



Inclusion and Respect at the University of Maryland

PRESENTED BY Co-Chairs Ja’Nya Banks, Lucy Dalglish, Warren Kelley

REVIEW DATES SEC – April 6, 2018 | SENATE – April 24, 2018

VOTING METHOD In a single vote

RELEVANT POLICY/DOCUMENT See Report for More Information

NECESSARY APPROVALS Senate, President

ISSUE

In the last few years, the University has been confronted with many of the same issues that have emerged across the country. Concerns about the infiltration of hate groups, incidents that have diminished the experience of many of the members of our campus community, and a significant tragedy that has forever changed our community have led to a collective call for action. Members of our community have expressed concerns about safety and security; transparency; and the impact of hate/bias incidents on our campus. In response to these concerns, President Loh and the University Senate created the Joint President/Senate Inclusion & Respect Task Force to review these concerns, consider our existing practices, and develop a comprehensive plan for initiatives on prevention and education, improving campus climate, responding to incidents motivated by hate, and upholding the pillars of our academic mission within legal guidelines.

RECOMMENDATION(S)

The Inclusion & Respect Task Force makes recommendations for a comprehensive diversity and inclusion initiative in nine areas: (I) Values of the University, (II) Prevention & Education, (III) Hate/Bias Incident Response, (IV) Centralization, (V) Communication, (VI) Evaluation & Assessment, (VII) Free Speech & Freedom of Expression, (VIII) Current Policies and Guidelines, and (IX) Resources & Implementation as shown in the attached report.

TASK FORCE WORK

The Task Force gathered information on campus climate, reviewed campus policies and procedures for response to hate/bias incidents, assessed efforts to provide prevention and education training and the effectiveness of those programs, reviewed scholarly research on bias in higher education, reviewed peer institution data, considered how to address the intersections of free speech and hate speech in campus policies, considered how campus messaging and communication could be used to promote an inclusive campus atmosphere, and explored strategies for fostering a campus environment that is intolerant of hate and bias. Throughout its work, the Task Force engaged members of the campus community, holding three campus-wide open forums, meeting with faculty, staff, and student groups, and consulting with a variety of administrative units involved in programming and implementation of diversity efforts. The Task Force deliberated on guiding

principles, developed and refined recommendations, and consulted with administrators and offices that may be impacted by the recommendations.

The Task Force unanimously approved the proposed recommendations on March 29, 2018.

ALTERNATIVES

The University could continue with its current efforts in the areas of diversity and inclusion programming, hate/bias response, and campus climate assessment.

RISKS

There are no known risks to the University if these recommendations are implemented.

FINANCIAL IMPLICATIONS

The University will need to provide the necessary resources for the development and implementation of all of the elements of these recommendations.

**INCLUSION AND RESPECT AT THE UNIVERSITY OF MARYLAND****2017-2018 Task Force Members**

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Zein El-Amine (Faculty, College of Arts & Humanities)
Rosanne Hoaas (Non-Exempt Staff, University of Maryland Police Department)
Luke Jensen (Exempt Staff, LGBT Equity Center, Office of Diversity & Inclusion)
Diane Krejsa (Ex-Officio, Office of General Counsel)
Roz Moore (Exempt Staff, Division of Student Affairs)
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Nicole Pollard (Alumnus & Trustee)
Rashawn Ray (Faculty, Sociology)
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Timea Webster (Non-Exempt Staff, Office of Diversity & Inclusion)
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Date of Submission**March 30, 2018**

TABLE OF CONTENTS

EXECUTIVE SUMMARY	3
INTRODUCTION	5
BACKGROUND	5
DIVERSITY-RELATED INITIATIVES	6
CHARGE	7
TASK FORCE WORK	7
CURRENT PRACTICE	8
Prevention & Education.....	9
Response to Hate/Bias Incidents	9
Climate	10
Policies and Procedures Related to Speech and Conduct	11
RESEARCH AND FINDINGS	11
Scholarly Research	11
Peer Institution Research.....	16
Existing University Climate Data	17
Hate/Bias Incidents in Higher Education.....	18
Legal Framework on Speech and Conduct in Higher Education	19
ISSUES & CONCERNS	21
Campus Community Concerns	21
Task Force Assessment of Issues to be Addressed.....	22
GUIDING PRINCIPLES	23
TASK FORCE RECOMMENDATIONS	24
I. Values of the University	24
II. Prevention & Education.....	25
III. Hate/Bias Incident Response.....	26
IV. Centralization	26
V. Communication	27
VI. Evaluation & Assessment	27
VII. Free Speech & Freedom of Expression.....	28
VIII. Current Policies & Guidelines	29
IX. Resources & Implementation	30
Proposed New Policy from the Joint President/Senate Inclusion & Respect Task Force	31
REFERENCES	35
APPENDICES	37
Appendix 1 - Inclusion & Respect Task Force Charge	38
Appendix 2 - Revised Non-Discrimination Policy & Procedures	41
Appendix 3 - Peer Institution Overview	50

EXECUTIVE SUMMARY

Our charge

The University of Maryland President and the University Senate Chair appointed a Task Force comprised of faculty, staff, and student representatives from across campus in August 2017 to consider how best to nurture a campus climate that is respectful and inclusive, stands against hatred, and affirms the values that define the University.

The Task Force gathered information on campus climate, reviewed campus policies and procedures for response to hate/bias incidents, assessed efforts to provide prevention and education training and the effectiveness of those programs, reviewed scholarly research on bias in higher education, considered how to address the intersections of free speech and hate speech in campus policies, considered how campus messaging and communication could be used to promote an inclusive campus atmosphere, and explored strategies for fostering a campus environment that is intolerant of hate and bias.

What we heard from the campus community

Task Force members met with hundreds of faculty, staff, and students through town hall meetings, conversations with representative faculty, staff, and student groups, and individual meetings with stakeholders. Among the consistent messages heard from those groups and individuals were:

- Recent campus hate/bias incidents have caused faculty, staff, and students to be concerned about their safety and the safety of others on campus. Despite data that show that the University provides a safe environment, there is a difference between being safe and feeling safe.
- There is a lack of understanding of the experiences of minority members of the campus community.
- Hate groups are increasingly targeting campus communities with propaganda and persuasion, largely using social media channels.
- Many students believe that campus leaders are not concerned about hate/bias incident, nor do they understand student fears.
- Despite numerous administration efforts in recent years to address diversity and inclusion on campus, there is a lack of transparency in how the campus handles hate/bias incidents that gives the impression nothing has been done.
- Students, in particular, are frustrated that they hear about hate/bias incidents from outside sources before they receive information from the University.
- The University does not fully appreciate the importance of social media when communicating information about incidents.
- There is a lack of coordination between campus units and no central source of information, making it difficult to find information on current diversity and inclusion programming and resources.
- Faculty and staff do not have the tools necessary to facilitate dialogue on issues of hatred and bias in the classroom and in the workplace.
- Due to cultural differences, international students may need additional outreach.
- Faculty, staff, and students repeatedly voiced doubt that the Task Force recommendations would be implemented.

Task Force members made the following conclusions

- There is no consistent understanding among faculty, staff, and students of what the University's values are or what it means when campus leaders say certain conduct or speech violates University values.
- There is substantial concern with the way the administration communicates with audiences and the tone it sets when hate/bias incidents occur on campus.
- Diversity programming is not comprehensive and does not have a broad overarching vision.
- The University must do more to demonstrate its commitment to safety and must act assertively against threatening and intimidating conduct. At the same time, it must do more to promote civility and respect to foster an environment where free inquiry and debate can occur.
- There is a lack of understanding of how to balance free speech that is protected by state and federal laws with speech that is considered conduct that can be punished as a crime or as a violation of University policies.

Our recommendations

The Task Force recommends numerous actions, including those highlighted below. The University should:

Policies, Guidelines, and Procedures

- Adopt the proposed Values of the University, which should be ingrained into the experience of each member of the campus community and reinforced throughout their time at the institution. (p. 23)
- Adopt the proposed Policy on Threatening and Intimidating Conduct. (p. 31)
- Adopt the proposed Statement on Free Speech Values, promoting intellectual and academic freedom and recognizing that offensive speech that hurts, offends, or discredits may be protected by state and federal laws. (p. 28)

Other recommended actions

- Develop a comprehensive prevention and education initiative on diversity, inclusion, and respect for all members of the campus community that includes content areas such as implicit bias, cultural competency, bystander intervention, and civic engagement. The initiative should draw upon expertise from campus scholars and should be administered by the Office of Diversity & Inclusion (ODI). (p. 24)
- Develop a strategy for communicating information related to equity, diversity, and inclusion that is transparent, timely, and responsive to the concerns raised by the campus community. When serious verified hate incidents occur on campus, the University's leadership should denounce offensive speech or conduct that does not align with its core values. Likewise, when outside speakers engender hatred, University leadership should make clear that the speakers' messages violate University values. (p. 26)
- Provide opportunities for faculty, staff, and students to engage in meaningful counterspeech. (p. 28)
- Use the ODI website as a central resource for information about diversity-related programming, events, policies, data, climate reports, and reporting processes, as well as resources related to free speech, expression and demonstrations on campus. (p. 26)
- Consolidate all hate/bias incident reports and publish them on the ODI website, including the resolution of verified reports. (p. 26)
- Conduct biennial climate surveys of faculty, staff, and students. (p. 27)
- Refer review of campus policy and related guidelines on the use of physical facilities and demonstrations by outside groups to the Senate's Campus Affairs Committee. (p. 28)
- Develop a phased implementation plan and provide the necessary resources for implementation of the Task Force recommendations. (p. 30)

INTRODUCTION

The citizens of our country are diverse, and they reflect a variety of socioeconomic backgrounds, perspectives and outlooks, political viewpoints, and lived experiences. The diversity of perspectives in our nation is informed by our history of slavery and segregation as well as the subsequent struggles for civil rights and equality. While civility and respectful discourse have always been civic virtues, their use and role have been challenged in recent years. There has been a surge in hate crimes and bias incidents across the country, leading many to believe that our country has not progressed as far as it seemed. The changing political landscape has emboldened some to engage in racially and religiously motivated acts and expressions of hate that undermine the pillars of our society. While free speech and freedom of expression have been major tenets of the constitutional rights afforded to our citizens, some have used these rights to convey hatred without consideration of the impact that those statements have on their community.

Institutions of higher education have not been immune to these issues. Colleges and universities have seen a significant increase in hate crimes and incidents motivated by biases related to an individual's protected class, as in their race, national origin, ethnicity, religion, sexual orientation, sex, gender identity, or disability (Bauman 2018). In addition, hate groups have increasingly targeted recruitment efforts and propaganda at campuses across the country (Kerr 2018). Higher education institutions are struggling with the balance between fostering civil discourse and promoting academic freedom with upholding speech that is offensive but still protected under the First Amendment (Patton 2017; Kerr 2017).

While we have made progress towards inclusion, we need to be informed by our past in order to move forward. Diversity alone does not create opportunities for inclusion or understanding across differences. The challenge that the country and the University of Maryland face is not just one of diversity, equity, and inclusion, but also one of unity and creating a greater sense of belongingness.

BACKGROUND

The University of Maryland is a world-class public research institution with a thriving community of faculty who are leaders in their fields, staff committed to supporting the University's mission, and 40,000 academically talented students. The University is committed to excellence through fostering education, critical thinking, and intellectual growth; creating and applying new knowledge via research, scholarship, and the creative arts; enhancing the economic development of the state; and improving the surrounding community, nation, and world. The diversity of our faculty, staff, and students is a cornerstone of that excellence. The University's pursuit of excellence is bolstered by its strong commitment to secure and maintain a working and learning environment in which all members of its community are welcomed, feel safe, and can flourish, regardless of race, color, creed, sex, sexual orientation, gender identity, national origin, political affiliation, socioeconomic background, or disability.

In the last few years, the University has been confronted with many of the same issues that have emerged across the country. Concerns about the infiltration of hate groups, incidents that have diminished the experience of many of the members of our campus community, and a significant tragedy that has forever changed our community have led to a collective call for action. Members of our community have expressed concerns about safety and security; transparency; and the impact of hate/bias incidents on our campus. In response to these concerns, President Loh and the University Senate created the Joint President/Senate Inclusion & Respect Task Force (the "Task Force") to review these concerns, consider our existing practices, and develop a comprehensive plan for

initiatives on prevention and education, improving campus climate, responding to incidents motivated by hate, and upholding the pillars of our academic mission within legal guidelines.

The Task Force is led by Ja’Nya Banks, Student Government Association (SGA) Diversity Committee Chair; Lucy Dalglish, Dean of the Philip Merrill College of Journalism; and Warren Kelley, Assistant Vice President for Student Affairs. The membership of the Task Force includes representatives of the major campus constituencies (undergraduate students, graduate students, faculty, staff, and alumni) and includes faculty and staff with expertise relevant to the work of the Task Force. While the Task Force is representative of major constituencies, from its formation it acknowledged that it is not representative of the experiences of the entire campus community. The Task Force endeavored to incorporate the perspectives of a variety of campus stakeholders into its work in order to better understand their individual experiences and to develop recommendations that reflect their complex needs.

DIVERSITY-RELATED INITIATIVES

The University of Maryland has long embraced diversity as a core value and counts a diverse community among its greatest strengths. The University is committed to building an inclusive community that is enriched by differences, brings together people from the widest array of backgrounds and perspectives, and recognizes that excellence cannot be achieved without diversity. In 2010, the University reaffirmed that commitment by establishing the Diversity Strategic Plan - [*Transforming Maryland: Expectations for Excellence in Diversity and Inclusion*](#). This Plan aligns with the University’s Strategic Plan and sets forth strategies to achieve an environment for all members of the University community that acknowledges and celebrates diversity in all of its dimensions.

Since 2010, the University has made great strides towards achieving the goals outlined in the Diversity Strategic Plan. These efforts were predicated on the establishment of the Office of Diversity & Inclusion (ODI) and the Chief Diversity Officer position. In the past eight years, ODI has led the University’s major diversity initiatives.

In the past year, the University has continued its commitment to diversity by developing a variety of new initiatives and by committing significant resources into supporting diversity efforts more fully. The Chief Diversity Officer position is being elevated to vice president status to emphasize the value that the University places in this role. In addition, the University has established the Center for Diversity and Inclusion in Higher Education (CDIHE), which will serve as a national leader in research, policy, professional standards, and consultation for institutions across the country and abroad on critical issues related to diversity, inclusion, and social justice in higher education. The University has also committed resources to diversity-related educational efforts such as expanding the cultural competency sections in the General Education curriculum, finding ways to provide civics education, and developing training opportunities for incoming students. New systems to respond to hate/bias incidents have been developed, through the newly established [Hate/Bias Incident Reporting Response Protocol](#) and the Hate/Bias Response Team as well as the creation of the Hate/Bias Response Program Manager role.

The University has shown its commitment to developing diversity amongst the faculty ranks by establishing the Presidential Postdoctoral Fellowship, which provides opportunities for underrepresented minorities to prepare for faculty roles in academia and improves the pipeline of diverse faculty available for faculty positions and the Senior Hire Program, which provides opportunities to recruit senior underrepresented minority faculty to Maryland. The University’s

leadership is also committed to learning how to identify the infiltration of hate groups through training opportunities from the Anti-Defamation League (ADL). In addition, the University has recently initiated a review of its General Education curriculum diversity requirement to ensure that it is meeting its intended goals.

While we have made progress in these areas and the University has committed to action, the Task Force was formed to do a comprehensive review of University policies and practices to ensure that we have the tools and systems in place to address our current needs and develop future diversity, equity, and inclusion efforts.

CHARGE

The President of the University and the Chair of the University Senate jointly charged the Task Force on August 25, 2017. The Task Force was asked to consider how best to nurture a campus climate that is respectful and inclusive, stands against hate, and reaffirms the values that define our University. Specifically, the Task Force was asked to gather information on the campus climate, including existing climate data and anecdotal information about campus concerns; review existing policies and procedures for the immediate response to an investigation of hate/bias incidents; assess current efforts to provide prevention and education programming to faculty, staff, and students and their effectiveness in creating an inclusive campus environment; review scholarly research on bias in higher education; review and assess best practices at peer institutions; consider how to address the difficult intersections of free speech, hate speech, and freedom of expression in University policy and practice; consider how messaging and communication should be used to promote an inclusive campus environment; develop a statement on the University's core values and consider how such values can be reinforced over time; and develop strategies for fostering a campus environment that is intolerant of hate and bias. The complete charge to the Task Force is included in Appendix 1.

In developing the charge, the President and Chair of the Senate focused the Task Force's work on programming efforts and initiatives primarily outside of the classroom. Consideration of opportunities to refine and better utilize diversity, equity, and inclusion themes in the curriculum, such as through General Education requirements, is an important task that should be led with singular focus by the faculty. A review of curricular opportunities through General Education has been initiated and will move forward independent of the Task Force's work.

TASK FORCE WORK

The Task Force began its work in September 2017 and divided its work into two phases. In Fall 2017, the Task Force focused on gathering information related to its charge. The Task Force created five working groups on Climate, Policies & Procedures, Prevention & Education, Hate/Bias Response, and Free & Hate Speech, and began gathering information specific to each area, including scholarly research, guidance on legal frameworks, and best practices in higher education. The Working Groups began an exhaustive study of practices at peer institutions to inform their processes.

During Fall 2017, each Working Group examined current policies, procedures, and practices in their specific areas. The Climate Working Group gathered existing data from climate-related research conducted by the Campus Assessment Working Group (CAWG) and worked with the Office of Institutional Research, Planning, and Assessment (IRPA) to analyze and understand these data. The Prevention & Education Working Group conducted interviews with faculty and staff who design

and deliver programming related to diversity, equity, and inclusion for the University community, in order to better understand current practices, goals, and challenges. The Hate/Bias Response Working Group consulted with administrators and offices who are currently involved in responding to and/or investigating reports of hate/bias incidents on our campus, including administrators in ODI, the Office of Civil Rights & Sexual Misconduct (OCRSM), the Office of Student Conduct (OSC), and the University of Maryland Police Department (UMPD), as well as Resident Life. The Free & Hate Speech Working Group worked closely with the Office of General Counsel (OGC) and reviewed all campus policies, procedures, and guidelines related to speech and expression.

The Task Force held three open forums in the fall semester to hear the concerns of the campus community and ask for suggestions on how it should address its charge. The Task Force solicited feedback through an online form for those who were unable to attend the open forums or who felt uncomfortable sharing their views and experiences publicly. The Task Force also reached out to and met with specific constituency-based groups for feedback, including the University Senate, Student Government Association (SGA), Graduate Student Government (GSG), Residence Hall Association (RHA), Black Faculty-Staff Association (BFSA), and a group of non-exempt staff from Dining Services. The Task Force participated in a Design Thinking Workshop assisted by members of the Academy of Innovation & Entrepreneurship in order to use empathy to identify problems and to find creative ways to develop and test solutions to those problems.

In the second phase of work beginning in January 2018, the Task Force began developing recommendations and consulting with faculty, staff, and students as well as relevant offices on its preliminary directions. The Working Groups presented their findings and recommendations to the Task Force in late January 2018. The Task Force began refining the recommendations and deliberating on guiding principles that should be the basis of recommendations in each of the relevant areas. In February and early March 2018, the Task Force presented initial reports on preliminary directions to the University Senate, SGA, GSG Executive Board, RHA Executive Board, the Academic Leadership Forum, and other stakeholder groups. The Task Force considered and incorporated feedback from each group as it refined its recommendations.

In addition, the Task Force co-chairs and staff spent the beginning of the spring semester consulting with administrators and offices that may be impacted by the recommendations or that may have specialized information for the Task Force on how to reach particular populations through the recommendations. These efforts included consultations with the Office of Faculty Affairs (OFA), University Human Resources (UHR) (including Learning and Talent Development as well as the Office of Staff Relations), the Teaching and Learning Transformation Center (TLTC), the Office of International Student & Scholar Services (ISSS), the Office of Undergraduate Admissions, the Office of Undergraduate Studies (UGST), the Orientation Office, and the Graduate School (GRAD). The Task Force co-chairs updated the President and Chair of the Senate as it developed its recommendations, in order to ensure that its recommendations aligned with the charge, were reasonable, and could be implemented.

The Task Force unanimously approved its final recommendations on March 29, 2018.

CURRENT PRACTICE

Early in its review, the Task Force began gathering information on existing practices, policies, programming, and data related to diversity, equity, and inclusion efforts as well as on the University's initial response and investigation processes for hate/bias incidents. A summary of its findings in various areas is included below.

Prevention & Education

The University currently offers a wide variety of opportunities to engage in diversity-related programming for members of the campus community. Academic and administrative units including the Department for Fraternity & Sorority Life (DFSL), the Division of Student Affairs, Multicultural Involvement & Community Advocacy (MICA), the University Health Center, and ODI among others across the campus, provide a variety of programs in this realm. In a large university such as ours, programming opportunities of this nature can be highly decentralized. This can foster creativity and ownership but can also lead to a lack of a cohesive vision or strategy for continual improvement in these types of initiatives. Many of those who develop and deliver existing programs raised concerns about programming assessment, decentralized registration, and follow-up for participants.

Response to Hate/Bias Incidents

Hate/bias incidents are acts that focus on a characteristic such as race, ethnicity, national origin, religion, sex, gender identity, sexual orientation, political affiliation, or physical or mental disability, among others. Hate/bias incidents may involve offensive speech and expression that are protected by the First Amendment, and though not all hate/bias incidents include acts that rise to the level of a crime, they may involve conduct that can be addressed through administrative and/or legal action.

The University established the Hate/Bias Incident Reporting Response Protocol in November 2017 to establish practices for responding to hate/bias incidents, in order to provide support to the University community in response to incidents and to take action on any conduct that is inconsistent with the University's policies and values.

ODI recently established a new Hate/Bias Response Program Manager position to provide support to individuals affected by hate/bias incidents and to formulate action plans for responding to the incident, working in partnership with the newly-established Hate/Bias Response Team. The Hate/Bias Response Program Manager will share data about incidents with UMPD and other campus units and maintain a log of hate/bias incidents online.

Reports of suspected hate/bias incidents currently can be made online to the Office of Civil Rights & Sexual Misconduct (OCRSM) or to UMPD can be reached by calling 911, 301-405-3333, or dialing #3333 from a cell phone. Upon receiving a report, UMPD will begin an investigation and send confidential notifications to administrators who need to be aware and who may facilitate any necessary immediate action while UMPD conducts an investigation.

During the investigation, UMPD considers whether there is an element of hate or bias to the incident, using factors and indicators established in the [Maryland State Police Protocols](#). After the investigation concludes, UMPD will classify the incident as to its status as a hate/bias incident. A "verified" incident means a reasonable person would conclude that the act was motivated in whole or in part by bias against a person or group due to their membership in a protected class. An "inconclusive" incident is where the evidence is incomplete or conflicted and the incident cannot be verified. "Unfounded" incidents are those where the incident did not occur or it was not motivated by bias. The status of the incident will be recorded on the daily crime log on the UMPD website.

If UMPD finds a perpetrator and determines that the incident was a hate crime according to federal and state law, it will review the incident with the State's Attorney to consider criminal charges. If an incident involving faculty, staff, or students is classified as a verified or inconclusive hate/bias

incident, UMPD refers the matter to the University through the Office of Faculty Affairs, University Human Resources, or the Office of Student Conduct for administrative review.

While processes for reviewing referrals involving hate/bias incidents are evolving, the Office of Student Conduct already has a well-defined administrative review procedure in place for cases involving students. Upon receiving a referral for student conduct associated with hate/bias incidents, the Office of Student Conduct (OSC) may pursue charges for violation of the *Code of Student Conduct*. The OSC will review the report for reasonable cause and to establish whether the conduct would be a violation of the *Code*. The OSC will conduct its own investigation to review any evidence or information in the referral or available from the UMPD or faculty, staff, or students impacted by the case. Cases are resolved through a disciplinary conference with an administrator or through a hearing by a student conduct board. Students have the right to appeal the finding and the sanction if their case was heard by a board. During the sanctioning process, the Director considers any aggravating or mitigating circumstances, and will also consider whether the conduct was motivated by hate or bias - if so, that will be considered an aggravating factor, which may result in a stricter sanction.

While hate/bias incidents can occur anywhere on campus, a number of reports have been made in residential communities, where reporting is encouraged and supported by the Department of Residence Life (Res Life). Since the vast majority of incidents in the residence halls are related to subtle bias, ignorance, or impulsivity, Res Life focuses on community restoration and coming together through dialogue in its response to incidents. In cases where a perpetrator can be found, Resident Directors typically hear lower-level cases and the case is referred to the Office of Rights and Responsibilities (R&R) if it could result in a disciplinary action. The R&R team uses the *Code*, the Residence Hall Rules, and the same protocols as the OSC in resolving cases.

Climate

The University has regularly assessed faculty, staff, and student perceptions of the campus climate from a variety of dimensions over the years. These assessments have provided information on the status of the campus climate over time, and have in some cases provided data used for evaluating specific initiatives. A number of existing initiatives that provide data and assessment related to campus concerns have been used to study campus climate from a diversity perspective.

The University's Campus Assessment Working Group (CAWG) was formed to develop a campus "Culture of Evidence" in which data and assessment play a key role in campus decision making. CAWG regularly gathers and exchanges information about the faculty, staff, and student experience at the University. The data can feed directly into program and campus improvement efforts. Departments and administrators take advantage of these data collection efforts to ask questions that are necessary to their own improvement efforts. CAWG works on developing strategies for sustainable data collection to continue moving the University forward in its status as the flagship campus.

In March 2016, the University launched the Thriving Workplace Initiative as a means to data to create a thriving work environment and a culture of engagement and inclusion among all University employees. This important ongoing initiative, led by the Office of the President and the University's Center for Leadership and Organizational Change (CLOC), intends to share survey results with academic and administrative units on campus; create an action plan that is based on best practices, research, and assessment; and implement that action plan through training, development, and personalized consultations in order to promote a thriving workplace. This important initiative

examines inclusion in the workplace, broken down demographically, and seeks data on the drivers of more inclusive environments. The principles of this initiative recognize that engaged employees work with passion, feel a profound connection to their workplace, and are empowered to succeed while helping the University reach its full potential.

In Spring 2017, the Graduate School initiated the Graduate Student Quality of Life survey to better understand multiple facets of the graduate student experience. The results from the survey were released in January 2018. These results provide an analysis of graduate student engagement with the University, other students, and faculty; an analysis of graduate student interactions with and perceptions of the faculty and the department; and data on how well students felt that the program prepared them academically and professionally.

In February 2018, the University initiated a Campus Climate Survey, an online survey used to assess the campus living, working, and learning environment, including the level of equity and respect among faculty, staff, and students. This population-level comprehensive survey is the first of its kind at the University. The goal of the survey is to use the results to help shape a more inclusive, diverse, and safe community.

Policies and Procedures Related to Speech and Conduct

The Task Force reviewed all University policies related to freedom of expression, use of space, and demonstrations. The University has several policies, procedures, and guidelines that support free speech and freedom of expression on our campus. The [VI-4.10\(A\) University of Maryland Procedures for the Use of Physical Facilities](#) provides guidance on procedures for the use of campus facilities by units within the University, members of the campus community, and student organizations, as well as public use by others outside the University. The University's [Guidelines on Demonstrations and Leafletting](#) recognize the right of individual faculty, staff, students, and student organizations to demonstrate and leaflet, provided such activities do not disrupt normal activities or infringe upon the rights of others. The University's [Chalking Guidelines](#) provide guidance on approved surfaces at the University that can be used by faculty, staff, and students for creating chalk messages. The University's [Freedom of Expression: Policy and the Law](#) Resource Guide (1991) recognizes the particular importance that the University, as an institution of learning, places on the free exchange of ideas. It also states the University's commitment to open, vigorous debate and speech. Additional relevant policies and procedures include the [VI-1.10 University System of Maryland Policy on Acts of Violence and Extremism](#), [VII-11.00\(A\) University of Maryland Faculty and Staff Workplace Violence Reporting and Risk Assessment Procedures](#), [VI-1.00\(B\) University of Maryland Non-Discrimination Policy and Procedures](#), and the Division of Intercollegiate Athletics regulations on [Prohibited Items & Behavior](#).

RESEARCH AND FINDINGS

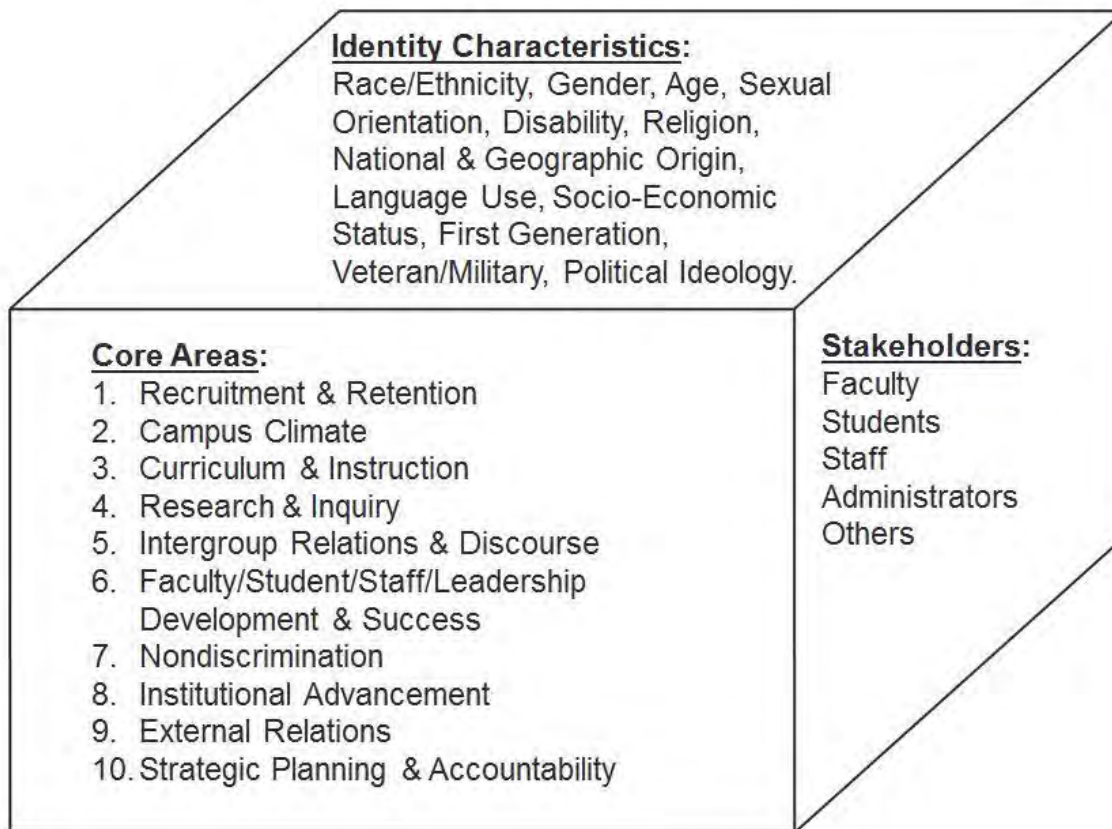
Scholarly Research

The Task Force reviewed scholarly research from multiple perspectives as it considered the various elements of its charge. Research related to diversity and inclusion has focused on areas such as effective elements of diversity initiatives, efforts to promote racial climate, the balance of free and hate speech, and principles for diversity programming.

Diversity & Inclusion Efforts in Higher Education

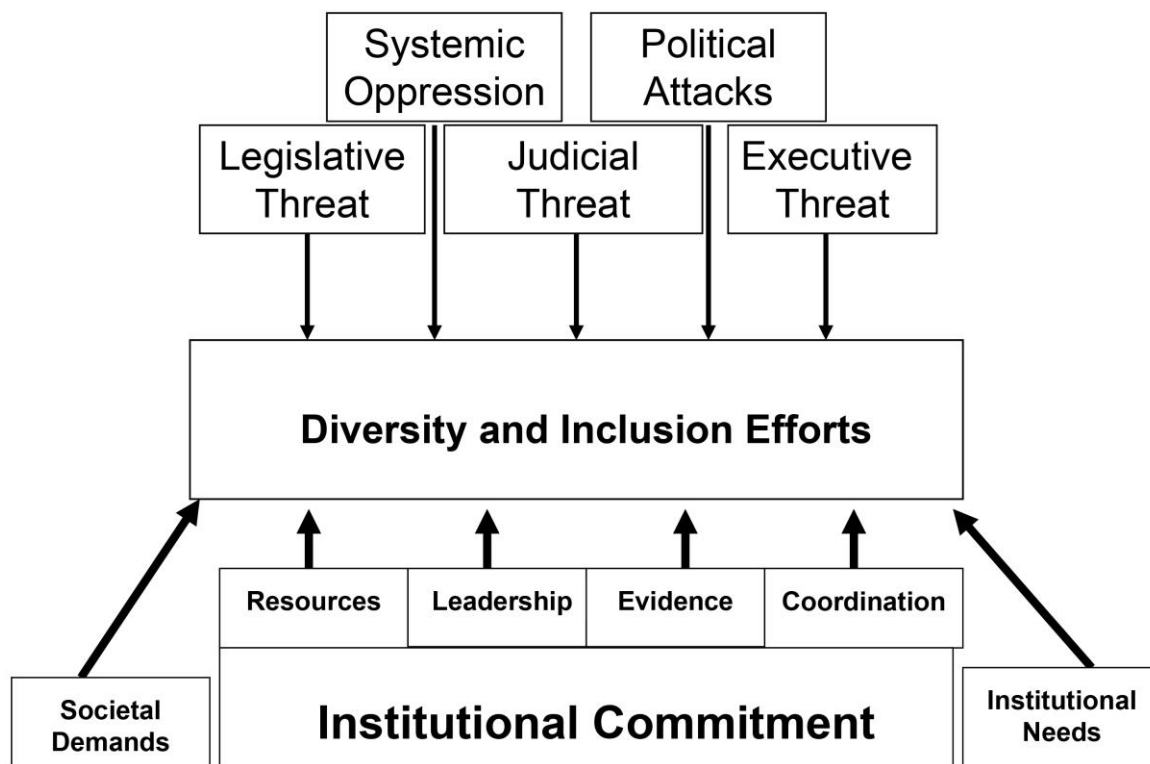
Diversity in higher education is no longer solely focused on affirmative action based on race. Research shows that a three-dimensional model of diversity in higher education with a broadened focus that recognizes characteristics of identity, constituency groups, and institutional initiatives is more applicable today (Antonio & Clark, 2011; Epperson, 2011). This model (Figure 1) serves as an organizational framework and conceptual guide for diversity research and practice in higher education.

Figure 1. Three-dimensional model of higher education diversity (Worthington 2014)



Research has focused on the keys to successful diversity and inclusion efforts and the impact of general diversity in higher education. Comprehensive diversity and inclusion efforts involve more than simply counting people; they address a multitude of identities; consider intersecting aspects of identity and include and benefit everyone. Diversity on college campuses is associated with greater learning; increased interpersonal competencies; greater self-confidence among students; fewer racial prejudices; greater gains in critical thinking; and greater involvement in civic and community service (Antonio, 2001; Chang, 1996; Gurin, 1999; Hurtado, 2001; Smith et al., 1997). The factors that are considered to be threats to diversity and inclusion efforts, as well as those that support diversity and inclusion efforts are identified in Figure 2 below.

Figure 2. The Dialogic Model of Difficult Dialogues Teaching and Learning (Worthington 2017)



Positive Racial Climate

Diversity has been shown to have an impact in promoting a positive racial climate on campuses in a variety of dimensions. The major contributing factors to a positive racial climate are the inclusion of students, faculty, and administrators of color; a curriculum that reflects the historical and contemporary experiences of people of color; programs that support the recruitment, retention, and graduation of students of color; and an institutional mission that reinforces its commitment to pluralism. In addition, four climate-related factors internal to and within the control of individual colleges and universities include compositional or structural diversity; the psychological and behavioral dimensions of the climate; and an institution’s history and legacy of inclusion (Hurtado, et al., 1998; 1999).

The three thematic clusters of findings from an analysis of 15 years of institutional research on campus climate show differential perceptions of campus climate by race; minority student reports of prejudicial treatment and racist campus environments; and benefits associated with campus climates that facilitate cross-racial engagement (Harper and Hurtado, 2007). The major themes from a multi-campus qualitative investigation shows cross-race consensus regarding institutional negligence; race as a four-letter word and avoidable topic; self-reports of racial segregation; gaps in social satisfaction by race; white student overestimation of minority student satisfaction; reputational legacies for racism of the institutions; the pervasiveness of whiteness in space, curricula, and activities; the consciousness-powerlessness paradox among racial/ethnic minority staff; and the unexplored qualitative realities of race in institutional assessment (Harper and Hurtado, 2007).

Research on Free Speech and Hate Speech

Universities must work to balance free speech protections with other interests, such as creating an inclusive environment and educating the campus community about the difference between the

intent of hate speech and the impact of hate speech. It is important for campus community members to clearly understand the constitution, state laws, and individual rights, as well as the university's stance on these issues.

Research shows that universities should “explore non-disciplinary/punitive responses that would provide support and education to all parties involved” (Miller et al. 2017: 7). Miller and colleagues (2017: 8) suggest that universities should engage in “educational moments” by helping students and the broader campus community have vehicles to respond to speech they consider offensive.

Miller and colleagues (2017) found that:

“...administrators must carefully consider and evaluate their roles related to protecting free expression while also working to create campus environments conducive to dialogue about diversity and bias.” (p. 11)

“...bias response teams should provide ongoing education on legal issues in higher education with a specific focus on free speech as well as campus-level policies, which function as one component of regular training that could also address contemporary issues of diversity and bias on campus.” (p. 11)

Diversity Programs

Scholarly research shows that most universities and organizations support diversity programs. Dobbin, Kalev, and Kelly (2007) found that nearly 40 percent of the 829 companies they surveyed have diversity training. Roughly 20 percent of the companies have diversity evaluations, diversity task forces, and networking programs. Only about 10 percent of the companies have a diversity manager and mentoring program.

In developing diversity programs, research suggests that the following questions should be considered.

❖ *Should Diversity Programs be Mandatory? Yes, if other programs are mandatory.*

Research shows that making training programs, whether diversity-focused or otherwise, required is an ineffective strategy (Dobbin and Kalev 2016; Johnson 2017). It should be noted that organizations and companies make programmatic efforts mandatory all of the time. If mandatory trainings are the status quo, a diversity program should be no different. In fact, research shows that if something is included as a normal requirement, it is not perceived negatively. When diversity is incorporated as a normal part of the organization, people are more accepting of it as a key component of the organization. In turn, they are more open to diversity training. After participating in diversity trainings, employees actually report that diversity is more important for their jobs and important for their organization (Hanover and Cellar 1998).

❖ *What leads to the Success of Diversity Programs? Leadership participation.*

In a survey from 785 human resource professionals, Rynes and Rosen (1995) examined what factors determined the adoption of diversity programs and perceived training success. They found that top administrative support and administrators' belief in diversity initiatives increases the adoption of diversity program and perceived training success. Also, the existence of a diversity manager/liaison, diversity-related policies, and the clear prioritizing of diversity goals related to other priorities increases adoption and perceived success. Contrary to other research, Rynes and Rosen found that perceived training success increases when diversity programs are mandatory for upper management, when there is a long-term plan for evaluating training results, policy changes, and

diversity goals, as well as a reward structure for administrators and departments for adhering to diversity goals. Subsequent research found similar results (Dobbin, Kalev, and Kelly 2007).

Unfortunately, diversity trainings are typically disaggregated from policy changes that directly address organizational concerns (Dobbin and Kalev 2016). Diversity has to be part of the entire organization for changes to be institutionalized. In addition to trainings, diversity has to be formally incorporated into strategic plans, mission statements, and award and incentive structures. An organizational diversity program should include diversity trainings, internal communications, resource commitments, accountability for violating rules and regulations related to tolerance and respect, and comprehensive programs that can focus on a range of marginalized identities.

❖ *Are Bystander Intervention Strategies Effective? Yes, with the ability to practice strategies.* Bystander intervention has been shown to be highly effective. In a large study including nearly 13,000 high school students, Polanin, Esplage, and Pigott (2012) found that bystander intervention programs decreased bullying in schools. Allies and bystanders are frequently able to connect with perpetrators in ways that victims and survivors cannot. Unfortunately, bystanders often do not have enough data points or experiences to allow for them to practice implementing bystander intervention strategies.

Analysis of National Trends

Assessments conducted by national advocacy and research organizations generally indicate a recent rise in hate/bias incidents and hate crimes across the country, which is supported by assessments of FBI crime data. For instance, FBI crime data from the 2016 reporting year indicate a 5 percent rise in hate crimes overall; hate crimes based on race, religion, and against the LGBTQ communities were the three protected statuses targeted most frequently in 2016 reports (ADL 2016; ADL 2017).

Trends related to hate/bias incidents indicate that there has been an increase in activity that promotes bias, especially related to white nationalism and racism, on college campuses. The Anti-Defamation League (ADL) Center on Extremism tracked 346 incidents of white supremacist propaganda on colleges campuses from September 1, 2016 to February 1, 2018. The number of incidents during the fall 2017 semester alone demonstrated a dramatic rise, with an increase of 258 percent when compared to incidents in the same time period in fall 2016 (ADL 2018).

Analysis by the Southern Poverty Law Center (SPLC) suggests that higher education has become a target for white nationalist groups because it tends to be very vocal about its commitment to diversity, tolerance, equality, and social justice. Racist propaganda seen on college campuses attempts to demonize these values as an attack on white identity and history in the name of political correctness. In addition, the SPLC suggests that college students are seen as prime targets for recruitment, since they are typically inquisitive and open to accepting new and sometimes radical ideas (SPLC On Campus 2017).

Both the SPLC and the ADL have advocated for more action by higher education administrators, faculty, staff, and students to prevent these incidents and provide more education and training to community members. The ADL provides a host of educational resources for university settings, including fact sheets, Q&A guidance documents, and training programs, and provides resources to help institutions identify and counter emerging threats. In October 2017, the SPLC developed a guide to bystander intervention, which provides training tools for individuals on how to step in when public harassment and violence occur on campus (SPLC On Campus 2017). The SPLC has also

advocated for college leadership to be vocal about their institution's commitment to diversity & inclusion and to speak out against actions on their campuses that go against their values (Cohen 2017).

Peer Institution Research

In the course of its work, the Task Force conducted an extensive review of practices and policies at Big 10 and other peer institutions, seeking best practices and lessons learned from their experiences. The institutions included in the review were: University of Illinois Urbana-Champaign, University of Iowa, University of Michigan, Michigan State University, University of Minnesota, Northwestern University, Ohio State University, Pennsylvania State University, Rutgers University, University of Nebraska, University of Wisconsin, University of California-Berkeley, University of California-Los Angeles, and University of North Carolina-Chapel Hill, among others. An overview of the Task Force's findings is included in Appendix 3.

Common themes and practices in multiple areas emerged in the review of Big 10 and peer institutions:

- Most peer institutions have incorporated some form of programming for incoming & transfer students. Programs range from a general overview of diversity, equity, and inclusion themes with an introduction to basic terms and concepts, to innovative workshops that explore some of the foundational skills needed to collaborate, learn, and work in diverse environments. Programs vary as to whether they are online or in person.
- Cultural competency education is a component of diversity training at many peer institutions, and often relies on dialogue programs and sharing lived experiences as a means of learning about and understanding systems of privilege and oppression while building community.
- Programs on bystander intervention, examination of implicit biases, and difficult dialogues in the classroom for instructors have been developed at some peer institutions.
- Some institutions are beginning to develop badging/certification programs for faculty, staff, and/or students that include a diversity component. These initiatives typically include a series of workshops or activities where strategic knowledge, skills, and competencies are developed, and after completion, participants receive some type of certificate to demonstrate their commitment and competence as a leader in diversity, equity, and inclusion.
- Most institutions have begun initiatives to survey campus climate in terms of diversity, equity, and inclusion on an annual or biennial basis.
- As most institutions are in the early stages of developing and launching campus climate surveys, most are still developing their plans for how to utilize the information collected.
- Some institutions plan to share campus climate results with the campus community and a few have made results public.
- A few institutions have defined core values and principles for its campus community, and use those values and principles in messaging and communications strategies in order to instill those values in the campus community.
- Every institution has a slightly different approach to reporting, investigating, and resolving reports of hate and bias incidents. Most universities have specific units or response teams dedicated to handle incidents of hate and bias.
- Reporting an incident may be done via email, phone call, online, or face to face, depending on the institution. A few institutions allow reporting of incidents in more than one location on campus, including specific locations that are familiar service and support centers for specific identity and affinity groups.
- All of the institutions surveyed prohibit discrimination, harassment, and threats in some way through various campus policies on non-discrimination, student conduct, and/or workplace

policies. Some institutions provide definitions of hate/bias incidents in online resources, but none give such definitions in policy documents.

- More than half the universities actively initiate outreach programs to help communities that may be impacted by a hate/bias incident, even if they were not directly targeted or involved in the incident.
- Some universities prepare detailed reports on hate/bias incidents on campus in order to provide timely and transparent information and to better understand the campus climate. These reports vary in the level of detail included - some institutions include only incidents that have been verified where an individual was found responsible, while others include all incidents that have been reported with an explanation of whether they were unfounded or verified to be hate/bias incidents.
- Nearly all institutions have policies or executive-level statements on protecting freedom of expression; academic freedom is often linked to freedom of expression in these statements.
- None of the institutions specifically ban hate speech, though some institutions are more specific about what types of speech are in fact conduct that may be actionable.
- All institutions reviewed have policies and procedures that guide the use of facilities and spaces on campus for assembly, discussion, or protest. Many have restrictions on who may reserve indoor or outdoor space and restrict the ability of outside groups to initiate or host events. Many institutions also have designated outdoor areas for free assembly by university or non-university groups for protests or demonstrations on campus.
- Some institutions provide guidance on counter-protests and/or appropriate/inappropriate ways to protest controversial speakers. A few provide guidance on how university police can support student groups that wish to protest.
- Nearly all institutions have policies or procedures on chalking, hanging posters, or otherwise writing messages on campus surfaces. Most institutions do not allow for the removal of messages based on content.

Existing University Climate Data

The Climate Working Group of the Task Force reviewed existing data from past Campus Assessment Working Group (CAWG) climate surveys. The Working Group also reviewed preliminary results of the Graduate Student Life survey, including more detailed responses to diversity-themed questions in the survey. The recent Campus Climate Survey administered by ODI closed at the end of February 2018, so the full results were not available in time to inform the work of the Task Force.

CAWG climate survey results included data on perceptions of the University's diversity from freshmen (2015), juniors/seniors (2015), and alumni (2007 & 2015). In addition, the Working Group reviewed survey results on student perspectives on campus community climate (2003), LGBTQ environment (2014), student perception of cultural awareness and diversity (2010), senior experience on academics, diversity, and transition (2000), and alumni experiences on diversity & community responsibility (2006). The Working Group also requested further analysis of the data on student experiences to focus on key settings in which the University effectively provides opportunities for its student to interact with diverse groups and opportunities that are most widely used by subgroups of students who differ by ethnicity, major, and experience with diversity prior to attending the University.

An analysis of the student survey data provided a variety of insights. The University provides students opportunities for interactions with individuals from different backgrounds through a variety of mechanisms, including housing arrangements and campus employment. Overall, the results of

the survey suggest high prevalence of student interaction with diverse groups through each of these mechanisms. A majority of student respondents experienced interactions with other groups through these settings. Living and Learning programs seemed to offer less experience with diversity than other settings.

Student respondents commonly reported involvement in discussion about racial issues in their courses at the University – 60 to 70 percent of student respondents. However, student respondents in a few colleges such as the sciences reported less discussion of these issues, likely because the nature of these courses do not lend themselves naturally to such discussions. This suggests that alternative routes and approaches may be needed in order to increase the exposure of students in these disciplines to issues of diversity (e.g., through General Education requirements).

A high proportion of student respondents - about four out of every five students - report personal efforts to get to know those belonging to groups other than their own. At the same time, only about one in three respondents reported participation in events and activities sponsored by groups reflective of other cultures. Participation in these events was reported by 27 percent of white respondents, 32 percent of Latino respondents, and 40 percent of African-American respondents. The personal or social barriers to this form of boundary-crossing deserve greater attention. Nevertheless, in almost all groups, a very high proportion of respondents reported feelings of comfort (89 percent) and a sense of belonging (82 percent) at the University of Maryland.

The results from African-American students is an exception and deserves additional attention and consideration. In results related to a sense of comfort and belonging, about 26 percent of African-American students did not feel that they belonged and 24 percent of African-American respondents reported that they have felt disrespected. By comparison, the frequency of disrespect is only 4 percent among white students and 11 percent among Latino students. Although most African-American students did not feel disrespected, a substantial minority of them did. In addition to feeling as though they did not belong and were disrespected, a similar number felt that race was a barrier to their participation at the University of Maryland.

Most students, two-thirds of respondents of all ethnicities, valued diversity as a goal and saw it as a benefit of attending the University of Maryland. The benefits of diversity discussed included developing comfort and interacting with other groups, empathy, perspective-taking, and the ability to work together to communicate and negotiate cross-cultural conflict.

Hate/Bias Incidents in Higher Education

In assessing incidents that occur on college campuses, it can be very difficult to determine whether an incident is motivated by hate or bias. The totality of the circumstances in the case are critical to determining if a hate/bias incident occurred; in two contexts, the same conduct could be viewed in vastly different ways. UMPD's investigation reviews indicators and factors that could prove or disprove a bias motivation for the alleged conduct. UMPD considers the perception of the victim, if they volunteer evidence or information that suggests the incident occurred because of their membership in a protected class. In order to confirm a hate/bias incident has occurred, there has to be evidence that would indicate to a reasonable person that the perpetrator's motivation was related in whole or in part to the victim or target's protected status.

In some cases, incidents at the University are reviewed for administrative action by the Office of Civil Rights and Sexual Misconduct (OCRSM) as potential violations of the University's Non-Discrimination Policy, while others are addressed through other avenues. The Non-Discrimination

Policy prohibits discrimination based on a protected class. However, in order for an incident to be found to be discrimination under the Policy, certain elements need to present; the conduct has to be severe or pervasive, and it has to effectively deny an individual or group their right to a specific benefit or service at the University. Typically, discrimination has to involve conduct by an agent of the University in order to be reviewed under the Non-Discrimination Policy, since actions by students would not constitute the University failing to provide an equitable learning and living environment.

The Task Force felt it is not helpful to classify the hate/bias incidents that the University has seen in recent months using a discrimination paradigm or the Non-Discrimination Policy for resolution. Hate/bias incidents may be isolated but impactful and involve actionable conduct such as threats or intimidation targeted in such a way that they create an immediate sense of harm or fear. Though it would likely not be possible to make a discrimination case for these incidents, other University policies and procedures can and should address this conduct. The Task Force determined that existing provisions in the *Code of Student Conduct* and the Policy on Workplace Violence touch on this type of conduct, and determined that the University would be better served by a policy that addresses threatening and intimidating conduct by faculty, staff, and students. While a new policy would address specific actionable conduct involving threats or intimidation, conduct that involves patterns of behavior, actions or inactions by faculty, staff, and administrators that deny services to individuals or groups, and conduct that is repeated and persistent would likely still be reviewed as discrimination by OCRSM.

While several campus units are involved in responding to hate/bias incidents, there is a continuing need for greater coordination among these units, to ensure appropriate application of University policy as well as to provide an immediate and effective initial response to hate/bias incidents. In addition, systems are needed to address campus concerns that the University community is not adequately informed in a timely fashion about reported incidents and their disposition.

Legal Framework on Speech and Conduct in Higher Education

Free and Hate Speech Defined

As a public institution, the University of Maryland is a state agency, and its actions must comply with the United States and Maryland constitutions and with Maryland statutes. The First Amendment of the U.S. Constitution ensures an individual's right to free speech and protects the right to express ideas and opinions without restriction. As a government agency, the University may not restrict or punish speech.

Institutions of higher education are meant to be places where the exploration of new and challenging ideas is celebrated. An environment that fosters the free exchange of ideas and open, vigorous debate is critical to the educational mission of all universities, including the University of Maryland. It is impossible to nourish intellectual growth, nurture innovation, and advance knowledge without engaging in dialogue, sharing different perspectives, and learning from each other. While the First Amendment is critical to ensuring this culture of inquiry thrives, it also protects an individual's right to say offensive, insulting, and hateful things. Hate speech is defined as speech that offends or insults individuals or groups based on race, ethnicity, national origin, religion, sex, gender identity, sexual orientation, political affiliation, or physical or mental disability, or other characteristics. It is often characterized by the use of words which are deliberately abusive or insulting, directed at vulnerable minorities and calculated to stir up hatred. It can undermine self-

esteem and cause isolation. While hate speech should be discouraged, hate speech is also protected by state and federal law, and as such, cannot be restricted by the University.

In cases involving hate speech, it is important to distinguish between speech that is protected and conduct that can be actionable. Some speech is accompanied by conduct, such as assault, vandalism, or threats to incite violence, which may be actionable through administrative processes or criminal charges.

Regulation of Hate Speech

The First Amendment allows the regulation of threats of bodily harm or death; intimidation or harassment; speech that incites imminent lawless action, such as the use of fighting words; and libel and slander. In *Brandenburg v. Ohio* (1969), the Supreme Court held that the constitutional guarantees of free speech permitted an exception where advocacy was directed to “*inciting or producing imminent lawless action and is likely to incite or produce such action.*” In other words, mere advocacy of hate cannot be banned unless it is an incitement to imminent lawless action. In *Virginia v. Black* (2003), the Supreme Court ruled that true threats are not protected by the First Amendment, such as when a speaker directs a threat to a person or group of persons with the intent of placing the victim in fear of bodily harm.

Courts have also allowed reasonable time, place, and manner restrictions of speech if there is a significant government interest in doing so. The restrictions must be content and viewpoint neutral and must leave open ample alternative means for speakers to get their views across. The restrictions must also be clear enough for an ordinary person to understand. The restrictions must be tailored in a way that does not simply ban all speech, both protected and unprotected speech, or they will be struck down as overbroad.

Speech and Expression on College Campuses

Beginning in the 1990s, more than 350 colleges and universities adopted rules or codes restricting hate speech. To date, every court to consider a campus speech code has declared it unconstitutional. Attempts to create a speech code or otherwise sanction offensive speech would not be appropriate for the University.

A classic example involved the rules at the University of Michigan, which in 1987 tried to enact a Hate Speech Code after a series of horrendous racial events on campus. The Court recognized this was a laudable university effort. Nevertheless, the policy was so broad and vague that it was impossible to discern any limitation on its reach. The terms “stigmatize” or “victimize” in the policy were too vague and swept within its scope a significant amount of what was unquestionably protected speech. Moreover, simply because speech stigmatized or victimized an individual did not, in and of itself, strip it of protection under the First Amendment.

Research and history show that in instances where speech codes were enforced, they were often used to silence marginalized groups. There have been many instances where the majority or those in power have used speech regulations intended to deter offensive speech to prevent those in the minority or in marginalized communities from using speech to promote their interests. There have also been many cases where marginalized communities have successfully moved their agenda forward due in large part because of the protections of the First Amendment.

Research shows that empowering marginalized communities to exercise their free speech rights has led to positive outcomes. Counterspeech has proven to be an effective method to oppose

speech that advocates for hate. While hate speech is protected, individual faculty, staff, and students; the administrative leadership; and campus or student organizations should be empowered to engage in counterspeech on the issues that are important to them. The campus community should use the resources, locations, and methods outlined in University policy and in guidelines on demonstrations to promote their interests.

ISSUES & CONCERNS

Campus Community Concerns

Throughout the course of its review, the Task Force solicited feedback from members of the campus community and key stakeholders to better understand major issues and concerns. The primary themes that emerged from multiple campus-wide open forums, targeted meetings, and other sources of feedback are outlined below:

General

- Faculty, staff, and students are concerned about their safety and the safety of others on our campus.
- There is a lack of understanding of the experiences of minority members of the campus community.
- Many are concerned about the prevalence of racist propaganda and the impact of recruitment efforts by hate groups.

Hate/Bias Incidents

- There is a perception that while students are concerned about incidents that happen on campus, the administration is not concerned or does not understand student fears.
- There has been a lack of transparency in how the administration addresses hate/bias incidents, which can give the impression that nothing has been done.
- Inconsistent data and information given to the campus community on incidents at the University gives the impression that these incidents are not taken seriously.
- There are concerns that those perpetrating hate/bias incidents are not being sanctioned.
- There are concerns about how to support those impacted by hate/bias incidents and the affected community.

Programming

- It can be difficult to find information about current programming because there is no coordination between units and no centralized source of information about programming.
- There is no collaborative process for units to work together on programming.
- Training is not effective unless it is engaging and interactive.
- The University is not reaching students who are not already engaged in diversity efforts.
- Faculty and staff do not have the tools they need to be able to challenge and facilitate dialogue on hateful attitudes and statements that occur in their courses.
- International students may need additional outreach to understand what we consider to be hate speech, a hate symbol, or prohibited conduct.

Free Speech

- It can be difficult to develop an objective standard that respects free speech on both sides of an issue.
- There are concerns about how to find a balance between the right to free speech and the need to restrict actions that incite violence and hate.

Communication

- There is no consistent understanding among faculty, staff, and students of what the University's values are and what it means when the administration says that certain conduct or speech go against University values.
- There are concerns with the way that the administration communicates with internal audiences and the tone that it sets when hate/bias incidents occur on campus.
- The University does not effectively speak out against hate/bias incidents and hateful speech, and often chooses to communicate in a way that indicates support for offensive ideas by labeling it as free speech.
- Students are not receiving information from the University but instead are hearing about it from other sources first.
- The University does not recognize the importance of social media when communicating information about incidents.

Implementation

- There is a perception that the University will not follow through on implementing any of the Task Force's recommendations.

Task Force Assessment of Issues to be Addressed

The Task Force acknowledges these concerns and understands the impact that hate/bias incidents have on our campus. Hate/bias incidents are insidious acts that can create fear, anger, and intimidation, for not only individuals directly affected, but also entire communities. Hate/bias incidents can create fractures in the social fabric of the campus, feed intolerance, and tarnish the University far beyond its borders. It is essential that the University act decisively and unequivocally in denouncing hate incidents, and take action where these acts are prohibited conduct.

The University should assure the campus community that their safety and ability to pursue their academic and work-related goals is a high priority. Data shows that the University of Maryland is a safe environment, and the University has taken additional steps in the past few months and years to increase safety measures on campus. However, there is a distinction between being safe and feeling safe, and the Task Force recognizes that many members of our campus community do not feel safe due to the rise in hate/bias incidents. The University needs to do more to demonstrate its commitment to safety and must act assertively against threatening and intimidating conduct.

The University must act just as assertively to ensure that intellectual and academic freedom, freedom of speech, and freedom of expression are protected on our campus. The University's mission is to discover and disseminate knowledge, which requires the ability to challenge norms and engage in dialogue across differences. To sustain its mission, the University should vigorously support the marketplace of ideas. At the same time, the University must do more to promote civility and respect to foster an environment where free inquiry and debate can occur. The University should be committed to providing a welcoming and inclusive environment to enable all of its members to pursue their academic, personal, and professional goals.

GUIDING PRINCIPLES

The Task Force believes the University should make a strong commitment to diversity, equity, and inclusion through its words and actions. The following principles should provide the foundation for the University's efforts to achieve this goal.

- Active engagement in creating a safe environment where individual opinions are valued and free and open exchange of ideas is without retribution.
- A University-wide commitment to values common to us all, with opportunities for continued reexamination and contemplation throughout an individual's time at the University.
- Engagement of all members of the campus community, including University leadership, in embracing and communicating the importance of the University's values.
- Understanding the critical role that free speech and freedom of expression play in an educational environment, as well as of our role in using speech as an instrument of civic engagement.
- A commitment to promote civility and respectful treatment of all members of the campus.
- A comprehensive and coordinated approach to diversity, equity, and inclusion programming that is a part of the University experience for every member of the campus community.
- Programming that includes a blend of mandatory and voluntary engagements, offered in a variety of formats and through different modes, that complements curricular and professional learning and development objectives.
- A coordinated response strategy to hate/bias incidents that provides support to affected communities while assuring all faculty, staff, and students the ability to pursue their academic and professional goals in a safe environment.
- Policies and protocols that enable the University to take action against threatening and intimidating conduct.
- An engaged communication strategy that encourages campus leaders to speak out against hate speech that does not align with the University's values.
- Education and tools that empower faculty, staff, and students to use speech to combat hate and bias on campus.
- Centralization and alignment of information in one comprehensive website.
- Transparent structures for sharing hate/bias incidents and climate survey data.
- Accountability and engagement by campus leaders at all levels.
- Ongoing evaluation and assessment of diversity, equity, and inclusion efforts to enable continuous growth.

TASK FORCE RECOMMENDATIONS

The Inclusion & Respect Task Force makes the following recommendations in nine areas: (I) Values of the University, (II) Prevention & Education, (III) Hate/Bias Incident Response, (IV) Centralization, (V) Communication, (VI) Evaluation & Assessment, (VII) Free Speech & Freedom of Expression, (VIII) Current Policies and Guidelines, and (IX) Resources & Implementation.

I. Values of the University

The University should adopt the following values statement, which should be ingrained into the experience of each member of the campus community and reinforced throughout their time at the institution.

The University of Maryland (UMD) is a community of individuals living and working together to support and advance the educational and research mission of the institution. We aspire to become a community that is: **United, Respectful, Secure and Safe, Inclusive, Accountable, and Empowered and Open to Growth.**

United

We are diverse but have much in common. Members of the UMD community foster a sense of belonging based on acceptance and a unity of purpose. We strive toward overlapping goals, sharing resources, and spending some of the most significant and productive times of our lives together in a common space. To that extent we depend on one another and are our best selves when we support one another. Accordingly, our actions are guided not only by what is good for self but also by what is good for all.

Respectful

Members of the UMD community interact with others in ways that promote feelings of respect. All members of the UMD community are valued equally and deserving of respect without regard to their status, their educational attainment or their social position. We reject denigration of any member through words or actions and resist stereotyping of members that undermines personal dignity through slurs, slights, insults or other acts that disparage individuals or groups.

Secure and Safe

Members of the UMD community refrain from injustice, violence, harassment, intimidation, and aggression. We do all that is possible to protect and defend members of the UMD community from anyone who would harm them physically or psychologically. We promote individual agency and responsibility in contributing to personal safety, avoidance of harm and staving off the effects of insults, slander, intimidation, or symbolic intimidation of violence.

Inclusive

The UMD community strives to achieve the highest levels of excellence in our work and our studies that accrue through inclusive practices. We recognize that as a thriving and striving community, the success of our institution and our members is dependent on how well we value, include, and engage all members. This belief must be actively and consistently embedded in every aspect and practice of the UMD community.

Accountable

All members of the UMD community are equally responsible and committed to uphold the University's values to the best of their ability, as well as hold the rest of the UMD community to those responsibilities. We must be transparent in our mistakes, and learn to reflect and continue to strive toward inclusive excellence.

Empowered and Open to Growth

Members of the UMD community embrace learning as essential for bettering ourselves as individuals and as a community. We encourage and assist one another to become our best selves.

II. Prevention & Education

The University should develop a comprehensive prevention and education initiative on diversity, inclusion, and respect that involves all members of the campus community (faculty, staff, students). The initiative should include a broad vision for diversity programs for the University and should be overseen by ODI.

Programming should consist of a blend of mandatory programs and voluntary learning opportunities offered at multiple points throughout a faculty/staff/student's time at the University. This programming should use different modalities and approaches with varying levels of complexity.

Programming content areas should include implicit bias, cultural competence, bystander intervention, navigating difficult dialogues, civics education, effective methods for engaging in counterspeech, and reflection and dialogue on the University's values. The University should consider utilizing existing models at the University, such as: Sticks+StonesUMD, Speak Up and Speak Out Virtual Reality Bystander Intervention Program, TLTC workshops on difficult dialogues in the classroom, Common Ground, Words of Engagement Intergroup Dialogues, and best practices at peer institutions on implicit association tests, activities at orientation, and badging/e-portfolio systems while developing programming opportunities.

The University should consider developing opportunities for members of the campus community to track diversity-related skills and trainings throughout their time at the University.

ODI should consider developing a diversity-related suite of training options for faculty and staff in partnership with UHR, OFA, and TLTC using existing trainings as a way to develop a more robust program.

ODI should work with ISSS to incorporate information about our values into existing efforts to help international students and scholars acclimate to our campus culture. ODI should consider ways to partner with ISSS to increase opportunities for peer to peer interaction among international and domestic students, and should consider mechanisms that have been successful in the past, such as ESOL mentorship programs and Language House partners programs. ODI should also consider how educational and programming opportunities could incorporate global perspectives in order to broaden understanding of differences across cultures.

ODI should continue to develop and deliver programming as part of the University's comprehensive prevention and education initiative. ODI should also work collaboratively with representatives from

existing University diversity programs in the development and delivery of the comprehensive prevention and education initiative.

The University should utilize existing resources and expertise within our faculty in the development of the comprehensive prevention and education initiative on diversity, inclusion, and respect.

The University should provide tools to enable students, faculty, and staff groups to create and sponsor diversity-related programs.

III. Hate/Bias Incident Response

The Task Force recommends that the proposed Policy on Threatening and Intimidating Conduct immediately following this report be approved.

The University should develop administrative review procedures to consider UMPD referrals of potential bias-related conduct involving faculty and staff.

The University should conduct a review of the VII-11.00(A) University of Maryland Faculty and Staff Workplace Violence Reporting and Risk Assessment Procedures to ensure that it aligns with the Policy on Threatening and Intimidating Conduct and current procedures for responding to hate/bias incidents.

The University should conduct a review of the implementation of the Policy on Threatening and Intimidating Conduct in Fall 2019 to assess its efficacy and make any necessary adjustments.

The University should develop a plan to ensure appropriate coordination between the primary units responding to reports of hate/bias incidents that complements the new Hate/Bias Response Protocol and the Policy on Threatening and Intimidating Conduct.

Hate/Bias incidents should be reported to UMPD. The University should designate specific offices or units, including ODI, as entry points where members of the campus community may disclose incidents prior to engaging with the formal reporting mechanisms through UMPD. The University should provide training for support staff in those units to ensure that they are knowledgeable about available resources and how to facilitate reporting to UMPD.

IV. Centralization

The University should work to achieve a balance between centralization and decentralization of equity, diversity, and inclusion efforts on our campus. Efforts to achieve equity, diversity, and inclusion goals are a responsibility of the entire campus.

The ODI website should serve as a central resource for information about the University's diversity-related programming, events, relevant policies and guidelines, data, climate reports, reporting processes, and resources related to free speech, expression, and demonstration on campus in order to increase transparency, accessibility, and discovery of opportunities for engagement.

The University should consolidate and centralize information on all hate/bias incidents reported at the University and the outcome of any review of these incidents. The University should consider what types of information should be included on each incident and how that information should be

communicated to members of the campus community, as well as the mode and the frequency with which it is communicated.

V. Communication

The University should develop a comprehensive multi-platform communication strategy that prioritizes the dissemination of information related to equity, diversity, and inclusion to the entire campus community in a manner that is transparent, timely, and sensitive to all constituents.

The University should consider how to prominently communicate information about diversity programs, events, and trainings and how diversity themes are integrated into the University's culture.

The University should develop a communications and marketing strategy focused on promoting the University's values. The University should consider ways to promote the values to all members of the campus community through different modes and how to reinforce them over time. For example, admitted students could receive information about the values in their admission packet and new employees could receive them as part of their appointment information. In addition, themes from the values could be incorporated into social media campaigns, marketing materials, or other existing activities to reinforce what it means to be a Terp over time.

The University's leadership should communicate its viewpoint, when appropriate, using messaging that aligns with its core values. In particular, the University's leadership should denounce offensive speech or conduct that does not align with its core values and express that it is not appropriate or welcome in our community.

The University should consider how best to communicate the national context on hate/bias incidents to the campus community.

VI. Evaluation & Assessment

Programming

ODI should develop a strategy for evaluating and assessing diversity-related education and training programs to assess efficacy and make necessary changes over time.

All diversity-related training programs should have an evaluative component to collect feedback from participants.

Climate assessment data should be used to inform and refine programming content.

Climate Surveys

ODI should conduct biennial climate surveys of faculty, staff, and students to better understand individual experiences in a variety of dimensions.

Climate surveys should assess the impact of activities and the outcome of efforts to improve diversity, as well as changes in beliefs and attitudes about race, ethnicity, national origin, religion, sex, gender identity, sexual orientation, political affiliation, or physical or mental disability, over time.

Survey design for future climate surveys should be guided by the highest standards, draw upon conceptual frameworks and best practices, and incorporate multiple designs to data collection and

analyses, including qualitative approaches as well as longitudinal and scientifically valid samples so that robust conclusions can be drawn from its findings.

Climate surveys should identify and oversample for specific identity and affinity groups so as to enable the development of targeted interventions that meet their unique needs (i.e. ethnicity, residential experiences, students who do not identify or participate with any campus group, and participants of Greek life and student government).

Climate surveys should consider paying special attention to evaluating the experiences of students in majors where the curriculum may not provide opportunities for addressing and understanding issues of diversity.

Climate surveys should consider assessing the social impediment to an individual's comfort in attending or taking part in events sponsored by a cultural or affinity group other than their own.

The University's leadership should be apprised of and reflect on climate survey results in establishing their agendas and priorities.

Existing survey data and feedback from members of the campus community indicate that the African-American population may be more vulnerable in terms of comfort and respect at the University. The University should consider developing specific programs that support vulnerable populations identified in existing and future survey data by integrating them into the University, promoting a sense of safety, and recognizing their contributions.

VII. Free Speech & Freedom of Expression

The University should adopt the proposed *Statement on Free Speech Values* as follows:

The primary purpose of a university is to discover and disseminate knowledge through teaching, research, and service. To fulfill these functions, a free exchange of ideas is necessary not only within its walls but with the world beyond. The history of intellectual discovery and growth clearly demonstrates the need for freedom; the right to think the unthinkable, discuss the unmentionable, and challenge the unchallengeable. Whenever someone is deprived of the right to state unmentionable views, others are necessarily deprived of the right to listen to and evaluate those views. Few institutions in our society have this same central purpose. It follows that a university must protect and guarantee intellectual and academic freedom. To do so it must promote an environment in which any and all ideas are presented. Through open exchange, vigorous debate, and rational discernment, the campus community can evaluate ideas.

Every member of the campus community has an obligation to support the right of free expression at the university, and to refrain from actions that reduce intellectual discussion. No member shall prevent such expression, which is protected under the constitutions of the United States and the State of Maryland.

The University does not have a speech code. History shows that marginalized communities have successfully promoted their interests because of the right to express their views. In fact, marginalized communities have been silenced by speech codes and other regulations against "offensive" speech.

In addition to the obligation to promote and protect free expression, individuals assume further responsibilities as members of the university. The campus expects each individual community member to consider the harm that may result from the use of slurs or disparaging epithets intended to malign, for example, another's race, ethnicity, national origin, religion, sex, gender identity, sexual orientation, political affiliation, or physical or mental disability. While legal protections for free expression may sometimes supersede the values of civility and mutual respect, members of the university community should weigh these values carefully in exercising their fundamental right to free expression.

The University values and embraces the ideals of freedom of inquiry, freedom of thought and freedom of expression, all of which must be sustained in a community of scholars. While these freedoms protect controversial ideas and differing views, and sometimes offensive and hurtful words and symbols, they do not protect conduct that violates criminal law or university policy.

The University should recognize the rights of faculty, staff, and students to engage in counterspeech.

VIII. Current Policies & Guidelines

The University Senate should charge its Campus Affairs Committee with an overall review of the Policies and Procedures on the Use of Physical Facilities and the associated guidelines on chalking, demonstrations, and leafletting, working in concert with affected stakeholders. The Campus Affairs Committee should consider how the University can support allowing the rental of facilities within the campus as a way of supporting speech and dialogue. The Campus Affairs Committee should also consider how requests from outside groups should be reviewed and approved.

The following revisions to the Non-Discrimination Policy & Procedures (VI-1.00[B]) should be approved to clarify the jurisdiction of the Policy on Threatening and Intimidating Conduct.

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, Amended May 6, 2016)

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 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; **and/or** at any University sponsored, recognized, or approved program, visit, or activity, regardless of location; **and**
- 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 **severe or pervasive** 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:

The University Senate should charge its Equity, Diversity, and Inclusion (EDI) Committee with a comprehensive review of the Non-Discrimination Policy & Procedures (Appendix 2) to consider whether broader changes are needed.

IX. Resources & Implementation

The Task Force recommends that the University provide the necessary resources for the development and implementation of all the elements of a successful comprehensive diversity and inclusion initiative. Specifically, resources will be required to develop programming activities, purchase and/or develop new online training, support expanded education and training, develop an overall communication plan and centralized website, and develop/conduct assessments of programming activities.

The Task Force recognizes that the scope of these activities is broad and will require time to fully implement. The Task Force recommends that ODI develop a phased implementation approach for aspects of the recommendations that require significant development, to allow the University the time needed to design and implement various components of the recommendations.

ODI should provide an annual report on the implementation of these recommendations to the University Senate and the President’s Cabinet. ODI should also track the progress of implementation on its website as a way of communicating to University faculty, staff, and students what actions are being taken to actively develop the institution’s efforts on diversity and inclusion.

In the spirit of continuous improvement, the University should consider innovative ways to engage faculty, staff, and students in the implementation of these recommendations and future development of diversity efforts on an annual basis. Specifically, the University should consider facilitating design thinking workshops through a partnership with the Academy for Innovation & Entrepreneurship and ODI as a way of engaging members of the campus community in generating new ideas for addressing specific problems or questions.

Proposed New Policy from the Joint President/Senate Inclusion & Respect Task Force

VI-1.00(F) UNIVERSITY OF MARYLAND POLICY ON THREATENING AND INTIMIDATING CONDUCT

I. Purpose

The University of Maryland promotes civility and respectful treatment among all members of its diverse campus community, and fosters the discovery and dissemination of knowledge through the free and open exchange of ideas. The University values and protects the intellectual and academic freedom, freedom of speech, and freedom of expression of all students, faculty, and staff. The University provides a welcoming and inclusive environment to enable all members of the University community to pursue their academic, personal, and professional goals. Threatening or intimidating conduct directed toward members of the University community that is motivated by their actual or perceived protected status interferes with these values and commitments, and is therefore prohibited.

II. Prohibited Conduct

The University prohibits threatening or intimidating acts motivated in whole or in part because of an individual or group's actual or perceived protected status, including the following:

- Threats: An expression of intent to commit an act or acts of physical violence to a particular individual or group of individuals or to cause damage to their property; or to engage in an act or acts which endangers the health and safety of another person.
- Intimidation: An act or acts that is intended to or that recklessly frightens or coerces, or that places another person or persons in reasonable fear of imminent harm.

Protected status is defined in state and federal law as well as in the University of Maryland Non-Discrimination Policy and Procedures VI-1.00(B).

The *Code of Student Conduct* V-1.00(B) addresses prohibited conduct by students, including the conduct outlined above. The University of Maryland Faculty and Staff Workplace Violence Reporting and Risk Assessment Procedures VII-11.00(A) addresses conduct prohibited by this policy by faculty and staff.

III. Reporting

Any member of the University who witnesses or has information related to threatening or intimidating conduct should immediately report it to the University of Maryland Police Department (UMPD). This is especially important because the University's response is limited when it cannot identify those responsible. Reports should be made in good faith.

The Office of Diversity and Inclusion (ODI) or other University-designated units and cultural centers can assist faculty, staff, and students with reporting to UMPD.

- Emergencies and ongoing incidents that require an immediate response should be reported to UMPD at 301-405-3333
- Non-emergencies can be reported to UMPD at 301-405-3555.
- Reports made online at go.umd.edu/reporthatbias will be responded to within 48 hours.

- Anonymous tips about reports and ongoing investigations can be submitted online at http://www.umpd.umd.edu/contact/anonymous_tip.cfm.

IV. Response to Reports

Reports made directly to UMPD will be taken as soon as they are received, and an investigation will begin immediately. UMPD will immediately notify relevant campus administrators including ODI to provide necessary information.

A. Response from ODI. ODI will coordinate relevant units to respond to the community(s) affected by the incident, develop an action plan, and provide support. ODI will serve as an immediate resource for students, faculty, and staff, regardless of whether UMPD's investigation indicates that an incident was motivated by protected status.

B. Investigation by UMPD. UMPD will conduct an investigation on all reports it receives. In determining whether a specific act or incident constitutes prohibited conduct, the totality of the circumstances will be considered, including whether the motivation for the conduct was based on actual or perceived protected status and the impact of the conduct on the perceived target.

Depending on the outcome of UMPD's investigation, reports will be classified according to Maryland State Police procedures. UMPD will also assess whether a hate crime has occurred, as defined under Maryland state law, and will take steps to initiate criminal charges if appropriate. UMPD will share its findings with ODI and all relevant University offices for consideration of appropriate administrative action.

V. University Administrative Review Procedures

After its investigation is completed, UMPD will make any necessary referrals to relevant University offices for administrative review and will share the facts of the case found through the investigation. University review of referrals from UMPD will be assessed through appropriate processes depending on whether the individual or group identified in the referral is a student, faculty, or staff member. The University's review should determine whether or not the individual or group is responsible for engaging in prohibited conduct.

A. Students. A student, a group of students, or a student organization identified by UMPD as potentially engaging in prohibited conduct will be referred to the Office of Student Conduct (OSC) for investigation and adjudication. University student disciplinary procedures and procedural rights established in the *Code of Student Conduct* will be followed.

B. Faculty. A faculty member or a group of faculty members identified by UMPD as potentially engaging in prohibited conduct will be referred to the Office of Faculty Affairs (OFA), in accordance with VII-11.00(A) University of Maryland Faculty and Staff Workplace Violence Reporting and Risk Assessment Procedures. If an incident is classified by UMPD as verified, OFA will relay the matter to the relevant administrator(s), who will initiate a review of the information from UMPD.

C. Staff. A staff member or a group of staff members identified by UMPD as potentially engaging in prohibited conduct will be referred to the Office of Staff Relations within University Human Resources (UHR) in accordance with VII-11.00(A) University of Maryland Faculty and Staff Workplace Violence Reporting and Risk Assessment Procedures. If an incident is classified by UMPD as verified, UHR will relay the matter to the relevant administrator(s), who will initiate a review of the information from UMPD.

VI. Sanctions

If there is a finding of responsibility, sanctions, including discipline, may be imposed. Based on the severity of the prohibited conduct, various actions should be considered, ranging from educational and remedial actions to discipline up to and including dismissal from the University. The University shall endeavor to educate and support students, faculty, and staff in reaching their academic, personal, and professional goals while fostering a climate of accountability and responsibility for individual actions. The University's goals are to protect the campus community, deter future offenses, and promote individual accountability.

A. Students. Students, student groups, and student organizations found responsible for prohibited conduct will face disciplinary and/or educational sanctions as specified in the *Code of Student Conduct*.

B. Faculty. After a finding of responsibility, the relevant administrator(s) will initiate appropriate action. Depending on the circumstances of the case, educational opportunities may be considered. If warranted, disciplinary action may range from termination or suspension to reassignment of duties, in accordance with University policies and employment contracts. The relevant administrator(s) should consult with OFA as it determines any appropriate sanctions.

C. Staff. After a finding of responsibility, the relevant administrator(s) will initiate appropriate action. Depending on the circumstances of the case, educational opportunities may be considered. If warranted, disciplinary action or corrective measures may range from termination or suspension to workplace modifications, in accordance with University policies and employment contracts. The relevant administrator(s) should consult with UHR as it determines any appropriate sanctions.

VII. Retaliation

Retaliation against any individual who makes a report in good faith or participates in an investigation in relation to threatening or intimidating conduct is strictly prohibited. Retaliation means an adverse action taken against an individual, where there is a clear causal link between the adverse action and their participation in this process. A report is not made in good faith if it is false or misleading; was made with the intention to harass; appears to be frivolous; or is otherwise an abuse of the reporting process. Individuals who are alleged to have engaged in retaliation may be subject to disciplinary action.

VIII. Resources

All members of the University community have access to campus resources to address the effects of threatening or intimidating conduct, including:

University of Maryland Police Department. UMPD receives and assesses all reports of prohibited conduct motivated in whole or in part by actual or perceived protected status. UMPD investigates reports of such prohibited conduct by gathering details, collecting evidence, sharing information with law enforcement partners, and consulting with legal experts. UMPD will communicate with relevant administrative offices to facilitate the University's response and to make appropriate referrals to begin University disciplinary processes.

Emergency: 911 or (301)405-3333 (mobile phone: #3333)

Non-emergency: (301)405-3555

Website: www.umpd.umd.edu

Office of Diversity & Inclusion. ODI tracks hate-bias incident reports and coordinates the deployment of campus support services to individuals affected by hate-bias incidents. ODI also provides campus programming in collaboration with other campus units to foster prevention efforts and facilitate responses to hate-bias incidents.

Phone: (301) 405-6810

Website: www.diversity.umd.edu

University Counseling Center. The Counseling Center provides comprehensive psychological and counseling services to students and others in the University community. The Center is staffed by counseling and clinical psychologists.

Phone: (301) 314-7651

Website: www.counseling.umd.edu

University Health Center, Mental Health Service. The Mental Health Service in the Health Center offers short-term psychotherapy, medication evaluations, crisis intervention, group psychotherapy, and more. The service is staffed by psychiatrists and licensed clinical social workers.

Phone: (301) 314-8106

Website: www.health.umd.edu/mentalhealth/services

Campus Chaplains. Campus chaplains represent 14 faith communities, working to serve the spiritual needs of the community. Campus Chaplains will meet with any member of the campus community, regardless of faith background.

Website: http://thestamp.umd.edu/memorial_chapel/chaplains

Faculty Staff Assistance Program (FSAP). FSAP provides free and confidential support to all faculty and staff (and their family members) on a range of issues. Services include short-term counseling services provided through FSAP (generally used for 3 sessions, but can support up to 10 sessions of counseling). FSAP also provides referrals for long-term counseling needs.

Phone: (301) 314-8170 or (301) 314-8099

Website: <http://www.health.umd.edu/fsap>

REFERENCES

- Anti-Defamation League (ADL). 2017. "ADL Calls for Action After New FBI Data Shows Rise in Hate Crimes." *Anti-Defamation League*. Retrieved from (<https://www.adl.org/news/press-releases/adl-calls-for-action-after-new-fbi-data-shows-rise-in-hate-crimes>)
- Anti-Defamation League (ADL). 2016. "ADL Urges More Vigorous Police Data Collection Efforts in Wake of Annual FBI Hate Crimes Report." *Anti-Defamation League*. Retrieved from (<https://www.adl.org/news/press-releases/adl-urges-more-vigorous-police-data-collection-efforts-in-wake-of-annual-fbi>)
- Anti-Defamation League (ADL). 2018. "White Supremacist Propaganda Surges on Campus." *Anti-Defamation League*. Retrieved from (<https://www.adl.org/resources/reports/white-supremacist-propaganda-surges-on-campus>)
- Antonio, Anthony Lising. "The Role of Interracial Interaction in the Development of Leadership Skills and Cultural Knowledge and Understanding." *Research in Higher Education* 42, no. 5 (2001): 593-617. <http://www.jstor.org/stable/40196444>.
- Bauman, Dan. 2018. "After 2016 Election, Campus Hate Crimes Seemed to Jump. Here's what the Data Tell Us." *The Chronicle of Higher Education*. Retrieved from (<https://www.chronicle.com/article/After-2016-Election-Campus/242577>)
- Chang, Richard Y. 1996. *Capitalizing on Workplace Diversity : A Practical Guide to Organizational Success through Diversity*. Workplace Diversity Series. Irvine, Calif.: R. Chang Associates.
- Cohen, Richard. 2017. "SPLC to Senate: Colleges must uphold free speech but can denounce racist speakers." *Southern Poverty Law Center*. Retrieved from (<https://www.splcenter.org/news/2017/10/26/splc-senate-colleges-must-uphold-free-speech-can-denounce-racist-speakers>)
- Dobbin, Frank and Alexandra Kalev. 2016. "Why Diversity Programs Fail." *Harvard Business Review* 94(7/8):52–61.
- Dobbin, Frank, Erin Kelly, and Alexandra Kalev. 2007. "Diversity Management in Corporate America." *Contexts* 6(4):21–27.
- Gurin, Patricia. 1999. "Selections from the Compelling Need for Diversity in Higher Education, Expert Reports in Defense of the University of Michigan." *Equity & Excellence in Education* 32 (2): 36–62.
- Hanover, Jeanne M. B. and Douglas F. Cellar. 1998. "Environmental Factors and the Effectiveness of Workforce Diversity Training." *Human Resource Development Quarterly* 9(2):105–124.
- Johnson, Stephen. (2017, July 19). "Why Do Diversity Programs Fail?" Big Think Edge. Retrieved from <http://bigthink.com/stephen-johnson/why-diversity-programs-fail>
- Kalev, Alexandra, Frank Dobbin, and Erin Kelly. "Best Practices or Best Guesses? Diversity Management and the Remediation of Inequality." *American Sociological Review* 71 (2006): 589–617.
- Kanter, Rosabeth Moss. 1993. *Men and Women of the Corporation*. New York: Basic Books.

Kerr, Emma. 2018. "College Students Want Free Speech – Sort Of." *The Chronicle of Higher Education*. Retrieved from (https://www.chronicle.com/article/College-Students-Want-Free/242792?cid=at&utm_source=at&utm_medium=en&elqTrackId=ae6d5f9157f644b6a102586b5f0bfc50&elq=ef5f1970a9404e9ab432cc3a228e3856&elqaid=18145&elqat=1&elqCampaignId=8088)

Kerr, Emma. 2018. "White Supremacists are Targeting College Campuses Like Never Before." *The Chronicle of Higher Education*. Retrieved from (<https://www.chronicle.com/article/White-Supremacists-Are/242403>)

Miller, Ryan A., Tonia Guida, Stella Smith, S. Kiersten Ferguson, and Elizabeth Medina. 2017. "Free Speech Tensions: Responding to Bias on College and University Campuses." *Journal of Student Affairs Research and Practice* 1(1):1–13.

Patton, Laurie. 2017. "The Right Way to Protect Free Speech on Campus." *The Wall Street Journal*. Retrieved from (<http://webreprints.djreprints.com/53885.html>)

Polanin, Joshua R., Dorothy L. Espelage, and Therese D. Pigott. 2012. "A Meta-Analysis of School-Based Bullying Prevention Programs' Effects on Bystander Intervention Behavior." *School Psychology Review* 41(1):47–65.

Roth, Louise Marie. 2006. *Selling Women Short: Gender and Money on Wall Street*. Princeton (N.J.): Princeton University Press.

Rynes, Sara and Benson Rosen. 1995. "A Field Survey of Factors Affecting the Adoption and Perceived Success of Diversity Training." *Personnel Psychology* 48(2):247–270.

SPLC On Campus. 2017. "A Guide to Bystander Intervention." *Southern Poverty Law Center*. Retrieved from (<https://www.splcenter.org/20171005/splc-campus-guide-bystander-intervention>)

SPLC On Campus. 2017. "The Alt-Right on Campus: What Students Need to Know." *Southern Poverty Law Center*. Retrieved from (<https://www.splcenter.org/20170810/alt-right-campus-what-students-need-know>)

Thomas, David A. and John J. Gabarro. 1999. *Breaking through: The Making of Minority Executives in Corporate America*. Boston, Mass.: Harvard Business School Press.

Villasenor, John. 2017. "Views among College Students Regarding the First Amendment: Results from a New Survey." *Fixgov: Brookings Institution*. Retrieved from (<https://www.brookings.edu/blog/fixgov/2017/09/18/views-among-college-students-regarding-the-first-amendment-results-from-a-new-survey/>).

Worthington, R. L., Arévalo Avalos, M. R. 2017. Difficult dialogues in counselor training and higher education. In Alexander, C. M., Casas, J. M., Suzuki, L. A., Jackson, M. (Eds.), *Handbook of multicultural counseling* (4th ed.). Thousand Oaks, CA: SAGE.

Worthington, Roger L., Christine A. Stanley, and William T. Lewis. "National Association of Diversity Officers in Higher Education Standards of Professional Practice for Chief Diversity Officers." 2012, *Journal of Diversity in Higher Education*, 5, p. 2.

APPENDICES

Appendix 1 - Inclusion & Respect Task Force Charge

Appendix 2 - Revised Non-Discrimination Policy & Procedures

Appendix 3 - Peer Institution Overview

Appendix 1 - Inclusion & Respect Task Force Charge



University Senate CHARGE

Date:	August 25, 2017
To:	Lucy Dalglish, Warren Kelley, Ja'Nya Banks Co-Chairs, Joint President/Senate Inclusion & Respect Task Force
From:	Wallace D. Loh <i>Wallace D. Loh</i> President Daniel Falvey <i>Daniel Falvey</i> Chair, University Senate
Subject:	Inclusion and Respect at the University of Maryland
Senate Document #:	17-18-03
Deadline:	March 30, 2018

President Loh and the Senate Executive Committee (SEC) request that the Joint President/Senate Inclusion & Respect Task Force consider how best to nurture a climate that is respectful and inclusive of all members of our campus community, stands against hate, and reaffirms the values that define us a University.

Specifically, we ask that you:

1. Collect input from and engage the entire campus community, including faculty, staff, students, administrators, and alumni, as well as representatives of the surrounding community, on the current campus climate and on the difficult issues at the intersections of free speech, hate speech, and freedom of association.
2. Assess the climate on diversity and inclusion on the campus and how it is experienced by members of the campus community. Review existing data on campus climate and gather information from members of the campus community from a variety of backgrounds and experiences, including underrepresented minorities and members of the international and LGBTQ communities.
3. Consult with representatives of the Office of Diversity & Inclusion (ODI), the Office of Student Conduct, the University of Maryland Police Department (UMPD), the Office of Civil Rights and Sexual Misconduct (OCRSM), Office of Rights and Responsibilities in the Department of Resident Life, the Department of Fraternity and Sorority Life, the Department of Athletics, University Marketing and Communications, the Office of Undergraduate Studies, and other relevant units at the University.

4. Review the University of Maryland Non-Discrimination Policy and Procedures and other relevant University and University System of Maryland policies.
5. Review the University's procedures for reporting and resolving reports of hate, bias, racism, and discrimination.
6. Review information on the response to past reports of hate and bias incidents at the University from OCRSM, UMPD, ODI, and any other relevant University offices.
7. Review and assess current resources, programs, and outreach efforts to (1) educate the campus community, and (2) support those affected by racism and discrimination, and their overall effectiveness.
8. Review current cultural competency initiatives and trainings throughout the University and consider the effectiveness of these efforts in creating an inclusive campus environment.
9. Review research related to race/ethnicity, discrimination, and bias in higher education.
10. Review and assess best practices at our peer institutions.
11. Review higher education professional association guidance addressing hate speech and campus climate issues.
12. Consider how to evaluate the needs of underrepresented groups and develop strategies to assess the efficacy of efforts to address those needs and create a more inclusive environment.
13. Consider how best to differentiate between free speech and hate speech in University policies and procedures.
14. Consider how appropriate communication and public awareness efforts should be used to promote a more inclusive campus climate.
15. Develop strategies for fostering a campus environment that is intolerant of hate, bias, and racism, including any necessary educational or training initiatives for students, faculty, staff, and administrators. Consider how these strategies should be implemented and how they can be evaluated for effectiveness.
16. Develop a statement on the University's core values and consider how those values are instilled in students, faculty, and staff. If appropriate, consider how to enhance understanding of our core values and develop strategies to reinforce them over time.

17. Consult with the appropriate Senate committees on any proposed revisions to University policies and procedures.
18. Consult with the University's Office of General Counsel on any proposed recommendations.
19. If appropriate, make recommendations on revisions to University policies and procedures as well as on appropriate strategies for fostering an inclusive campus community.

We ask that you submit your report and recommendations to the Senate and the President's Offices no later than March 30, 2018. If you have questions or need assistance, please contact Reka Montfort in the Senate Office, extension 5-5804.

Appendix 2 - Revised Non-Discrimination Policy & Procedures

Proposed Revisions from the Joint President/Senate Inclusion & Respect Task Force
New Text in Blue/Bold (**example**), Removed Text in Red/Strikeout (~~example~~)

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

(Approved on an Interim Basis October 1, 2015; Amended March 22, 2016;
Amended and approved by the President May 6, 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, personal appearance, 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 (OCRSM)

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/> <http://www.ocrsm.umd.edu>

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 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:

¹ Complaints based on sexual misconduct will be addressed under the University's Sexual Misconduct Policy & Procedures VI-1.60(A) as appropriate. Complaints of discrimination based on sex or gender that do not involve

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

- on University premises, in any University facility, or on University property; **and/or**
- at any University sponsored, recognized, or approved program, visit, or activity, regardless of location; **and**
- 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 **severe or pervasive** 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.

“Personal appearance” means the outward appearance of any person irrespective of sex with regard to hairstyle, beards, or manner of dress. It shall not relate, however, to the requirement of cleanliness, uniforms, or prescribed attire when uniformly applied for admittance to a public accommodation or a class of employees for a customary or reasonable business-related purpose.

“Retaliation” refers to action that is taken against an individual because they 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 the 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, the 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. The OCRSM will then notify the complainant whether:

- the complaint is appropriately filed with the OCRSM and the 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; and
- the allegations, if true, would constitute a Policy violation.

If it is determined that 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 the 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. The 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, the 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 the OCRSM will investigate the complaint, the 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 on behalf of the party.

The OCRSM will assign an investigator³ who will conduct an adequate, reliable, and 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

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

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.

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 chair 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/unit 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 Code of Student 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 Code of Student 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 for 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;
- verbal 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;
- verbal reminders;
- written reminders/letters of reprimand;
- suspension with or without pay; and
- 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. EXTERNAL 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 3 - Peer Institution Overview

The Task Force reviewed Big 10 and other peer institution data and best practices on diversity-related initiatives on prevention & education, campus climate, hate/bias response, and free/hate speech. An overview of the Task Force's findings and highlights from several institutions are provided below and should be considered while developing the University's comprehensive diversity and inclusion initiative.

Prevention & Education

Through its review, the Task Force identified best practices related to diversity and inclusion. Much of the focus of diversity-related programming is on initiatives for students. Several institutions focus programming on incoming and transfer students through a blend of required and optional activities that can be offered through online modules or in-person workshops. Some institutions provide training for faculty on difficult dialogues in the classroom. Institutions varied in the types of content areas provided in programming, such as implicit bias and bystander intervention. Some institutions also provided badging/certificate programs that recognize core competencies and skills. Peers also provided cultural competency education through a variety of co-curricular activities or through specific courses. There were also some institutions that provided a comprehensive diversity website that includes resources, upcoming events, resources on communities and affinity groups, programs, trainings, awards & scholarships, etc. Programming examples from peer institutions are highlighted below.

Programming for Incoming & Transfer Students

- Michigan State University requires that all incoming undergraduates and transfer students complete an 30-45 minute online "[Diversity & Inclusion@MSU eLearning](#)" program, which gives a general overview of diversity and inclusion at MSU, an introduction to basic terms and concepts, and a sense of how students can engage with each other more deeply at MSU.
- The University of Illinois at Urbana Champaign requires all first year students to attend [IConnect](#), an innovative workshop that explores some of the foundational skills needed to collaborate, learn, and work in diverse environments during a student's years at Illinois and beyond.
- The University of Illinois at Urbana Champaign requires first-year students to take [DiversityEDU30](#), an online training module used to provide a common understanding of diversity terminology, introduce diversity concepts students will face during their time at the University of Illinois, and challenge students to embrace the opportunity to engage with difference as part of their Illinois experience.
- The University of Iowa provides students with an opportunity to attend a [45-minute welcome and information session](#) presented by the Center for Diversity and Enrichment during Orientation. This session is required for Advantage Iowa Scholars (historically underrepresented minorities) and students receiving military benefits.

Workshops on Difficult Dialogues in the Classroom

- Michigan State University offers resources for [Difficult Dialogues in the Classroom](#).
- The University of Minnesota offers workshops and trainings, which includes a session on [Teaching with Intention: Facilitating Challenging Conversations in the Classroom](#).

Implicit Bias Programs

- Michigan State University offers an [Understanding Implicit Bias Certification Program](#), a series of three courses that will allow participants to experience thoroughly examined implicit bias and begin the work of interrupting their own biases as well as those embedded within systems at MSU.

Bystander Intervention Programs

- Northwestern University offers [bystander intervention training](#) to students, faculty, and staff. Step Up is a bystander intervention training program that aims to create a more engaged Northwestern community by providing students, faculty, and staff with the basic tools to safely and effectively intervene in situations where someone might be in danger. Step Up includes a topic on discrimination.

Cultural Competency Education

- Northwestern University offers a variety of dialogue programs, leadership programs, and other training opportunities to include [Cultural Competency Education](#).
- The University of Wisconsin offers a course to students called Student [SEED](#), a non-traditional, grass-roots developed social justice course which uses “the textbook of students lives” as the main teaching tool. Students explore and share their own individual experiences with race, class, gender, sexual orientation, religion, and ability in order to learn about and understand the large systems of privilege and oppression. The course facilitators strive to create a safe and respectful environment for students to reflect on and share their own experiences, learn from their peers’ experiences and build community while engaging in deep critical thinking around issues that are pervasive in our society and daily lives.

Badging/Certification Programs

- The University of Iowa has created a badging type of system called [Building University of Iowa Leadership for Diversity \(BUILD\)](#). The BUILD initiative is an opportunity for UI faculty and staff to gain strategic knowledge and skills to contribute to a welcoming and inclusive environment for all. By completing a series of workshops, participants will earn a certificate demonstrating their commitment as leaders for diversity, equity, and inclusion in the workplace and classroom.
- Purdue University offers a badging program that is called [DiversiKey](#). The DiversiKey Certificate Program is a competencies-based program of curricular, co-curricular, and field experiences in diversity and leadership. Core competencies, skills, and cognition areas are organized into three clusters, *personal growth*, *interpersonal development*, and *community involvement*. The use of these competency clusters offers skills based progression to guide development and assess achievement.
- The University of Minnesota offers an [Equity and Diversity Certificate](#) program that helps participants develop the tools necessary for advancing equity and diversity in all aspects of their personal and professional lives. It’s free of charge and open to students, faculty, staff, and alumni on all campuses of the University of Minnesota.

Comprehensive Diversity Website

- “[Diversity at Iowa](#)” is an example of a comprehensive website that includes resources, upcoming events, communities and affinity groups, programs, trainings, awards & scholarships, etc.

Campus Climate

Climate Surveys

Nearly all peer institutions reviewed engage in efforts to survey the campus climate for diversity and inclusion purposes, or are beginning to develop such efforts. Campus climate is typically measured on an annual or biennial basis through the online distribution of surveys to the entire campus community. Half of the institutions use surveys that they developed, while a couple institutions use outside vendors to develop or provide survey instruments. Some institutions utilize the SERU survey, which is a survey focused on academic and civic engagement that originated at University of California-Berkeley and has been made available to institutions in the Association of American Universities (AAU).

In most cases, the results of the survey are analyzed by the office responsible for institutional diversity initiatives and/or the Office of the Provost, and results are used to create new initiatives. Some institutions share the results with the campus community, and a few have made results public. As most institutions are still in the beginning stages of surveying campus climate, most are still developing their plans for how to utilize the information collected.

Principles & Values

A few peer institutions have engaged in efforts to clearly articulate the principles and values that define the University and its community. Institutions with statements of core values include Penn State University, The Ohio State University, University of Illinois at Urbana-Champaign, and Michigan State University. Of these institutions, Penn State has gone the furthest in developing tools and strategies for continually articulating and emphasizing the values of its community. Each value identified in the statement has an associated video that helps explain what that value means to Penn State. Penn State has developed tools such as tips for including values statements in syllabi, conversation starters focused on the values, and media materials such as posters that are available to faculty and staff. All materials related to Penn State's values can be found online at <https://universityethics.psu.edu/penn-state-values>.

Hate/Bias Response

Reporting an Incident

All institutions surveyed are committed to creating a safe, equitable, and inclusive environment for students, staff, and faculty, one that is free from discrimination, harassment, and retaliation. Every institution has a slightly different approach to reporting, investigating, and resolving conflicts of hate and bias. Most universities have units or teams dedicated to handle incidents of hate and bias, such as the Campus Inclusion Team (University of Iowa), Inclusion and Anti-Bias Unit (MSU), and Bias Response and Referral Network (University of Minnesota). In general, every institution relies on its analogs to the Office of Diversity and Inclusion, Human Resources, Office of the Dean of Students, and the Police Department to partner with other necessary units to respond to hate/bias incidents.

To report hate/bias incidents, faculty and staff are generally asked to contact Human Resources or resolve their conflicts internally with their supervisors. Students are typically encouraged to report either directly or indirectly to the Office of the Dean of Students, the Office of the Provost, or another academic or student-focused unit.

Reporting an incident may be done via email, phone call, online, or face to face. Almost all universities prefer online reporting. One peer institution prefers reporting via email or phone call in order to respond promptly.

Institutions vary on whether they accept anonymous reports. Some do not accept anonymous incident reports, while other institutions may accept the report and proceed with an investigation as long as sufficient information is provided. Many institutions encourage reporting an incident even if the victim does not wish to move forward with a formal investigation, in order to allow the institution to be aware of the situation, and to take steps to ensure the safety of the victim and others in the community. Reporting also allows the institution to keep accurate records of the number of incidents, assess incident reports to identify patterns, and alert the campus community of potential danger when incidents or patterns are ongoing.

Initial Response to a Report

Upon receiving the incident report, those impacted by or perceived to be targets of the incident are typically contacted within 48 hours. Based upon the severity of the incident, almost all institutions take steps to provide support to those affected as necessary. Support measures may include, but are not limited to: referrals for medical attention or psychological support, connecting the individual with other impacted community members, academic or workplace accommodations (extension for an exam or assignment, excused time off from class or work), transportation assistance, housing accommodations, or providing appropriate support through University Police if there is a continuing threat.

Policy Structure and Adjudication Procedures

All of the institutions surveyed prohibit discrimination, harassment, and threats in some way, many through non-discrimination or equal opportunity policies. Some institutions provide definitions of hate/bias incidents online and in informal guidance, but none provide such definitions in policy documents.

- “The related conduct that is classified as a bias incident is defined as an act of conduct, speech, or expression to which a bias motive is evident as a contributing factor (regardless of whether the act is criminal). A hate crime is a bias incident that has risen to the level of a crime. ...All hate crimes are bias incidents, but not all bias incidents are hate crimes.” (See p. 9-10: <http://www.northwestern.edu/up/docs/NorthwesternUniversityCampusViolencePreventionPlan.pdf>)
- “An event that has the effect of demeaning or degrading an individual or a group and is motivated in whole or in part by the perpetrator’s bias against a particular group. Experiencing prejudice, stigma, or discriminatory attitudes and/or behavior.” (See: <https://bias.unl.edu/bias-faqs-terminology>)

In cases where hate/bias incidents violate University policies on discrimination, harassment, and threats and a perpetrator is able to be identified, the institution will pursue action. For these types of conduct, half of our peer institutions have a single policy that applies to all members of the university community (students, faculty, and staff); the other half of our peers have separate policies for separate constituencies.

Seven institutions have policies that allow for adjudication of complaints regarding discrimination, harassment, or threats by a committee. At most institutions where adjudication by committee is not the norm, it is possible to adjudicate by committee in certain cases (such as for students but not for

faculty, or for especially complex cases). At institutions where cases are not adjudicated by committee, the responsible unit is often the Office of Student Affairs (if the respondent is a student) or the unit through which the respondent is employed (if faculty or staff).

After adjudication, the responsible unit typically enacts the sanctions, if any. Sanctions for students typically range from required diversity training, loss of privileges (such as library access or on-campus housing), do-not-contact orders, suspension, and separation from the institution. Possible sanctions for faculty and staff can range from a letter of reprimand, recommended counseling, suspension or leave of absence without pay, reassignment of teaching or other responsibilities, probation, demotion, or termination.

University Response to Non-Conduct Incidents

Hate/bias incidents are often disruptive, but they may not always be in violation of University policy or the law. In many cases, hate/bias incidents that will not result in discipline still warrant a response from the University, in terms of opportunities for discussion or education on how the incident affected members of the University community. Possible options for resolution may include one of the following actions, as suggested by Rutgers University:

- Initiating contact with any group(s) affected by the hate/bias incident (e.g., a residence hall, a student organization, recreation center, class, etc.)
- Ensuring that any offending material, such as graffiti or defaced posters, have been removed. Note: materials should be removed only after police have been contacted and have come to the scene to take a report.
- Making contact with persons identified or persons suspected of committing the hate/bias incident to talk about the incident and the impact on the community.
- Recommendation of an educational program or initiative to alleviate the impact on the community from the hate/bias incident.

Communicating with Students, Faculty, and Staff Regarding Hate/Bias Incidents

In the immediate aftermath of a hate/bias incident, or during ongoing incidents, institutions will typically alert the campus community of any serious or continuing threats on or near campus, to provide the community with enough time and information to take safety precautions.

In the aftermath of hate/bias incidents, very few universities provide information about hate and bias incidents openly unless there is a continuing threat. At some institutions, the only acknowledgement of statistics related to hate/bias incidents appear in the Annual Security Report required by the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act (Clery Act).

Some institutions do prepare detailed reports and provide data on hate/bias incidents and hate crimes to their campus community on an annual or more frequent basis.

- The University of Illinois at Urbana-Champaign bias assessment website <http://bart.illinois.edu/> aggregates information about the institution's policies and procedures, as well as reporting information. Illinois's approach is comprehensive, in that it provides a form for reporting bias incidents and two types of reports - an annual report with description of hate/bias incidents and associated follow-up, and a statistical breakdown of incidents.
- The University of Wisconsin also has a comprehensive bias reporting website at <https://doso.students.wisc.edu/services/bias-reporting-process/>. The website includes an online incident report form, resources for those affected by hate/bias incidents, data on current incidents, and data on incidents from past semesters. Incident data includes information on the type of incident, the targeted identity, and the action taken.

- The Ohio State University includes records of bias reports received by the Bias Assessment and Response Team on its website and provides summary reports from each academic year. <https://studentlife.osu.edu/bias/policies-and-reports.aspx>
- The University of Michigan provides information about hate crimes and bias-related incidents at <https://deanofstudents.umich.edu/bias-incident-report-log>
- The University of Iowa collects data on the types of concerns that are raised in each incident reported on campus and shares this information with the campus community (<https://dos.uiowa.edu/assistance/annual-reports/>).
- Rutgers University, Penn State University collect information for each incident and the final report is preserved in a private online database.

Free/Hate Speech

Policies Related to Free and Hate Speech

None of the institutions surveyed specifically ban hate speech, although some institutions have created restrictions on speech based on the time, place, and manner of the speech.

- Many institutions designate specific areas on campus where free speech, demonstrations, may be held, either spontaneously or with prior approval. Some have separate regulations or processes for members of the campus community and those from outside groups who wish to speak or demonstrate on campus.
- Many institutions include language in policies or guidelines that indicates that those exercising their free speech rights are not to violate established University policies and procedures or interfere with campus operations.
- Most institutions make a distinction between free expression or free speech and conduct that is actionable in some way. For instance, while free speech rights are protected, they do not protect an individual's right to threaten another individual in a way that suggests they may be subject to imminent harm.

Nearly all institutions have policies or executive-level statements on protecting freedom of expression; academic freedom is often linked to freedom of expression in these policies and statements.

- Purdue University's Statement of Commitment to Freedom of Expression includes the following: "The University's fundamental commitment is to the principle that debate or deliberation may not be suppressed because the ideas put forth are thought by some or even by most members of the University community to be offensive, unwise, immoral, or wrong-headed... It is for the individual members of the University community, not for the University as an institution, to make those judgments for themselves, and to act on those judgments not by seeking to suppress speech, but by openly and vigorously contesting the ideas that they oppose. Indeed, fostering the ability of members of the University community to engage in such debate and deliberation in an effective and responsible manner is an essential part of the University's educational mission." (see: <http://www.purdue.edu/purdue/about/free-speech.html>)
- Michigan State University's President's Statement on Free Speech Rights and Responsibilities states the following: "The basic purposes of the University are the advancement, dissemination, and application of knowledge. The most basic condition for the achievement of these purposes is freedom of expression and communication. Without this freedom, effective sifting and testing of ideas cease, and research, teaching, and learning are stifled...The robust exchange of ideas and perspectives can be indicative of a healthy intellectual environment. However, actions which directly or indirectly inhibit the freedoms and rights enjoyed by others

are anathema to maintenance of a collegial environment.” (see: <https://cabs.msu.edu/news/key-issues/issue-docs/free-speech.html>)

Policies on Demonstrations/Protests and Use of Campus Facilities

All institutions have policies and procedures that guide the use of facilities and spaces on campus for assembly, discussion, or protest:

- Ten have restrictions on who may reserve indoor or outdoor space; these restrictions range from pre-approval to gaining sponsorship from a campus club/organization.
- Nine institutions restrict the ability of outside groups to initiate or host protests/demonstrations on campus. The restrictions range from going through pre-approval processes for the event to finding an on-campus sponsor and providing proof of insurance.
- Eleven of the institutions have a content-neutral policy; they do not specify restrictions for the content of protests, demonstrations, or outdoor activities. When restrictions are specified, as in the case of Indiana University, they are generally related to providing equal opportunities for political candidates running for office to hold campaign events on campus.
- Eight institutions have designated outdoor areas for free assembly by University or non-University groups.

In addition, nearly all of our peer institutions provide guidance on protest activities that prevent normal operations from taking place. Five of these institutions provide guidance on counter-protests or appropriate/inappropriate ways to protest controversial speakers. Four institutions provide guidance on University police support for student groups who wish to protest; two do not specify this in policy; and seven do not have any guidance on University police support for student groups who wish to protest.

Policies on Leaflets and Posters

Nearly all of our peer institutions require pre-approval of materials for hanging posters on campus; nine of them provide content-neutral rules and four do not.

When leaflets and other materials are distributed on campus, four universities require prior approval, two do not require prior-approval, and seven institutions do not specify any guidelines.

Policies on Chalking

Nearly all institutions have policies/procedures on chalking or otherwise writing messages on campus surfaces. Seven institutions do not have a procedure for removing messages based on content; three did not indicate whether they do or do not have such a procedure. Three institutions have a procedure for removing messages based on content. Aside from regular chalking, some institutions specifically state that waterproof and spray chalk are prohibited.

The extent to which these policies regulate chalking and writing messages on campus surfaces range from complete prohibition to allowing chalking on specific areas.