




**University Senate
CHARGE**

Date:	February 9, 2015
To:	Gloria Aparicio Blackwell Chair, Staff Affairs Committee
From:	Donald Webster  Chair, University Senate
Subject:	Review of the Interim Sexual Misconduct Staff Procedures
Senate Document #:	14-15-26
Deadline:	November 6, 2015

The Senate Executive Committee (SEC) requests that the Staff Affairs Committee review the attached interim Staff Sexual Misconduct Investigation & Adjudication Procedures and make recommendations on whether they are appropriate.

The U.S. Department of Education’s Office for Civil Rights (OCR) provided guidance regarding the Violence Against Women Act (VAWA), which was reauthorized in 2013. This guidance required higher education institutions to develop specific sexual misconduct policies and procedures. As a result, the University System of Maryland (USM) revised its Policy on Sexual Misconduct (V-1.60) and asked all USM institutions to align their policies accordingly. In addition, the University was charged with developing procedures for each of its major constituencies. The attached staff procedures were developed as an element of the University of Maryland Sexual Misconduct Policy & Procedures (VI-1.60[A]), which has been approved on an interim basis pending University Senate review. Complaints against staff based on a violation of the policy will be reviewed in accordance with these procedures.

Specifically, we ask that you:

1. Review the interim University of Maryland Staff Sexual Misconduct Investigation & Adjudication Procedures (Appendix B of the University of Maryland Sexual Misconduct Policy & Procedures (VI-1.60[A])).
2. Consult with the University’s Title IX Coordinator, a representative of University Human Resources, and Staff Relations (as needed) regarding the development of the interim staff procedures.

3. Review similar staff procedures for complaints of sexual misconduct at our peer institutions and other Big 10 and USM institutions.
4. Review the University's past process for handling staff sexual misconduct cases.
5. Review the interim University of Maryland Sexual Misconduct Policy & Procedures ([VI-1.60\[A\]](#)) and consider whether the proposed staff procedures align with the University's interim policy, USM policy, and VAWA guidelines.
6. Consult with the Senate Faculty Affairs Committee regarding any potential revisions to the faculty procedures.
7. Consult with the University's Office of General Counsel on any recommended revisions.
8. If appropriate, recommend whether the interim staff procedures should be revised.

We ask that you submit your report and recommendations to the Senate Office no later than November 6, 2015. If you have questions or need assistance, please contact Reka Montfort in the Senate Office, extension 5-5804.

Attachment

DW/rm

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INTRODUCTION

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

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I. FILING A COMPLAINT

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

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

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

A. Initial Assessment

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

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

B. Interim Measures

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

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

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II. COMPLAINT RESPONSE

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

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

A. Sexual Misconduct Investigation

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

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

1. Notice of Investigation

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

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

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

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

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

B. Notice of Review Option

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

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

C. OSM Investigation Outcome

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

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

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the Standing Review Committee for an independent evaluation.

D. Independent Review by the Standing Review Committee

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

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

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

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

E. Notice of Standing Review Committee Finding

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

III. APPEAL

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

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A. Grounds for Appeal

Grounds for appeal shall be limited to:

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

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

B. Considerations

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

C. Standing Review Committee Appellate Body

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

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

1. Notice of Appeal Outcome

An Appellate conference will be convened before a newly constituted SRC Appellate Body when the procedural or substantive error cannot be corrected by returning the matter to the

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original SRC. The SRC Appellate Body Chair will render a written decision on the appeal referred to as the *Notice of Appeal Outcome*, within ten (10) business days from the date the OSM receives all appeal documents. SRC Appellate determinations must be unanimous. In the event the SRC Appellate Body is unable to reach a unanimous decision, the appeal is deemed denied and the SRC Finding is affirmed. All SRC Appellate Body decisions are final and will be communicated to the parties via the Office of Sexual Misconduct.

D. Final Outcome Notice

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

IV. DISCIPLINE AND ADMINISTRATIVE OR OTHER REMEDIES

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

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

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

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

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V. GRIEVANCE RIGHTS

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

A. Exempt Employees

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

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

B. Nonexempt Employees

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

C. Contingent I and II Employees

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

D. Staff with Vested Status

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

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VI. FINAL OUTCOME

A. Records Retention

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

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

B. Additional Notification Following Any Grievance Initiated by the Respondent

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

END OF DOCUMENT

APPENDIX B: STAFF SEXUAL MISCONDUCT COMPLAINT PROCEDURES

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VIII. Grievance Rights

IX. Final Outcome

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I. OVERVIEW

These procedures set forth in Appendix B accompany the University of Maryland (UMD) Sexual Misconduct Policy (the "Policy") and are the exclusive procedures that govern the handling of all reports or complaints of sexual misconduct against UMD staff. Key terms used herein are defined in the Policy. For example, sexual misconduct is an umbrella term defined in the Policy that encompasses dating violence, domestic violence, sexual violence, sexual harassment, sexual assault, sexual exploitation, sexual intimidation, relationship violence and stalking.

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For purposes of the Policy and these Staff Procedures, staff include University coaches and all University employees other than those with faculty rank as described in II-1.00(A) University of Maryland Policy on Appointment, Promotion, and Tenure of Faculty at <http://www.president.umd.edu/policies/2014-ii-100a.html>.

Employees with faculty rank are governed by the Faculty Sexual Misconduct Complaint Procedures (see *Appendix C*). These procedures replace all procedures previously in effect pertaining to the investigation and resolution of sexual misconduct complaints against staff at the University of Maryland.

II. RIGHTS TO SUPPORT PERSON AND ADVISOR

Throughout the process, any party may be accompanied to any meeting related to an investigation and resolution of a complaint by up to two (2) other people: (1) a Support Person, and (2) an Advisor. Meetings include, but are not limited to, meetings with Office of Civil Rights & Sexual Misconduct (OCRSM), investigative interviews, and document reviews, and alternative resolutions.

A. Support Person

A party may choose to be accompanied by a Support Person of their choice, at their own initiation and expense. A Support Person is someone who can provide emotional, logistical, or other kinds of assistance. The Support Person cannot be a witness or provide evidence in the case. The Support Person is a non-participant who is present to assist a Complainant or Respondent by taking notes, providing emotional support and reassurance, organizing documentation, or consulting directly with the party in a way that does not disrupt or cause any delay. A Support Person shall not be an active participant and the parties must speak for themselves.

B. Advisor

A party may choose to be assisted by an Advisor of their choice, including an attorney, at their own initiation and expense. The Advisor is a non-participant who is present to provide advice and consultation to a party. An Advisor cannot be a witness or provide evidence in a case. If necessary, a party may request a recess in order to speak privately with an Advisor. An Advisor shall not be an active participant. The parties must speak for themselves. An Advisor may not delay, or otherwise interfere with, the University's process.

C. Party Obligations

Throughout the process, the Title IX Officer or designee, Investigators and other University representatives will communicate and correspond directly with the parties, not through a Support Person or Advisor. Parties are responsible for having Support Persons and Advisors follow the non-party participation requirements below. When a party wishes to have a Support Person or Advisor accompany them to a meeting, the individual must notify OCRSM in advance. Parties are also responsible for making sure appropriate authorization exists for the University to communicate non-party participation requirements below to any Support Person or Advisor.

D. Non-Party Participant Requirements

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All Support Persons and Advisors must review the materials about the scope of their respective roles, prior to accompanying a party to any meeting or other activity. These materials may be obtained online at the OCRSM website, www.umd.edu/ocrsm/ or from OCRSM directly. This is to ensure the Support Persons and Advisors are informed about the process and their respective roles. All parties, Support Persons and Advisors are expected to understand their roles and adhere to the University's expectations regarding decorum and privacy considerations.

III. REPORTING

Complaints and other reports of sexual misconduct against staff may be made to the OCRSM. Complaints may also be made to any Responsible University Employee (RUE). A RUE, as defined by this Policy, includes all University administrators, supervisors in non-confidential roles, faculty members, campus police, coaches, athletic trainers, resident assistants, and non-confidential first responders. Responsible University Employees are required to share all reports of sexual misconduct they receive, promptly with the Title IX Officer or designee.

Student Complainants may also report sexual misconduct against staff to the Office of Student Conduct, or the Office of Rights & Responsibilities (R&R) in the Department of Resident Life.

Prompt reporting of Prohibited Conduct is encouraged so that the University can take immediate and corrective action to eliminate the misconduct, prevent its recurrence, and address its effects. The University will provide support and assistance to the Complainant and respond according to the steps outlined in these Staff Procedures. Upon receipt of any report, the Title IX Officer or designee will make an immediate assessment of the risk of harm to the parties or to the campus community and will take steps necessary to address any risks. These steps may include working with the Office of Staff Relations in University Human Resources and other campus offices to facilitate Interim Protective Measures that provide for the safety of the parties and the campus community, when appropriate.

A Complainant may choose to make a report to the University and pursue resolution under these Staff Procedures, and may also choose to make a report to law enforcement. A Complainant may pursue either of these options or both options at the same time. The criminal process and the University's internal process under these Staff Procedures are separate and independent. A Complainant who wishes to pursue criminal action should contact campus police or external law enforcement directly. See Policy Section VII for more information on criminal reporting.

The University recognizes that deciding whether to report sexual misconduct and proceed with a formal complaint under these Staff Procedures is a personal decision that may evolve over time. While prompt reporting is strongly encouraged, there is no time limit for reporting a complaint of sexual misconduct. The OCRSM will coordinate with the appropriate University office to provide support and assistance to each Complainant in making important decisions related to reports of sexual misconduct. Consistent with the goal of safety for all community members, the University will make every effort to respect a Complainant's autonomy in making their own personal decisions after reporting sexual misconduct. However, when appropriate, the University, through the OCRSM, retains the right to initiate a formal complaint on its own, independent of any individual's decision as to how they wish to proceed.

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IV. COMPLAINT INTAKE PROCESS

A. Notification to the Complainant

Upon receipt of a complaint, the OCRSM will ensure that the Complainant is provided with a copy of the Policy and Staff Procedures and is informed of their rights and responsibilities. The OCRSM will provide information to the Complainant about the University's internal, administrative complaint process and review with them their respective rights and responsibilities. The Complainant will be informed of available community and campus resources and services; their right to a Support Person and the Support Person's role; their right to an Advisor and the Advisor's role; their right to file a report with law enforcement, or not; and the University's prohibition against retaliation. The Complainant will have an opportunity to ask questions and seek additional information.

B. Requests for Confidentiality

Whenever possible, the OCRSM will take action consistent with the Complainant's expressed wishes regarding confidentiality. The University's ability to fully investigate and respond to a complaint may be limited if the Complainant requests that their name not be disclosed to the Respondent or declines to participate in an Investigation. When a Complainant requests their name or other identifiable information not be disclosed and/or that no further action be taken, the Title IX Officer or designee will seek to honor such requests, balancing the Complainant's wishes for confidentiality with the University's obligation to provide a safe and non-discriminatory environment for all members of the University community. The University retains the right to proceed with a complaint as necessary to meet its obligations, and in some cases, may not be able to honor a request for confidentiality.

C. Initial Assessment of Complaint

When the University receives a complaint, the OCRSM will conduct an Initial Assessment. The Initial Assessment will determine whether the reported conduct constitutes a potential violation of the Policy, and if further action is warranted based on the reported conduct.

The first step in the Initial Assessment is a preliminary meeting between the Complainant and the OCRSM to gather information that will enable the OCRSM, in consultation with other offices, as appropriate, to:

- Assess the nature and circumstances reported in the complaint;
- Assess the safety of the Complainant and of the campus community;
- Implement any appropriate interim protective measures;
- Assess for pattern evidence or other similar conduct by the Respondent when relevant to the safety assessment;
- Assess the Complainant's expressed preference regarding resolution, including any request that no further action be taken;
- Assess any request by the Complainant for confidentiality or anonymity; and
- Assess the reported conduct for possible referral to the University of Maryland Police Department (UMPD) for a timely warning under the Clery Act.

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At the conclusion of the Initial Assessment, the OCRSM will determine the appropriate next step(s), including but not limited to: no further action, the imposition of Interim Measures, Alternative Resolution, and/or proceeding with an investigation.

When the Initial Assessment determines the reported conduct does not rise to the level of a potential violation under this Policy, but may violate another University policy, the complaint may be referred to another appropriate University official for review and resolution.

Where the Initial Assessment reveals that the University lacks jurisdiction over the Respondent, the University will take available and reasonable steps to address the Sexual Misconduct, prevent its recurrence, and address its effects at the University.

D. Interim Protective Measures

Based on the nature and circumstances of the complaint, the Title IX Officer or designee in consultation with appropriate Unit heads and other University administrators may authorize interim protective measures to ensure the safety and well-being of the Complainant and others in the campus community, as appropriate. The Title IX Officer or designee will promptly inform the Respondent (if they are a member of the University community) of any interim protective measures that will directly impact the Respondent and provide an opportunity for the Respondent to respond.

The OCRSM retains discretion to impose and/or modify any interim protective measures based on all available information. Interim protective measures will remain in effect until the University's final resolution of the sexual misconduct complaint. A party may challenge the imposition of interim protective measures, or a decision not to impose interim protective measures, by contacting the OCRSM to address any concerns. Information about interim protective measures can be found on pages 11-12 of the Policy.

V. RESOLUTION PROCESSES

A. Time Frame for Resolution

Consistent with the goal of maximizing educational and working opportunities, remedying the effects of Prohibited Conduct and promoting campus safety while minimizing the possible disruptive nature of the process, the OCRSM will strive to resolve all complaints within sixty (60) business days of receipt. In general, the investigation phase may last approximately four to five weeks and the adjudication phase may last an additional estimated four to five weeks. Good faith efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with the importance of resolving complaints in a timely and expeditious manner. The Title IX Officer may extend the general time frames for the completion of all required actions. If such an extension occurs, the parties will be notified in writing by the OCRSM.

B. Alternative Resolution Process

In some cases, the Complainant may seek Alternative Resolution in lieu of investigation and adjudication.

Alternative Resolution is a process whereby remedies and interventions may serve to address the alleged Prohibited Conduct without proceeding to an investigation and adjudication.

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Alternative Resolution is not appropriate for complaints involving sexual violence, including sexual assault. The parties may decide not to proceed with Alternative Resolution and may request an investigation and adjudication at any time.

The Title IX Officer or designee has the discretion to determine whether a complaint is appropriate for Alternative Resolution and retains discretion to terminate an ongoing Alternative Resolution process at any time.

The purpose of Alternative Resolution is to take appropriate action by imposing individual and community interventions and remedies designed to maximize the Complainant's access to educational, extra-curricular and/or employment activities at the University. Any combination of interventions and remedies may be utilized, including but not limited to:

- Increased monitoring, supervision and/or security at locations or activities where the Prohibited Conduct occurred or is likely to reoccur;
- Targeted or broad-based educational programming or training for relevant individuals or groups;
- Workplace modifications and other administrative changes;
- Completion of projects, programs, or requirements designed to help the Respondent manage behavior, refrain from engaging in Prohibited Conduct and understand why the Prohibited Conduct is prohibited; and
- Compliance with orders of no contact that limit access to specific University buildings or areas or forms of contact with particular persons.

The imposition of remedies or interventions obtained through Alternative Resolution may be achieved by an agreement acceptable to the parties and University. In such cases the terms of the agreement are implemented and the matter is resolved and closed. In cases where an agreement is not reached, and the Title IX Officer or designee determines that further action is necessary, or if a Respondent fails to comply with the terms of the Alternative Resolution agreement, the matter may be referred for investigation and resolution under these Staff Procedures.

Where the Complainant and Respondent and University have reached an Alternative Resolution agreement, the parties will be provided a written notice of the outcome.

C. Investigation Process

When the Initial Assessment determines the University has jurisdiction over the Respondent and the alleged conduct, and where Alternative Resolution is not appropriate or Respondent fails to comply with the terms of an Alternative Resolution agreement, an investigation will occur.

1. Notice of Investigation

In the event of an investigation, the Investigator will send a written *Notice of Investigation and Notice of Rights and Responsibilities* to both parties.

The *Notice of Investigation* will contain the circumstances of the alleged incident (which generally will include, to the extent known, the name of the Complainant and the date, time and location), the Prohibited Conduct alleged as defined by the Policy, and the range of potential

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disciplinary action associated with the Prohibited Conduct. Both parties will also be informed that they will have an opportunity to be heard regarding the complaint during the investigation process, including the opportunity to be heard during an interview with an Investigator regarding the alleged sexual misconduct.

2. Notice of Rights and Responsibilities

Both parties will be provided with a copy of the Policy and Staff Procedures and informed of their rights and responsibilities pursuant to the Policy. This includes but is not limited to: no contact directives (and provided a copy), prohibitions against retaliation and guidance about reporting any retaliatory conduct, and available community and campus resources and services.

3. Standard of Review

In making a determination about whether a Policy violation has occurred, the standard of review is preponderance of the evidence. A preponderance of the evidence means “it is more likely than not.” Thus, at the conclusion of the investigation phase, based on the information gathered, a recommended finding will be made as to whether it is more likely than not that the reported conduct constituted Prohibited Conduct in violation of the Policy.

4. Role of the Investigator

The Title IX Officer or designee will designate one or more Investigator(s) from the OCRSM and/or an external Investigator to conduct a prompt, fair, and impartial investigation. All Investigators will receive annual training on issues related to sexual and gender-based harassment, sexual assault, dating violence, domestic violence and stalking; and how to conduct a fair and impartial investigation that provides parties with notice and a meaningful opportunity to be heard and protects the safety of complainants and the University community while promoting accountability.

5. Overview of the Investigation

The investigation is an impartial fact-gathering process. It is an important stage of the process in which both parties have an opportunity to be heard regarding the complaint. During the investigation the parties will each have an opportunity to meet and speak with the Investigator, provide any relevant information about the reported conduct, and identify persons they believe the Investigator should speak with because they believe they have relevant information. The Investigator will speak separately with both parties and any other individuals who may have relevant information. The Investigator will also gather any available physical evidence or documents, including prior statements by the parties or witnesses, communications between the parties, email messages, social media materials, and other records, as appropriate and available.

a. Special Considerations

Information related to the prior sexual history of either party is generally not relevant to the determination of a Policy violation. However, prior sexual history between the parties may be relevant in very limited circumstances. For example, where there was a prior or ongoing consensual relationship between the parties, and where Consent is at issue in the case at hand, evidence as to the parties' prior sexual history as it relates to Consent may be relevant to assess the manner and nature of communications between the parties. As noted in the Policy, however, the mere fact of a current or previous dating or sexual relationship,

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by itself, is not sufficient to constitute Consent. Sexual history will never be used for purposes of illustrating either party's individual character or reputation. The Investigator will determine the relevance of prior sexual history and inform the parties if information about the parties' sexual history with each other is deemed relevant.

At the discretion of the OCRSM, multiple reports may be consolidated in one investigation if the information related to each incident is relevant in reaching a determination. Matters may be consolidated where they involve multiple Complainants, multiple Respondents, or related conduct involving the same parties, provided that it does not delay the prompt investigation and resolution of complaints.

b. Draft Report

At the conclusion of the investigation, the Investigator will draft a written investigation report that summarizes the information gathered (including, but not limited to, the names of witnesses and summaries of their statements), and synthesizes the areas of agreement and disagreement between the parties.

c. Notice of Opportunity to Review the Draft Investigation Report

Before the investigation report is finalized, the parties will be given an opportunity to review and respond to the draft report. Upon receipt of notice to review the draft report, the parties will each have five (5) business days to review the report and all underlying documents and submit comments, information and/or ask questions. If there is any new or additional information to be provided by either party, it must be presented to the Investigator at this time. If further investigation is warranted based on the comments, information and/or questions provided during the review period, the Investigator will continue the investigation, as needed.

6. Investigation Outcome/Finding

Upon timely receipt of any additional information or comments from the parties or after the five (5) business day comment period has lapsed with no comments provided, and the investigation is complete, the Investigator will finalize the investigation report.

The final investigation report will include a summary of all relevant information obtained in the course of the investigation, an analysis of the material facts, and a finding of whether or not a Policy violation occurred by a preponderance of the evidence. The notice will also include a range of potential disciplinary action associated with such findings. The Title IX Officer or designee will review the final investigation report.

A *Notice of Investigation Finding* will be issued by the OCRSM and sent to the Complainant and Respondent and their respective Unit Head(s), along with a copy of the final investigation report.

Both parties will be contacted by, and required to meet with, their respective Unit Head(s), or the Director of Student Conduct if a student, separately, to discuss the investigation finding/outcome and next steps.

Either or both parties may appeal the investigation finding in accordance with Section VII below.

VI. APPEALS

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Either or both parties may appeal the investigation finding. An appeal must be submitted in writing within five (5) business days of the date of receipt of the *Notice of Investigation Finding*. Appeals submitted after five (5) business days shall be denied. 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 the notice to respond. Responses shall be submitted directly to the OCRSM. Appeals and responses filed by each party will be shared with the other party and considered together in one appeal review process. If neither party submits an appeal, the investigation finding is final after five (5) business days.

A. Overview

The scope of the appeal is limited to the grounds set forth below. Dissatisfaction with the investigation outcome is not a valid basis for appeal. Appeals are not intended to allow for a second review of the same facts of the case or to redetermine whether there was a Policy violation based on the same facts of the case. In most cases, appeals are confined to a review of the written record and the grounds for appeal submitted by the parties.

B. Grounds for Appeal

Grounds for appeal shall be limited to:

1. Substantial Procedural Error

Specified procedural errors or errors in interpretation of University policy were so substantial as to effectively deny a Complainant or a Respondent notice or a fair opportunity to be heard. Mere deviations from procedures that were not so substantial as to deny a Complainant or Respondent notice or a fair opportunity to be heard will not be a basis for sustaining an appeal.

2. New Evidence

New and significant relevant information has become available which a reasonably diligent person could not have discovered during the Investigation.

When the basis of the Appeal is new evidence, the Title IX Officer or designee will determine whether the information is new and was unavailable at the time of the investigation. If the information is determined not to be new, the Appeal will be denied.

If the information is determined to be new and unavailable at the time of the investigation, it will be sent to the Appellate Body for review and determination as to whether the new information could change the outcome of the investigation. If the Appellate Body determines that the new evidence could change the outcome, the case will be sent back to the OCRSM Investigator for further investigation. The OCRSM Investigator will report the outcome of any further investigation to the Appellate Body.

C. Appellate Body

The Standing Review Committee (SRC) is the designated Appellate Body for all cases involving allegations of sexual misconduct by staff. The SRC is composed of three (3) members from the University community who have had no previous involvement with the case, and have been trained to review such cases.

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D. Appeal Outcome

The SRC may:

- Affirm the Investigation Finding;
- Reject the Investigation Finding;
- Remand the case back to the Investigator for further investigation.

The SRC Chair will render a written decision on the appeal to the Title IX Officer or designee within five (5) business days from the date of the submission of all appeal documents. No further appeal is available from the SRC Decision.

VII. REMEDIES & DISCIPLINARY ACTION

A. Impact and Mitigation Statements

Whenever there is a finding of responsibility, before the University issues any remedies or imposes disciplinary action, if any, both parties have the opportunity to submit statements for consideration by the relevant supervisor, unit head or designee in consultation with the Title IX Officer or designee, within three (3) business days from the date of receipt of the decision.

The Complainant may submit a written statement describing the impact of the Prohibited Conduct on the Complainant, and/or request to meet with the relevant supervisor, unit head or designee and Title IX Officer or designee to provide their statement verbally.

The Respondent may submit a written statement explaining any factors the Respondent believes should mitigate or otherwise be considered in determining appropriate remedies and/or recommended discipline, if any, and/or request to meet with the relevant unit head or designee and Title IX Officer or designee to provide their statement verbally.

The parties' respective statements will not be shared with the other party.

B. Remedies

The Title IX Officer or designee and University Human Resources, as appropriate, in consultation with the relevant supervisor, unit head or designee, as appropriate, will identify reasonable short-term and/or long-term remedies to address the effects of the conduct on the Complainant and prevent its reoccurrence. Such remedies seek to restore to the Complainant, to the extent possible and within reason, the benefits and opportunities lost as a result of the Prohibited Conduct. The Title IX Officer or designee may also identify remedies, such as training for specific audiences, to address the effects of the conduct on the larger University community.

Remedies for student Complainants may include, but are not limited to:

- **Support measures** such as extended classwork deadline, or flexible deadlines, change of venue for taking an exam, change in exam date, and/or retaking of an exam.
- **Academic accommodations** such as retroactive drop from a particular class, retroactive withdrawal from a semester, policy exemption requests, and/or tuition reimbursement.

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Remedies for staff Complainants and Respondents may include, but are not limited to:

- Workplace modifications and other administrative changes, no contact orders, denial of access, schedule changes, counseling and/or referral to outside agencies.

C. Disciplinary Action

When there is a finding of responsibility, and all appeals under these Procedures, if any, have been exhausted, the respective unit head or designee will consult with the Title IX Officer or designee determining the appropriate disciplinary action, if any.

To determine what type of disciplinary action is most appropriate, the supervisor, unit head or designee in consultation with University Human Resources and other appropriate administrator(s) shall consider the following:

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

Discipline shall be imposed in accordance with all procedural due process rights afforded staff based on their employment status in accordance with University policy and Maryland State law. All staff disciplinary action shall be approved by the Assistant Vice President of University Human Resources or designee.

1. Notice of Disciplinary Action

When disciplinary action is to be imposed, upon the approval by the Assistant Vice President of University Human Resources or designee, the appropriate unit head or designee will issue a *Notice of Disciplinary Action* to the Respondent.

Disciplinary action will depend on the specific circumstances in each case and may include discipline ranging from a written reprimand up to and including termination of employment. Other administrative and/or non-disciplinary remedies may also be imposed, including but not limited to, no contact directives, and/or a change in work duties, work locations, or work schedules.

Discipline shall be imposed in accordance with all procedural due process rights afforded staff based on their employment status in accordance with University policy and Maryland law.

VIII. GRIEVANCE RIGHTS

Staff may grieve disciplinary action in accordance with the rights afforded to them based on their specific employment status. An employee's grievance rights and associated time limits are separate and unrelated to the *Appeal* process and *Impact and Mitigation Statements* outlined in these Staff Procedures. During the grievance process, the *Notice of Investigation Finding* may also be reviewed, as it relates to the resulting disciplinary action.

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IX. FINAL OUTCOME

When all the procedures and/or grievance processes afforded to both parties under these Staff Procedures, and the rights afforded to them based on their specific employment status have been exhausted, the Assistant Vice President of University Human Resources or designee will promptly notify the Title IX Officer or designee of any modification of the final outcome. The Title IX Officer or designee will notify the parties of any modification to the final outcome, except as prohibited by Maryland and federal law.

X. RECORDS RETENTION

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

University Human Resources and the department/unit head will maintain records of all disciplinary action, workplace modifications and other administrative changes and remedies related to a complaint and any Alternative Resolution agreements.

XI. POST-RESOLUTION FOLLOW-UP

After any disciplinary action, workplace modifications, administrative changes and/or other remedies are issued, if the Complainant agrees, the Title IX Officer or designee may periodically contact the Complainant to ensure the Prohibited Conduct has ended and to determine whether additional remedies are necessary. The Complainant may decline future contact at any time. The Title IX Officer or designee may periodically contact the Respondent to assure compliance with the intent and purpose of any disciplinary action, workplace modification, administrative changes and/or remedies that have been imposed. Any violation by a Respondent of the intent and purpose of any disciplinary action, workplace modification, administrative change and/or remedies imposed under the Policy, or a failure by a University employee to provide a specified disciplinary action, workplace modification, administrative change and/or remedy should be reported to the OCRSM.

The Complainant and Respondent are encouraged to provide the Title IX Officer or designee with feedback about their experience with the process and recommendations regarding ways to improve the effectiveness of the University's implementation of the Sexual Misconduct Policy and Staff Procedures.

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I. INTRODUCTION

These procedures accompany the University of Maryland (UMD) Sexual Misconduct Policy (“the Policy”) and are to be used when complaints of sexual misconduct are filed against UMD staff. These procedures replace all procedures previously in effect pertaining to the investigation and resolution of sexual misconduct complaints against staff at the University of Maryland. For purposes of the Policy and these Procedures, staff include University coaches and all University employees other than those with faculty rank as described in II-1.00(A) University of Maryland Policy on Appointment, Promotion, and Tenure of Faculty at <http://www.president.umd.edu/policies/2014-ii-100a.html>. Employees with faculty rank are governed by the Faculty Sexual Misconduct Complaint Procedures (*see Appendix C*).

Note: Reports by Responsible University Employees (RUEs) of sexual misconduct made to the Office of Civil Rights & Sexual Misconduct (OCRSM) DO NOT constitute a formal complaint. An individual must file a formal complaint in order for the complaint process to ensue. The University, through the OCRSM, retains the right to initiate the formal complaint process independent of any formal complaint filed by an individual.

II. FILING A COMPLAINT

Complaints of sexual misconduct should be made to the Office of Civil Rights & Sexual Misconduct (OCRSM). Upon filing a complaint, the Complainant will receive a *Notice of Rights & Responsibilities*.

A. Initial Assessment

Upon receipt of a complaint, OCRSM will conduct an Initial Assessment to determine whether the complaint may constitute a potential Policy violation, and whether any immediate action is warranted based on the reported conduct. The Initial Assessment will consider:

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

Following the Initial Assessment, the Title IX Officer will determine whether to proceed with an investigation, take no action, or refer the report to other campus units, including but not limited to the Staff Ombudsperson, for appropriate action because the complaint does not rise to Prohibited Conduct under the Policy. The Title IX Officer will notify the Complainant of the results of the Initial Assessment.

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B. Interim Protective Measures

Based on the nature and circumstances of the complaint, the Title IX Officer may take immediate and appropriate steps to eliminate sexual misconduct in violation of the Policy, address its affects, and prevent its recurrence. As appropriate, and on a need-to-know basis only, Interim Protective Measures will be made in consultation with the appropriate supervisor or unit head/administrator(s) and/or Assistant Vice President of University Human Resources.

III. SEXUAL MISCONDUCT INVESTIGATION

Following the Initial Assessment, and in consultation with the Complainant, the OCRSM may initiate an investigation if the conduct constitutes a potential violation of the Policy. A Special Investigator will be assigned to conduct the investigation.

A. Notice of Investigation

In the event of an investigation, OCRSM will send a written *Notice of Investigation and Notice of Rights and Responsibilities* to both parties. The *Notice of Investigation* will contain a summary of the allegation(s) at issue. Once a Notice of Investigation has been delivered to the parties, OCRSM will begin its Investigation.

The Investigation is designed to provide an impartial, prompt and fair gathering of the facts. All individuals, including the Complainant, the Respondent, and any third party witnesses, will be treated with appropriate sensitivity and respect throughout the Investigation. At all times the OCRSM seeks to safeguard the privacy of the individuals involved in a manner consistent with federal and state law and University policy.

B. Investigation

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

C. Notice of Opportunity to Review Investigation Report

At the conclusion of the Investigation, the Special Investigator will draft a written report that summarizes the information gathered, synthesizes the areas of agreement and disagreement between the parties and includes relevant written documentation gathered

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in the course of the investigation. The parties will be issued a written *Notice of Opportunity to Review the Investigation Report*. The Complainant and Respondent will each have an opportunity to review the draft Investigation Report and supporting evidence, and submit written comments on the accuracy of their statements, pose questions and submit additional information or evidence. Additional comments or information must be provided to the Special Investigator within five (5) business days of the date of the *Notice of Opportunity to Review the Investigation Report*. If further investigation is warranted based on information provided during the review period, the Special Investigator will continue the investigation until all relevant information and evidence is gathered.

D. Investigation Outcome – Finding

When the review period has ended, and the investigation is complete, the Special Investigator will finalize the Investigation Report, taking into account any additional information provided, and issue a Finding in consultation with the Title IX Officer. All information relied on by the Special Investigator shall be included in the final Investigation Report. The final Investigation Report will state whether the preponderance of the evidence supports a Policy violation, or not, and include a summary of the evidence relied on by the Special Investigator in reaching this determination. A preponderance of evidence means it is more likely than not a Policy violation occurred.

E. Notice of Finding of Policy Violation

Both parties will be informed, separately, in writing, as to whether or not the investigation resulted in a finding of a policy violation.

IV. DISCIPLINARY ACTION

Upon receipt of the final Investigation Report and Finding, the relevant Supervisor/Unit head, in consultation with the next level administrator(s), and/or Assistant Vice President, Human Resources or designee and the Title IX Officer, will determine appropriate disciplinary action, if any.

Notice of Disciplinary Action

In the event disciplinary action is to be imposed, the Supervisor/Unit head and/or Assistant Vice President, Human Resources or designee, as appropriate, will issue notice of the disciplinary action.

Disciplinary action will depend on the specific circumstances in each case and may include sanctions ranging from written reprimand up to and including termination of employment. Other administrative and/or non-disciplinary remedies may also be imposed, such as no contact directives, change in work duties, and change in work locations or work schedules.

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To determine what type of disciplinary action is most appropriate (administrative or other remedies) the relevant Supervisor/Unit head and/or Assistant Vice President, Human Resources or designee, as appropriate, in consultation with the Title IX Officer, shall consider the following:

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

Discipline shall be imposed in accordance with all procedural due process rights afforded employees based on their status in accordance with University policy and Maryland State law.

V. GRIEVANCE RIGHTS

Employees may grieve disciplinary action in accordance with the rights afforded to them based on their specific employee status.

A. Exempt Employees

If warranted, regular exempt employees found to have violated the Policy may be terminated pursuant to VII-1.22 Policy on Separation for Regular Exempt Employees at <http://www.president.umd.edu/policies/2014-VII-122.html> either under *Section III Termination by Period of Notice* or under *Section IV Termination for Cause*. Regular exempt employees may grieve any disciplinary action pursuant to VII-8.00 USM Policy on Grievances for Exempt and Nonexempt Staff Employees at <http://www.usmh.usmd.edu/regents/bylaws/SectionVII/VII800.html> or VII-8.10 USM Policy on Special Action Appeals for Classified Employees at <http://www.usmh.usmd.edu/regents/bylaws/SectionVII/VII810.html>, as applicable.

B. Nonexempt Employees

If warranted, regular nonexempt employees found to have violated the Policy may be terminated in accordance with VII-8.10 Policy on Special Action Appeals for Classified Employees at <http://www.usmh.usmd.edu/regents/bylaws/SectionVII/VII810.html>. Regular nonexempt employees may grieve any disciplinary action pursuant to VII-8.00 USM Policy on Grievances for Exempt and Nonexempt Staff Employees at <http://www.usmh.usmd.edu/regents/bylaws/SectionVII/VII800.html> or VII-8.10 USM Policy on Special Action Appeals for Classified Employees at <http://www.usmh.usmd.edu/regents/bylaws/SectionVII/VII810.html>, as applicable.

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C. Contingent I and II Employees

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

D. Staff with Vested Status

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

VI. FINAL OUTCOME

After the completion of all review and/or grievance processes initiated by either party, the Title IX Officer will promptly notify the Complainant of any modification of the final outcome, except as prohibited by State or Federal law.

Records Retention

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

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