint processes available to them.

A. Reporting

Individuals who experience violations of this Policy are encouraged to promptly file a complaint with OCRSM or bring it directly to the attention of their supervisor.

Supervisors, faculty and University administrators who receive or become aware of a complaint of conduct in violation of this Policy are encouraged to report it to the OCRSM. This does not apply to confidential resources on campus, such as the University Counseling Center, Health Center, Mental Health Services and University Chaplains.

B. Timeliness

Complaints must be made within ninety (90) business days of the incident(s). The OCRSM may waive the time limit upon a showing of good cause.

C. Initial Assessment

Written complaints are encouraged, but not required. If a verbal complaint is made, OCRSM will prepare a written statement of the allegations and the Complainant will be required to acknowledge its accuracy in writing. The OCRSM will acknowledge receipt of the complaint by sending a notification letter or contacting the Complainant directly within five (5) business days of receipt. The OCRSM will then conduct an initial assessment of the complaint to determine whether the complaint should be investigated, and will consider the Complainant's request that the complaint be investigated or not investigated. OCRSM will then notify the complainant whether:

- The complaint is appropriately filed with the OCRSM and OCRSM has jurisdiction over the alleged conduct and the Respondent;
- The complaint has previously been filed under another University policy or Maryland statute;
- The complaint is suitable for alternative resolution;
- The allegations, if true, would constitute a Policy violation.

If it is determined the complaint is not appropriately filed with the OCRSM, the Complainant will be informed of the reason.

D. Alternative Resolution Process

When determined appropriate by OCRSM, the Complainant may elect to resolve a complaint through alternative resolution. The purpose of alternative resolution is to resolve the complaint by conference and conciliation. The OCRSM will notify and advise supervisors and other administrators, as appropriate, of the complaint and efforts by the parties to proceed with alternative resolution. The OCRSM shall document efforts to resolve the complaint and whether or not those efforts were successful. When alternative resolution is successful, the OCRSM shall summarize the resolution in

writing, have it signed by the parties, and provide signed copies to the respective parties and supervisors and administrators, as appropriate. OCRSM will also monitor implementation of the resolution agreement and/or close the case. When alternative resolution does not succeed within forty-five (45) business days of the date the complaint is filed, OCRSM will cease that process and begin the investigation process.

E. Investigation

When the Initial Assessment or a failure of the Alternative Resolution process results in a determination that OCRSM will investigate the complaint, OCRSM shall advise the Complainant and Respondent of their rights under this Policy, including the following:

- Both parties have a right to an impartial investigation;
- Both parties have a right to produce relevant documents, witnesses and other material they would like the investigation to include; and
- Both parties may have an advisor of their choice present to provide advice during the investigative interview; however, the advisor may not speak or act for the party.

The OCRSM will then assign an investigator³ to conduct an impartial investigation of the complaint. The investigator will interview the Complainant and the Respondent and any other available relevant witnesses, and review available relevant documents.

1. Standard of Review

In making the determination of whether a Policy violation has occurred, the standard of review is “preponderance of the evidence,” which means it is more likely than not that a Policy violation occurred.

2. Expectation of Cooperation

Absent good cause, all parties and identified witnesses shall cooperate during the investigation by being available during reasonable business hours to discuss the complaint and by making available any relevant information requested by the investigator.

3. Investigation Timeline

The OCRSM seeks to complete an investigation within sixty (60) business days and may extend the time frames set forth in this Policy for good cause. Exceptions to this timeframe may vary depending on the complexity of the investigation, access to relevant parties, and the severity and extent of the alleged discrimination.

4. False Information

Anyone who knowingly files a false complaint under this Policy or who knowingly provides false information to the OCRSM during an investigation will be subject to appropriate disciplinary action.

³ An investigator in the OCRSM, for purposes of state employment regulations, is also considered to be the Fair Practices Officer.

5. Written Investigation Report and Findings

The OCRSM shall complete a written report of its investigation, including a summary of the allegations, evidence reviewed and witness statements, findings of material fact and an analysis of those facts, and a conclusion stating whether the Policy was violated, based on the preponderance of evidence standard. The OCRSM then will issue a *Notice of Findings* and/or provide a copy of the investigation report to the parties and to the appropriate supervisors or department/unit heads, or the Office of Student Conduct, depending on the status of the parties. Copies of the investigation report may be redacted to comply with applicable law.

V. APPEAL

The Complainant and/or Respondent may appeal the investigation finding within five (5) business days of the date of receipt of the *Notice of Findings* by submitting to the OCRSM at civilrights@umd.edu a written statement of their intent to appeal and the stated grounds. The scope of the appeal is limited to the grounds set forth below. Mere dissatisfaction with the finding is not a valid basis for appeal. If an appeal is received by the OCRSM, the other party will be notified and given five (5) business days from the date of receipt of that notice to respond by submitting a written statement to the OCRSM at civilrights@umd.edu. All appeals and responses shall include the case name, number, and the party's name and contact information. Appeals filed by more than one party will be considered together in one appeal review process. All appeal documents submitted by a party will be shared with the other party.

If neither party submits an appeal, the decision will be considered final five (5) business days after the last date either party received the *Notice of Findings*. Appeals submitted after five (5) business days shall be denied, except upon a showing of good cause.

A. Grounds for Appeal

Either party may appeal the Finding only on the following grounds:

1. Substantial Procedural Error

Procedural errors or errors in interpretation of University policy were so substantial as to effectively deny a Complainant or Respondent notice or a fair opportunity to be heard.

2. New Evidence

New relevant, material evidence that a reasonably diligent person could not have discovered prior to the issuance of the *Notice of Findings* has become available.

B. Review

The appealing party has the burden of proof, and the standard of proof is preponderance of the evidence. Appeals are not intended to allow for a review of the entire investigation, with the exception of new evidence, as referenced above. The appellate review will be based on the written record; parties are not entitled to a hearing or meeting with the reviewing administrator or designee.

Appeals will be reviewed in accordance with the Respondent's status as listed below:

- Appeals involving a Staff Respondent shall be reviewed by the Vice President for Administration & Finance or designee;
- Appeals involving a Faculty Respondent shall be reviewed by the Senior Vice President and Provost or designee;
- Appeals involving a Student Respondent shall be reviewed by the Vice President for Student Affairs or designee;
- Appeals that do not directly involve a faculty, staff or student Respondent shall be reviewed by the Vice President for Administration & Finance or designee.

C. Outcome

Upon receipt of the appeal and response, the OCRSM will forward them to the respective Vice President's Office. Within five (5) business days, the Vice President will issue a written determination stating whether the Appeal was granted or denied, including a summary of its rationale (the "Appeal Outcome"). The Appeal Outcome shall either:

- Affirm the Finding,
- Overturn and Reverse Finding, or
- Send the Case Back to the Special Investigator with specific directions to reconsider the Finding.

The decision of the Vice President or designee as set forth in the Appeal Outcome shall be final. The Vice President shall forward a copy of the Appeal Outcome to the OCRSM via email to civilrights@umd.edu. The OCRSM will forward a copy of the Appeal Outcome to the parties and respective supervisor/unit head/Department Chair or Dean/Director of Student Conduct as soon as possible.

VI. RECOMMENDATIONS FOR CORRECTIVE ACTION

The OCRSM may provide the appropriate Vice President, Supervisor, and Department Head/Dean with a *Recommendation for Corrective Action*. The final decision for determining and implementing any necessary corrective action shall remain the responsibility of the appropriate Vice President or designee. The Vice President or designee will notify the OCRSM within ten (10) business days of any corrective action that has been implemented.

The OCRSM is responsible for monitoring efforts to ensure that any ongoing violations of the Policy cease. In the event corrective action requires specific anti-discrimination training not readily available to the parties, the OCRSM will work with the supervisor and/or department head to ensure training occurs as soon as feasible.

VII. DISCIPLINARY ACTION

A. Students

With respect to Student Respondents, the Director of the Office of Student Conduct (OSC) in accordance with the provisions of the Student Code of Conduct is responsible for imposing disciplinary action.

1. Discipline that impacts a student's status with the University includes: expulsion, suspension for a definite or indefinite period and disciplinary probation for a definite or indefinite period. Expulsion, suspension and disciplinary probation will be noted on a student's transcript. Disciplinary suspensions and expulsions are subject to the approval of the Vice President for Student Affairs.
2. Discipline that does not impact a student's status with the University includes but is not limited to: educational requirements, "no contact" orders, housing restrictions, community service and disciplinary reprimand. Failure to comply with any of the sanctions listed above may result in further disciplinary action that could impact a student's disciplinary status with the University.

The OCRSM may provide other remedies, in consultation with the OSC, as appropriate. These remedies will identify reasonable long-term or permanent remedies to address the effects of the conduct on the Complainant, restore the Complainant's safety and well-being and maximize the Complainant's educational and employment opportunities. Remedies may also be identified to address the effects of the conduct on the University community.

Students may appeal discipline imposed as a result of a violation of this Policy in accordance with the Student Code of Conduct.

B. Staff

With respect to Staff Respondents, any disciplinary action or corrective measures will be imposed by the appropriate supervisor and unit head, in consultation with the Assistant Vice President of Human Resources, the Director of the OCRSM and other relevant administrators, as needed. This may include the following:

- Unit transfers;
- Reassignment of duties;
- Mandatory training;
- Oral reminders;
- Written reminders/Letters of reprimand;
- Suspension without Pay;
- Suspension Pending Charges of Removal; and
- Termination.

Staff may grieve discipline imposed as a result of a violation of this Policy in accordance with their respective grievance rights.

C. Faculty

With respect to Faculty Respondents, disciplinary action or corrective measures will be imposed by the appropriate supervisor and unit head, in consultation with the Office of the Senior Vice President and Provost, the Director of the OCRSM and other relevant administrators, as needed. This may include the following:

- Reassignment of duties;
- Mandatory training;
- Oral reminders;
- Written reminders/Letters of reprimand;
- Suspension with or without Pay;
- Termination.

Faculty may grieve discipline imposed as a result of a violation of this Policy in accordance with their respective grievance rights.

D. Records Retention

The OCRSM will maintain the records relating to the investigation. The respective unit responsible for issuing any discipline will maintain any disciplinary records in accordance with the University's records retention schedule. The respective unit shall also provide a copy of the disciplinary records to the OCRSM.

VIII. GOVERNMENT AGENCIES THAT ADDRESS DISCRIMINATION COMPLAINTS

Filing an employment discrimination complaint under this Policy or an alternative campus procedure does not preclude an employee from filing a complaint with the Maryland Commission on Civil Rights, the Equal Employment Opportunity Commission, or the Office for Civil Rights of the U.S. Department of Education.

Complainants who wish to file discrimination complaints that are not connected with the official functions of the University or not falling within the scope of this Policy, will be referred to appropriate University, County, State or Federal agencies by the OCRSM.

Office for Civil Rights U.S. Department of Education

Philadelphia Office (Regional Office for Maryland)

The Wanamaker Building 100 Penn Square East,

Suite 515

Philadelphia, PA 19107-3323

Phone: 215-656-8541

FAX: 215-656-8605

TDD: 800-877-8339

Email: OCR.Philadelphia@ed.gov

Website: <http://www2.ed.gov/about/offices/list/ocr/index.html>

Maryland Commission on Civil Rights

Phone: 410-767-8600

Website: <http://mccr.maryland.gov/>

Equal Employment Opportunity Commission

Phone: 800-669-4000

TTY: 800-669-6820

Website: <https://egov.eeoc.gov/eas/>

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

Replacement for:

Policy VI-1.00(B) University of Maryland Code on Equity, Diversity and Inclusion

Appendix 2

Non-Discrimination and Disability Accessibility Statements and Policies Peer Institution Research

University of Illinois at Urbana-Champaign

[University of Illinois at Urbana-Champaign Non-Discrimination Statement](#)

[Policy and Procedures for Addressing Discrimination and Harassment at the University of Illinois at Urbana-Champaign](#)

[Reasonable Accommodations Under the Americans with Disabilities Act \(ADA\)](#)

Indiana University

[Non-Discrimination Policy](#)

[Non-Discrimination/Equal Opportunity/Affirmative Action](#)

[University Non-Discrimination Policies](#)

[Americans with Disabilities Act \(ADA\) Policy](#)

University of Iowa

[Nondiscrimination Statement](#)

[Accessibility Statement](#)

[Disability Protection Policy and Accessibility Statement](#)

University of Michigan

[Discrimination and Harassment](#) (the website says that this applies to faculty and staff)

[The University of Michigan Procedural Guidelines for Handling Discrimination and Harassment Complaints](#)

[Nondiscrimination Policy Notice](#) (includes links to policies and procedures- some listed below)

[EEO Affirmative Action Policy for Individuals with Disabilities](#)

[Non-discrimination](#)

[Preventing Discrimination Based on Sexual Orientation](#)

Michigan State University

[Anti-Discrimination Policy](#) and [ADP Users Manual](#)

[Notice of Non-Discrimination](#)

[Anti-Discrimination Policy/Relationship Violence & Sexual Misconduct Policy Student Conduct Review Panel Procedures \(applies to cases filed by OIE with the Department of Student Life on 9/2/15 and after\)](#)

[Office of Institutional Equity Complaint Procedures](#)

[Discrimination/Harassment Formal Complaint Form](#)

Reasonable Accommodations Policy for University Applicants and Employees (see PDF)

[Resource Center for Persons with Disabilities](#)- various documents available

University of Minnesota- Twin Cities

[Discrimination Prohibition](#)

[Discrimination Complaint Information](#)

[Minnesota State Colleges and Universities Equal Opportunity and Nondiscrimination in Employment and Education](#)

[ADA Compliance Policy](#)

University of Nebraska- Lincoln

[Discrimination and Harassment Policies](#)

[Americans with Disabilities Act and Section 504 Grievance Procedure](#)

[Intake Form](#)

[Notice of Nondiscrimination Policy](#)

Northwestern University

[Policy on Discrimination and Harassment](#)

[Non-Discrimination Statement](#)

[Discrimination and Harassment Complaints](#) (procedures)

[Reasonable Accommodation Policy](#) (employees)

[AccessibleNU](#)- no official policy, but has a list of core mission and values

[Laws Pertaining to Accommodations](#)

[Documentation Guidelines](#)

[Eligibility for Services](#)

Ohio State University

[Nondiscrimination Notice](#)

[Affirmative Action, Equal Employment Opportunity & Non-Discrimination/Harassment, 1.10](#)

[Discrimination and Harassment Complaint](#)

[Reasonable Accommodation](#)

[Equal Employment for Individuals with Disabilities](#)

[Access for Individuals with Disabilities](#)

Pennsylvania State University

[Documentation Guidelines](#) (disabilities)

[Accessibility of Penn State Web Pages](#)

[University Faculty Senate Policy 43-00 Syllabus](#) (with syllabus disability statement)

[Policy AD85- Discrimination, Harassment, Sexual Harassment, and Related Inappropriate Conduct](#)

Purdue University

[Nondiscrimination Policy Statement](#)

[Reasonable Accommodation Process](#) and [Reasonable Accommodation Request Form](#)

[Student Success at Purdue- Accommodations and Services](#)

[Student Disability Grievance Procedures](#)

University of Wisconsin- Madison

[Statement of Non-Discrimination](#)

[Classified Staff Disability Accommodation Policy](#) and [Request Form](#)

[Academic Staff Disability Accommodation Policy](#) and [Request Form](#)

[Faculty Disability Accommodation Policy](#) and [Request Form](#)

[ADA Accommodations Notice](#)

[Student Disability Accommodations Request](#)

[UW-Madison Internal ADA Accommodation Requests and Appeal/Grievance Procedures](#)

[UW-Madison ADA Grievance Procedure](#)

Rutgers University

[Policy Prohibiting Discrimination and Harassment](#) and [Complaint Process](#)

[Reasonable Accommodations \(Students\)](#)

[Grievance Procedure](#)

University of California, Berkeley

[Nondiscrimination Policy](#)

University of California System Policy- [Guidelines Applying to Nondiscrimination on the Basis of Disability](#) and [Request Services](#)

University of California, Los Angeles

Same disability guidelines apply as above.

[Student Grievance Procedures](#)

[Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment](#) (UC System Policy)

[ADA/504 Compliance Office Mission Statement](#)

University of North Carolina, Chapel Hill

[Policy Statement on Nondiscrimination](#)

[University Nondiscrimination Policies](#)

For [Students, Employees, and Applicants](#)

For [Visitors and Program Participants](#)

[Reasonable Accommodations in Employment](#)

[Accessibility Resources & Service Policy Page](#)

Appendix 3

VI-1.00(B) UNIVERSITY OF MARYLAND CODE ON EQUITY, DIVERSITY,
AND INCLUSION

Effective Date October 18, 1976; Revised
April 6, 1998; Approved by President,
May 6, 1998; Technical Change March 15, 2010;
Technical Changes September 17, 2010; Technical
Amendments July 18, 2012

ARTICLE I. PURPOSE

- A. The University of Maryland, College Park, affirms its commitments to a policy of eliminating discrimination on the basis of race, color, creed, sex, gender identity or expression, sexual orientation, marital status, personal appearance, age, national origin, political affiliation, physical or mental disability, or on the basis of the exercise of rights secured by the First Amendment of the United States Constitution. This Code is established to prevent or eradicate such discrimination in accordance with due process within the Campus community. In doing so, the Campus recognizes that it must strive actively and creatively to build a community in which opportunity is equalized.
- B. Accordingly, the College Park Senate of the University of Maryland establishes The Code on Equity, Diversity, and Inclusion to:
1. prohibit discrimination as defined in this document within the Campus community both by educational programs and, to the extent specified herein, by a formal grievance procedure;
 2. establish the responsibilities of the Senate Committee on Equity, Diversity, and Inclusion.
 3. establish the responsibilities of the Office of Diversity and Inclusion in connection with this Code;
 4. establish mediation and grievance vehicles within the units and colleges of the Campus, in conformity with the Campus Affirmative Action Plan;
 5. establish the responsibilities of Equal Education and Employment Opportunity (EEEE) Officers.

- C. Every effort will be made to make students and potential students, employees and potential employees, faculty members and potential faculty members aware of the opportunities that the Campus provides for every individual to develop and utilize his or her talents and skills. It is the intent of the Campus to enhance among its students and employees respect by each person for that person's own race, ethnic background, sex, gender identity or expression, or sexual orientation, as well as appreciation and respect for the race, ethnic background, sex, or sexual orientation of other individuals.

- D. Development of a positive and productive atmosphere of inclusion on the Campus shall be encouraged through effective dialogue and broadening of communications channels. The Senate Committee on Equity, Diversity, and Inclusion and the Office of Diversity and Inclusion shall provide support and assistance, as authorized, to any individual or group deemed by them to have a positive probable impact in working toward increased understanding among all individuals and groups on the Campus.

- E. The Senate Committee on Equity, Diversity, and Inclusion shall advise the Office of Diversity and Inclusion in recommending policies which fulfill the provisions of this Code. In particular:
 - 1. The Senate Committee on Equity, Diversity, and Inclusion shall be a general standing committee of the College Park Senate.

 - 2. The purpose of the Senate Committee on Equity, Diversity, and Inclusion shall be to foster better human interaction among all individuals and groups on the Campus, to advise in the development of positive and creative human relations programs, to advise in the prevention and eradication of all forms of discrimination prohibited by this Code, and to make regular assessments of the state of human relations within the purview of this Campus.

 - 3. The functions of the Senate Committee on Equity, Diversity, and Inclusion may include but are not limited to: requesting the Office of Diversity and Inclusion to conduct investigations of complaints of discrimination because of race, color, creed, sex, gender identity or expression, sexual orientation,

marital status, personal appearance, age, national origin, political affiliation, physical or mental disability, or on the basis of the exercise of rights secured by the First Amendment of the United States Constitution; providing an "open forum" for effective dialogue among all segments of the Campus community; recommending to appropriate Campus bodies educational programs and activities to promote equal rights and understanding; periodically reviewing such programs and activities; initiating studies of Campus-sponsored or recognized programs and activities to determine how improvements can be made in respect to human relations; continually reviewing progress toward these ends and making such further recommendations as experience may show to be needed; and participating to the extent set forth herein in formal grievance actions.

- F. There shall be an Office of Diversity and Inclusion directly responsible to the President. This Office shall plan, develop, give direction to and coordinate the overall Campus effort to prevent and eliminate discrimination based on race, color, creed, sex, gender identity or expression, sexual orientation, marital status, personal appearance, age, national origin, political affiliation, physical or mental disability, or on the basis of the exercise of rights secured by the First Amendment of the United States Constitution, in all areas of Campus life (this overall effort is referred to herein as Diversity and Inclusion Programs). The Office shall represent, and have direct access to, the President, and shall cooperate with the Senate Committee on Equity, Diversity, and Inclusion on substantive matters concerning human relations. The Office shall assist and coordinate the activities of the Equal Education and Employment Opportunity (EEEE) Officers and the Equity Administrators representing the various units of the Campus.

The duties and responsibilities of the Office of Diversity and Inclusion shall include but not be limited to the following: working with Vice Presidents, Deans, Directors and Department Chairs to ensure full compliance, in spirit as well as in letter, with laws relating to discrimination and with the Campus Code on Equity, Diversity, and Inclusion; advising Campus officers in their effort to assist personnel to recognize and take advantage of career opportunities within the Campus; working with appropriate offices in the surrounding community on such issues as off-campus housing practices affecting Campus students and employees,

transportation, etc.; recommending to the Off-Campus Housing Office removal from or reinstatement upon lists of off-campus housing, so as to ensure that listed housing is available on a nondiscriminatory basis. (N.B. any final action taken by the University shall be preceded by proper notice to the property owner involved, and an opportunity to be heard); conducting reviews of compliance with the Campus Affirmative Action Plan; initiating and carrying out programs for the elimination and prevention of racism and sexism on Campus; distributing this Code and informing the Campus community of the interpretations of its provisions; sending periodic reports to the President and to the Senate Committee on Equity, Diversity, and Inclusion concerning the Diversity and Inclusion Programs; and participating to the extent set forth herein in formal grievance actions.

- G. For each of the units and colleges of the Campus, the Office of Administrative Affairs, the Office of University Relations, and the Office of Student Affairs, there shall be an Equity Administrator, who is designated in accordance with the Affirmative Action Plan and who has the duties specified by the Campus Affirmative Action Plan and like duties with respect to the forms of discrimination prohibited by this Code.

ARTICLE II. COVERAGE

A. Kinds of Discrimination Prohibited:

1. Discrimination in employment, job placement, promotion, or other economic benefits on the basis of race, color, creed, sex, gender identity or expression, sexual orientation, marital status, personal appearance, age, national origin, political affiliation, physical or mental disability, or on the basis of the exercise of rights secured by the First Amendment of the United States Constitution.
2. Discrimination in criteria of eligibility for access to residence, or for admission to and otherwise in relation to educational, athletic, social, cultural or other activities of the Campus because of race, color, creed, sex, gender identity or expression, sexual orientation, marital status, personal appearance, age, national origin, political affiliation, physical or mental disability, or on the basis of the exercise of rights secured by the First Amendment of the United States

Constitution.

B. For the purposes of this Code:

1. "Personal appearance" means the outward appearance of any person, irrespective of sex, with regard to bodily condition or characteristics, manner or style of dress, and manner or style of personal grooming, including, but not limited to, hair style and beards. It shall not relate, however, to the requirement of cleanliness, uniforms, or prescribed standards, when uniformly applied for admittance to a campus facility, or when uniformly applied to a class of employees, or when such bodily conditions or characteristics, or manner or style of dress or personal grooming presents a danger to the health, welfare or safety of any individual.
2. "Sexual orientation" means the identification, perception, or status of an individual as to homosexuality, heterosexuality, or bisexuality.
3. "Gender identity or expression" is defined as a person's actual or perceived gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the person's gender at birth.

C. This Code shall apply to the Campus community. The term "Campus community" is limited to Campus students, faculty, and staff; and to departments, committees, offices and organizations under the supervision and control of the Campus administration.

D. Exceptions

1. The enforcement of Federal, State or County laws and regulations does not constitute prohibited discrimination for purposes of this Code. Separate housing or other facilities for men and women, separate athletic teams when required by athletic conference regulations and political, religious and ethnic/cultural clubs are not prohibited.
2. Discrimination is not prohibited where based on a bona fide job qualification or a qualification required for

the fulfillment of bona fide educational or other institutional goals. Complaints concerning the legitimacy of such qualifications may be the subject of grievance actions.

3. The provisions of this Code shall not apply to potential students or potential employees of the University. However, applicants for admission or employment who believe they have been discriminated against by any part of the Campus community may convey such belief together with all relevant facts to the Office of Diversity and Inclusion for informational purposes.
 4. The grievance procedures under this Code shall not apply to judgments concerning academic performance of students (e.g., grades, dissertation defenses), pending further study and action by the College Park Senate and University administration.
 5. The Campus, with the advice and approval of the Attorney General's Office, shall review on a continuing basis all new laws and regulations which apply to this Campus to determine if any shall require changes in the coverage or exceptions to coverage of this Code.
- E. This Code shall apply to the Campus community in relation to, but not only to, the following:
1. All educational, athletic, cultural and social activities occurring on the Campus or in another area under its jurisdiction;
 2. All services rendered by the Campus to students, faculty and staff, such as job placement and job recruitment programs and off-campus listings of housing;
 3. University-sponsored programs occurring off campus, including cooperative programs, adult education, athletic events, and any regularly scheduled classes;
 4. Housing supplied, regulated, or recommended by the Campus for students, staff and visitors, including fraternities and sororities;
 5. Employment relations between the Campus and all of its employees, including matters of promotion in academic rank, academic salary and termination of faculty status,

as limited in Article III.M.

ARTICLE III. EQUITY, DIVERSITY, AND INCLUSION ENFORCEMENT
PROCEDURES

- A. In order to identify policies or practices which may reflect discrimination, the Senate Committee on Equity, Diversity, and Inclusion may request the Office of Diversity and Inclusion to conduct periodic review of the operation of any unit of the Campus. Units shall provide the information necessary for carrying out such reviews. This information shall be submitted through the President's Office. Any such review under the authority granted in this statement of policy shall be undertaken only after specific authorization of the President. In the event that the President fails to authorize an investigation within a reasonable time of the request by the Senate Committee on Equity, Diversity, and Inclusion, the Chair of the Committee shall report that fact, together with reasons as he/she may have received from the President concerning the matter, to the Senate.
- B. The Office of Diversity and Inclusion, on its own motion, shall identify policies, practices or patterns of behavior which may reflect discrimination prohibited by this Code or which may conflict with any other Campus policy concerning equity, diversity, and inclusion or with the Campus Affirmative Action Plan, and shall call these to the attention of the appropriate officials of the unit involved and recommend appropriate action. Those subject to allegations of discrimination shall be afforded all the protection of due process. The Office shall endeavor by negotiation to eliminate the alleged discrimination. Where such efforts fail, the Office may on its own motion report the matter to the President and to the Senate Committee on Equity, Diversity, and Inclusion. Documentation of the recommendations by the Office in all such cases shall be maintained on file by the Office.
- C. To the maximum extent consistent with the purposes of this Code, the confidentiality of personal papers and other records and the principle of privileged communication shall be respected by all persons involved in the enforcement procedures of this Code. Nothing in this Code shall be construed so as to conflict with the requirements of Article 76A of the Maryland Annotated Code. Persons giving information in connection with the procedures described in this Code shall be advised by the person receiving such

information of the limits of confidentiality which may properly be observed in Code procedures and that all documents may be subject to subpoena in subsequent administrative or judicial proceedings.

- D. Any member of the Campus community who believes that he or she has been or is being discriminated against in ways prohibited by this Code may consult informally and confidentially with the unit EEO Officer and/or the Equity Administrator and/or the Office of Diversity and Inclusion prior to filing a formal complaint.
- E. The Office of Diversity and Inclusion shall receive formal complaints from any member or group within the Campus community claiming to be aggrieved by alleged discrimination prohibited by this Code and/or any other Campus document or policy relating to equity, diversity, and inclusion practices. Such complaints should give in writing the names of complainant(s) and respondent(s) and the time, the place, and a specific description of the alleged discrimination. Complaints shall be submitted to the Office of Diversity and Inclusion, or else to the unit EEO Officer or the Equity Administrator. Complaints must be submitted within ninety (90) days of the alleged discrimination act(s), or within ninety (90) days of the first date by which the complainant reasonably has knowledge thereof. Complaints not submitted directly to the Office of Diversity and Inclusion shall be forwarded to the Office of Diversity and Inclusion within five (5) working days of their receipt. Copies of the complaint shall be forwarded by the Office of Diversity and Inclusion to the respondent and to the appropriate unit Chair or Director, Dean, or Vice President.
- F. Complainants under this Code shall be required, as a condition precedent, to waive any alternative Campus administrative procedure that may then be available. A complaint which has been heard under some alternative Campus procedure cannot subsequently be heard under the procedure of this Code. In the case of a complaint heard under the Non-Exempt Employees Grievance Procedure, this restriction shall apply only when the complaint has entered Step II of that procedure.
- G. The Office of Diversity and Inclusion and/or the Equity Administrator shall ensure that each complainant is informed of his or her right to file the complaint with the appropriate State and Federal agencies. Forms for complaints

to State and Federal agencies will be provided or the complainant will be informed where they are available.

- H. All complaints of discrimination which are not connected with the official functions of the Campus or not falling within the scope of discrimination prohibited by this Code shall be referred to the appropriate Campus, Municipal, County, State, or Federal agencies by the Office of Diversity and Inclusion.
- I. After a complaint has been filed, the Office of Diversity and Inclusion shall promptly undertake an informal investigation in order to make a preliminary determination as to whether or not the subject matter of the complaint falls within the Code, and whether or not there is probable cause for the complaint. This finding shall be reported to the complainant, the respondent, the President and the Chair of the Senate Committee on Equity, Diversity, and Inclusion. The burden of proof in this investigation and throughout these enforcement procedures rests with the complainant.
- J. If the finding is that there is not probable cause to believe that discrimination has been or is being committed within the scope of this Code, the Office of Diversity and Inclusion may dismiss the complaint. Such dismissal shall be reported to the complainant, the respondent, the President and the Chair of the Senate Committee on Equity, Diversity, and Inclusion. The complainant in such a case may appeal the dismissal of the case to the Senate Committee on Equity, Diversity, and Inclusion, which may direct that an Equity, Diversity, and Inclusion Grievance Committee (formerly known as Human Relations Grievance Committee; referred to herein as Grievance Committee) conduct a grievance hearing according to the procedures set forth herein, if in the judgment of the Senate Committee on Equity, Diversity, and Inclusion there is probable cause to believe that discrimination has been or is being committed within the scope of this Code. The Senate Committee on Equity, Diversity, and Inclusion shall have access to the complaint file for this purpose. A record of its deliberations shall be placed in the file according to the procedures established by the Office of Diversity and Inclusion. If the Committee finds no probable cause, it may dismiss the complaint and report such dismissal to the complainant, the respondent, and the President.
- K. If the finding is that there is probable cause to believe that discrimination has been or is being committed within the scope of this Code, the Office of Diversity and Inclusion

shall endeavor to eliminate the alleged discrimination by conference, conciliation and persuasion. If by this process, an agreement is reached for elimination of the alleged discrimination, the agreement shall be reduced to writing and signed by the respondent, the complainant and the Director of the Office of Diversity and Inclusion. The agreement shall be available to the President, the Equity Administrator, and to the Chair of the Senate Committee on Equity, Diversity, and Inclusion upon request.

- L. If a finding of probable cause is made but no mutually satisfactory solution can be reached under the procedures outlined in Section K immediately preceding, the Office of Diversity and Inclusion shall initiate the following procedure: the Office shall notify the Senate Committee on Equity, Diversity, and Inclusion of the failure to reach a mutually satisfactory solution, whereupon providing the complainant requests in writing a Grievance Hearing, a Grievance Committee shall be selected according to the procedures described in Article IV following. A Grievance hearing shall be closed unless both parties to the dispute agree that the hearing, or any part thereof, shall be open to the public. All parties to the dispute shall be sent within five (5) working days of the written request of such a hearing, written notification of the time and place of the beginning of the hearing and a specific statement of the charges. Hearings shall be held as promptly as is consistent with allowing adequate time for the parties to prepare their cases. Continuances may be granted within the discretion of the Office of Diversity and Inclusion. All parties shall have ample opportunity to present their facts and arguments in full during the hearing. All findings, recommendations and conclusions by the Grievance Committee shall be based solely on the evidence presented during the hearing, and shall be based on a preponderance of the evidence having probative effect.

The burden of proof rests with the complainant. The Grievance Committee may be assisted by an adviser. All the parties to the dispute and the Grievance Committee may invite persons to testify during the hearing. Each side shall have the right to cross-examine witnesses. Each party has the right to be represented by counsel or other representative, but the University has no obligation to provide such counsel for any party to the dispute. If a party intends to be represented by legal counsel during the hearing, he/she shall inform the Office of Diversity and Inclusion of this fact no

later than 72 hours prior to the hearing, and that Office shall provide that information to the other party or parties. A verbatim record shall be kept of all sessions in which testimony and evidence is presented regarding the case, and this record shall be made available to all parties to the dispute at the conclusion of the proceedings. Upon request, the Chair of the Grievance Committee may, in his or her discretion, recess the hearing to permit review of the record by one or more parties in the conduct of their case.

The Chair of a Grievance Committee with the advice of the adviser, if there is one, shall rule on all matters of procedure and admissibility of evidence. Any member of the Committee not concurring in the ruling of the Chair may request a closed session of the Committee for debate on the point. A majority vote of the Committee will determine the final decision.

Formal rules of evidence shall not be applicable to any hearing before a Grievance Committee and any evidence or testimony which the Committee believes to be relevant to a fair determination of the complaint may be admitted. The Committee reserves the right to exclude incompetent, irrelevant, immaterial and repetitious evidence.

- M. In cases of allegations regarding prohibited discrimination concerning academic employment matters, a Grievance Committee shall not substitute its judgment of academic competence for the judgment of the appropriate colleagues of the complainant. The function of the Grievance Committee shall be to determine:
1. whether there were clearly enunciated University, Campus and Departmental standards, policies, procedures and priorities by which to assess the merit of the complaint, and whether the complainant was given a reasonable opportunity to demonstrate his or her academic merit;
 2. whether the stated standards, policies, procedures and priorities were applied to the complainant in a nondiscriminatory manner.
- N. Within ten (10) working days after hearing all the evidence and arguments, the Grievance Committee shall prepare a written decision based solely on the evidence presented at the hearing. This decision shall include a summary of the

evidence before the Committee and the Committee's findings as to whether or not a violation of the Code has occurred, and the recommendations of the Committee. Grievance Committees may recommend whatever forms of relief they deem appropriate, but must take due cognizance of the limitations imposed by State law and by the procedures established by the Board of Regents, for example, the procedures by which promotion in academic rank is achieved. Within five (5) working days after the decision has been filed in the Office of Diversity and Inclusion, the Director of that Office will formally notify all parties to the dispute, the President and the Senate Committee on Equity, Diversity, and Inclusion of the decision.

- O. The President shall within ten (10) working days of his or her receipt of the decision of the Grievance Committee issue an order specifying what actions, if any, must be taken by individuals or groups found to be guilty of violating the provisions of this Code.
- P. When a hearing has been scheduled by an outside agency or court, the Office of Diversity and Inclusion may, with the approval of the Senate Committee on Equity, Diversity, and Inclusion, prior to the convening of a Grievance Committee to hear a case, postpone or terminate the Campus grievance proceedings when such postponement or termination is in its judgment warranted by administrative considerations such as staff limitations and workload, or at the request of a party upon a showing that the Campus hearing will either conflict with the off-Campus hearing, or that participation in the Campus hearing will unreasonably burden a party's preparation of his or her case or otherwise work to his or her prejudice. Such postponement or termination shall be reported to the complainant, respondent and President. In any case where a complaint has been the subject of prior administrative or judicial resolution or where a complaint becomes the subject of such resolution during the course of proceedings under this Code, the procedures of this Code will not be applicable or will terminate, as the case may be.
- Q. The President shall provide a written explanation of his or her order whenever that order is not in keeping with the findings and recommendations of the Grievance Committee. This explanation shall be sent to all parties to the dispute, to the Chair of the Senate Committee on Equity, Diversity, and Inclusion, to the Director of Diversity and Inclusion, and to the Chair of the Senate. The Chair of the Senate

Committee on Equity, Diversity, and Inclusion shall report to the Senate Executive Committee concerning the order and explanation at the next meeting of the Executive Committee, and that body shall put the matter on the agenda of the next meeting of the Senate.

- R. When required by law, copies of the Grievance Committee's findings and recommendations and of the President's order and explanation, if any, shall be sent to the State and Federal agencies charged with enforcement of Article 49B of the Annotated Code of Maryland and the Equal Employment Opportunity Act of 1968 or their successors.
- S. When a complainant receives a decision on his or her charge of discrimination from a Grievance Committee, that decision shall not be subject to review under any grievance procedure in force on the Campus.
- T. No affirmative relief shall be made to a complainant by the University unless the complainant executes the following release as part of a settlement agreement:

The complainant hereby waives, releases and covenants not to sue the University of Maryland or its officers, agents or employees with respect to any matters which were or might have been alleged as charges filed under the Code on Equity, Diversity, and Inclusion in the instant case, subject to performance by the University of Maryland, its officers, agents and employees, of the promises contained in this settlement agreement.

ARTICLE IV CONSTITUTION OF EQUITY, DIVERSITY, AND INCLUSION GRIEVANCE COMMITTEE

- A. An Equity, Diversity, and Inclusion Grievance Committee shall consist of five (5) members selected by an affirmative vote of at least 2 members of a Selection Panel consisting of:
 - 1. The Vice President of the unit of the Campus within which the alleged discrimination falls. In cases of disputed jurisdiction, decisions as to which Vice President shall participate will be made by the several Vice Presidents.
 - 2. The Director of the Office of Diversity and Inclusion.
 - 3. The Chair of the Senate Committee on Equity, Diversity,

and Inclusion.

If any of these persons is unable to participate, he or she shall designate a suitable replacement.

- B. The selection of a Grievance Committee shall be made in such a way as to promote a fair and impartial judgment. An effort shall be made to constitute the Grievance Committee of persons reasonably familiar with the kind of employment or other situation which the case concerns.
- C. A determined effort shall be made to gain the consent of complainant and respondent concerning the membership of the Grievance Committee. If in the judgment of the Selection Panel such efforts become unreasonably prolonged, membership will be determined by majority vote of the Selection Panel.
- D. None of the members of a Grievance Committee shall have been involved in the action which is the subject of the complaint. This Selection Panel shall remove a member of a Grievance Committee whenever they find that member to have a personal involvement in that case; and may excuse a member from serving on the Grievance Committee on grounds of illness or on other reasonable grounds.
- E. Members of the Senate Committee on Equity, Diversity, and Inclusion shall not be eligible concurrently for inclusion on Grievance Committees.
- F. The Chair of a Grievance Committee shall be elected by the members of the Committee.
- G. Members of a Grievance Committee and those officially involved in a hearing shall not be penalized either academically or financially for time missed from work or classes during official meetings of the Committee.

ARTICLE V. THE EQUAL EDUCATION AND EMPLOYMENT OPPORTUNITY OFFICER

- A. Equal Education and Employment Opportunity (EEEE) Officers shall be instrumental in the implementation of the Code on Equity, Diversity, and Inclusion within each unit of the Campus.
- B. Employees on all levels within each unit of the Campus will have access to the assistance of an EEEO Officer. In non-

academic units, EEEO Officers shall be elected by unit employees under the supervision of the Equity Administrator within whose responsibility the unit falls, or shall be selected by unit Director in consultation with the appropriate Equity Administrator, in either case in accordance with the Affirmative Action Plan of that unit. EEEO Officers in the academic units shall be chosen in the manner prescribed by each unit.

- C. The functions of EEEO Officers shall include but not be limited to:
1. Advising unit administrators with respect to the preparation plans, procedures, regulations, reports, and other matters pertaining to the Diversity and Inclusion Programs.
 2. Evaluating periodically the effectiveness and sufficiency of unit Affirmative Action Plans and other unit plans in relation to the goals of this Code, and reporting these to unit administrators with recommendations as to what improvements or corrections are needed.
 3. Participating in the development of policies and programs within units with respect to hiring and recruitment, training and upgrading, and in all matters pertaining to the elimination of discrimination prohibited by this Code. If a unit fails to develop policies and programs of this nature, it is the task of the EEEO Officer to act in an advocacy role and call this fact first to the attention of the unit administrator, and if no responsive action ensues, then to the Equity Administrator. The EEEO Officer is free at all times to report such cases directly to the Office of Diversity and Inclusion and the Senate Committee on Equity, Diversity, and Inclusion.
 4. Serving in a liaison capacity between the unit to which he/she is assigned and all segments of its personnel and attempting to remedy problems brought to his or her attention regarding alleged discrimination.
 5. Advising students or employees of the unit who have reason to believe that discrimination as defined in this Code is occurring. At the request of the aggrieved person the EEEO Officer shall keep any or all aspects of

the grievance confidential until a formal complaint has been filed. If the aggrieved so requests, the EEEEO Officer shall attempt to resolve the matter, calling upon the assistance of the Equity Administrator where appropriate. The EEEEO Officer will keep a record of such advisory and conciliatory activities and periodically brief the Equity Administrator.

6. Advising and otherwise aiding complainants in making formal complaints under this Code. When a complaint is filed with an EEEEO Officer, the complaint shall be forwarded by that officer within five (5) working days to the Equity Administrator and the Office of Diversity and Inclusion. The EEEEO Officer shall be available to assist in a preliminary investigation of the complaint conducted under the general supervision of the Office of Diversity and Inclusion, to determine whether there is probable cause to believe that prohibited discrimination has occurred.
 7. Making recommendations to the Office of Diversity and Inclusion to help facilitate diversity programs on Campus.
 8. Assisting units in publicizing the functions of EEEEO Officers.
 9. Collecting pertinent information regarding hiring, upgrading and promotion opportunities within units and disseminating such information to appropriate personnel.
- D. The EEEEO Officer shall have the full support of the unit or college administration and the Office of Diversity and Inclusion. The EEEEO Officer shall be afforded reasonable time from other regular duties to perform the functions of the office. These functions shall qualify as part of a workday in the case of a staff member and as partial fulfillment of required committee loads in the case of faculty. The EEEEO Officer shall be free from interference, coercion, harassment, discrimination or unreasonable restraints in connection with the performance of the duties specified in this Code.

ARTICLE VI. EFFECTIVE DATE

This Code shall be effective as revised as of April 6, 1998.