



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

(Approved on an Interim Basis by the President October 1, 2015)

I. POLICY STATEMENT

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

The **Office of Civil Rights & Sexual Misconduct (OCRSM)** shall receive all complaints of discrimination and harassment made pursuant to this Policy. Complaints may also be filed online [here](#). No employee is authorized to investigate or resolve reports of violations of this Policy without the involvement of the OCRSM.

Office of Civil Rights & Sexual Misconduct

University of Maryland

1103 Reckord Armory, College Park, MD 20742-5031

E-mail: civilrights@umd.edu

Phone: 301-405-1142 | Fax: 301-405-2837

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

II. APPLICABILITY

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 may bring complaints of violation of this Policy.

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

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

This policy applies to discrimination and/or harassment:

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

III. DEFINITIONS

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

“Harassment” is unwelcome conduct based on a person’s protected status, that is so severe or pervasive as to create an intimidating, hostile or offensive work or academic environment that *unreasonably* interferes with work or academic performance or negatively affects an individual’s employment or academic opportunities. Harassment is conduct that negatively affects the particular individual and also would negatively affect a reasonable person under the same circumstances. Harassment may include, but is not limited to verbal, physical, graphic, electronic or written conduct. 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.

“Retaliation” refers to action that is taken against an individual because she/he reported discrimination, filed a complaint of discrimination, or participated in an investigation or proceeding concerning a discrimination complaint. Retaliation in any form is prohibited and should be reported promptly to the OCRSM.

“Substantiated” means the investigation revealed that it is more likely than not that the discrimination occurred.

“Unsubstantiated” means the investigation revealed that not enough information exists or was provided to substantiate the complaint, or that the information provided did not substantiate the complaint.

IV. COMPLAINT PROCEDURES

NOTE: A complaint addressed under this Policy cannot also be addressed under another University policy, such as staff and faculty grievance policies or Maryland statutes. This means staff and faculty must choose between the different complaint processes available.

A. Reporting Obligations

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

Supervisors, faculty and University administrators who receive or become aware of complaints of conduct in violation of this Policy are obligated 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

Individuals alleging violations of this Policy are encouraged to report it to the OCRSM immediately upon experiencing or learning of the alleged violation. Complaints must be made within ninety (90) calendar days of the incident(s). The OCRSM may waive the time limit upon a showing of good cause.

C. Initial Assessment

Upon receipt of a complaint (written complaints are encouraged), 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 consider the Complainant's request for an investigation (or not) when conducting the initial assessment. An initial assessment will be conducted to determine whether:

- The complaint is appropriately filed with the OCRSM;
- The complaint has previously been filed under another University policy or State statute;
- The complaint is suited for early resolution;
- The alleged Policy violation supports the basis for an investigation.

After the initial assessment is complete, an investigator will contact the Complainant. The investigator in the OCRSM responsible for handling complaints of discrimination in violation of this Policy is referred to as a Special Investigator³. If it is determined the complaint is not appropriately filed with the OCRSM, the Special Investigator will indicate the reason.

D. Informal Resolution Process

When determined appropriate by the Special Investigator, the Complainant may elect to resolve a complaint through informal resolution. The purpose of informal resolution is to resolve the complaint by conference and conciliation. OCRSM will notify and advise supervisors and other administrators, as appropriate, of the complaint and efforts by the parties to proceed with informal resolution. The OCRSM shall document efforts to

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

resolve the complaint and whether or not those efforts were successful. Where informal resolution is successful, the OCRSM shall summarize the resolution in writing, have it signed by the parties, provide signed copies to the respective parties, and other supervisors and administrators, as appropriate, and monitor implementation of the resolution agreement, as appropriate, or close the case.

E. Investigation

The Special Investigator will investigate the complaint, including interviewing the Complainant and the Respondent and any other named witnesses. During the investigation, the OCRSM shall be given access to any information that relates to the complaint.

OCRSM shall advise the Complainant and Respondent of their rights under this Policy, including the following:

- Both parties have a right to an impartial investigation,
- Both parties have a right to produce relevant documents, witnesses and other material they would like the investigation to include,
- Both parties may have an advisor of their choice present during the investigative interview.

1. Refusal to Participate in an Investigation

All parties and identified witnesses shall cooperate during the investigation by being available during reasonable business hours to discuss the complaint and by making available any relevant information requested by the Special Investigator. No information shall be denied the OCRSM absent good cause. Refusal to provide the OCRSM the requested information or to cooperate may constitute a violation of this Policy. Staff and faculty who refuse to participate may be subject to disciplinary action.

2. 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.

3. 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.

4. Review of Draft Report

The OCRSM shall complete a written draft report of its investigation, including a summary of the facts surrounding the discrimination complaint, the resulting

investigation, evidence reviewed and witness statements, and a preliminary finding based on the preponderance of evidence standard. The parties and a University representative, where appropriate, will be given five (5) business days to review and comment on the draft report. After the comment period ends, the OCRSM will finalize the report, incorporating the evidence relied on in the report as exhibits and any additional comments received from the parties on the draft report after five (5) business days.

V. FINDINGS

At the end of the investigation, the Special Investigator will finalize the report, indicate whether the preponderance of the evidence supports a Policy violation and include a summary of the evidence relied upon by the Special Investigator in reaching this determination.

1. Notice of Finding to Parties

The Special Investigator will then issue a *Notice of Finding* that states the outcome of the investigation and provide a copy of the final report to each party.

2. Notice of Finding to Supervisors/Department Head/OSC

A copy of the *Notice of Finding* also will be provided to the respective supervisors or department/unit heads, or the Office of Student Conduct (depending on the status of the parties). Along with the *Notice of Finding*, the Special Investigator will issue a recommendation for corrective action to resolve the complaint.

VI. APPEAL

1. Grounds for Appeal

Either party may appeal the Finding on the following grounds:

- a. **Procedural Error**: A violation of procedural due process means that the *Finding* was negatively influenced by a failure of the Special Investigator to take a procedural step or to fulfill a procedural requirement established by this Policy.
- b. **New Evidence**: New evidence is that which *could not have been previously discovered* and included in the OCRSM investigation and is now available and could impact the Finding.

2. Filing Deadline

Either party (Respondent/Complainant) has three (3) business days to submit an appeal. Appeal requests received after this time limit shall be denied. If an appeal is submitted, the other party will be notified immediately and provided three (3) business days to respond to the appeal.

3. Submission

Appeals (and any response to an Appeal) shall be submitted directly by email to civilrights@umd.edu, referencing the case name, number, and the party's name and

contact information. The email must contain a written statement outlining the basis for the appeal, or the response to the appeal.

4. Review

Appeals will be reviewed in accordance with University 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 by third parties that do not directly involve a faculty, staff or student Respondent shall be reviewed by the Vice President for Administration & Finance or designee.

5. Considerations

In any request for an appeal, the burden of proof lies with the party requesting the appeal. Appeals are not intended to allow for a review of the entire investigation, with the exception of new evidence as referenced above. A review of the matter will be prompt and narrowly tailored to the stated appeal grounds. Appeals are confined to a review of the written record and the relevant documentation regarding the grounds for appeal.

6. Outcome

Upon receipt of the appeal and response, the OCRSM will forward it 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.

7. Notification

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.

VII. RECOMMENDATIONS FOR CORRECTIVE ACTION

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

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, OCRSM will work with the supervisor and/or department head to ensure training occurs as soon as feasible.

VIII. DISCIPLINARY ACTION

A. Students

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

- a. Discipline that impacts a student's status with the University include: 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 are subject to the approval of the Vice President for Student Affairs. Disciplinary expulsions are subject to the approval of the President.
- b. Discipline that does not impact a student's status with the University include but are not limited to: educational requirements, "no contact" orders, housing restrictions, community service and disciplinary reprimand. Failure to comply with any of the sanctions listed above may result in further disciplinary action that could impact a student's disciplinary status with the University.

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

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

B. Staff

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

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

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

C. Faculty

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

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

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

D. Records Retention

The OCRSM shall maintain all 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 discipline records to the OCRSM.

IX. 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 Human Relations or 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, shall be referred to the 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 the 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