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13 FACULTY RIGHTS AND RESPONSIBILITIES--GENERAL

Faculty have a primary role in the development of academic policies through representative bodies advisory to the President of UMBC.

13.1 ACADEMIC FREEDOM

(This statement is excerpted from the AAUP Statement of Principles on Academic Freedom and Tenure. Paragraph style adapted to the format of this Handbook.)

Teachers are entitled to full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.

Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject. Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment.

College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.

13.2 POLICY ON FACULTY RESPONSIBILITIES

(This UMBC policy was approved by the Faculty Senate, November 9, 1994. Portions of the policy were drawn exclusively from the Statement on Faculty Workload, published in 1990 by the American Association of University Professors. The policy is consistent with Board of Regents Policies and Procedures II-1.25 - Policy on Faculty Workload and Responsibilities approved by the Board of Regents, August 19, 1994; Amended by the Board of Regents, July 9, 1999. Section headings and paragraph style adapted to the format of this Handbook.)

13.2.1 Rationale

The goal of UMBC is to create, integrate, transmit and apply knowledge. To accomplish this goal, faculty teach, conduct research, produce creative efforts, and perform academic, clinical, public service, outreach and extension activities. In addition, faculty participate in UMBC's system of shared governance and provide valuable service to their disciplines and professions. A policy on faculty responsibilities is necessary to making
appropriate instructional and programmatic decisions and to ensuring that USM Regents, state government leaders and the public understand how faculty effort is determined and rewarded.

13.2.1.1 Teaching, Scholarship and Service

A policy for faculty responsibilities must recognize the University's primary responsibility to its students, affirm the centrality of teaching to UMBC's mission, and recognize the interrelationship and the interdependency among teaching, research and creative effort, and service. Research and creative effort are inextricably linked to graduate education and critical to undergraduate education, especially as the campus provides greater research opportunities for its increasingly able undergraduate students. Moreover, creative scholarly work not only informs and enhances instruction in the classroom but ensures that our students-at every level-benefit from the most current and sophisticated thinking. These creative endeavors among faculty also connect them with their peers nationally and internationally and contribute to the enhancement of higher education in the State of Maryland.

Effective teaching is absolutely dependent on an active engagement in scholarly efforts, and the State's most talented students deserve the highest quality instruction. Research keeps faculty current in their professional field, brings new knowledge to students in a timely manner, and encourages students to critically evaluate knowledge and contribute to its reassessment, synthesis and development.

It is important to recognize the diversity of instruction, for it involves classroom instruction as well as individual tutorials and various kinds of studio, internship, practicum, laboratory and clinical experiences. Much teaching, at the graduate and undergraduate levels, occurs outside the formal mechanism of courses and credits. Faculty instructional duties include working with students to develop undergraduate honors theses, to undertake an independent study in areas not otherwise available, to develop master's and doctoral theses, as well as participating in graduate degree written and oral examinations and academic advising for students at all levels. Also essential to all faculty members' responsibilities is the revision of course materials and the creation of new courses that respond to the newest contributions to their field and to relevant interdisciplinary connections.

The mix of instructional activities will vary among departments. A policy assigning faculty responsibilities must recognize and encourage the diversity of instructional activity appropriate at a major university. At UMBC, faculty members are expected to participate, at appropriate times, in Honors College, in interdisciplinary efforts, and in continuing education, and no policy should militate against faculty participation in creative instruction outside their particular department.

Service is essential to the functioning of a university and an active role of the faculty is essential to ensuring a healthy vital campus. Service at the department, campus, and system levels is at once an opportunity for the faculty member to be a contributing member to the
UMBC community and a means to fulfill a responsibility to campus citizenship. Service to the public gives faculty better understanding of societal needs and influences the direction of research. Outreach and extension teaching also provides the public with the knowledge and experience of the faculty and may influence research directions.

13.2.1.2 Advising and Mentoring

To maintain a dynamic instructional program and a vital campus community, fed by creative change and the constant flow of new knowledge, much activity beyond the classroom is a necessary part of a faculty member's professional life. In addition to the primary teaching duties in the classroom and beyond the formal individual instructional activities, faculty members mentor and advise students. This is an essential responsibility for faculty members, for the students' academic success depends on clear and competent advice as well as informed and able mentoring.

13.2.1.3 Diversity in Expectations

UMBC cooperates with other major national universities in research, teaching and service, but also competes with other major research institutions in recruiting and retaining faculty. An important factor influencing instructional workload is the national norm for each discipline at comparable institutions. National norms for a discipline reflect the instructional process appropriate to that discipline and will vary accordingly. UMBC must relate its expectations for instructional workload in a discipline to expectations at other comparable research universities nationally.

It is also the case that the emphasis given to particular responsibilities at similar stages in faculty members' careers will vary due to the nature of their respective disciplines. Moreover, the level of engagement among faculty members in scholarship, service, and teaching varies throughout their careers. Scholarly contributions are dependent on field specific requirements including, for example, the acquisition of sponsored research, the completion of lengthy research in libraries and archives, and the writing of monographs and articles. Other discipline-related factors such as newness of the field, the rapidity of change in the field, and the interdisciplinary nature of the field may affect a faculty members' scholarly productivity and the balance among their responsibilities.

Given these factors and expectations, faculty need not be engaged in all areas of their responsibilities at the same levels of intensity. Within the instructional mission of the department, for example, individuals also will vary in their contributions to formal group instruction, individual instruction, academic advising, graduate or undergraduate instruction, clinical instruction and other instructional activities. And it is the responsibility of the Department Chairs, in consultation with the academic administration, to ensure that all members of the department are fully active and that faculty responsibilities are allocated equitably, if not always similarly. Accordingly, the normal or expected educational workload will vary among departments, and within departments. Differential instructional assignments
are designed to address these issues of equity and ensure that all faculty members meet their responsibilities fully.

13.2.2 Application

This policy applies to the following categories of faculty at UMBC:

1. All persons holding tenured and tenure-track positions who are classified as faculty (instructional, research, and public service) and so reported to the Maryland Higher Education Commission through the Employee Data System.

2. All persons who, regardless of occupational classification, hold faculty rank and perform administrative duties at the level of academic department or equivalent academic unit, including chairs, assistant chairs, program directors, etc.

3. All persons who, while neither tenured nor on tenure track, are employed full-time at the University, are classified as instructional faculty and so reported to the Maryland Higher Education Commission through the Employee Data System.

4. All persons who, while neither tenured nor on tenure track, are employed full-time by the university, are classified as research faculty and so reported to the Maryland Higher Education Commission through the Employee Data System.

This policy does not apply to individuals who hold faculty rank but who are assigned to administrative duties outside the department or equivalent academic units (for example, deans, vice presidents, presidents); nor does it apply to individuals who are classified as research faculty but whose salary is fully supported by non-state funds (for example, federal grants).

13.2.3 Principles

1. UMBC's goal is to continue its progress toward becoming one of the nation's best public, medium-sized research universities that also pays special attention to educating its undergraduate students. The Workload Principles of UMBC are intended to promote its mission of teaching, research and other creative efforts, and service within the context of a research and doctoral level university.

2. UMBC has developed particular strength in interdisciplinary instruction and research and seeks to build bridges among the cultures of different disciplines and professions. Hence, department workload policies should facilitate, rather than hinder, interdisciplinary instruction and research.
3. Workload guidelines must be consistent with the department's mission and with the department meeting its overall responsibilities to provide educational opportunities to undergraduate and graduate students through both intra-departmental and extra-departmental activities such as the Honors College. Essential components of a department's responsibility to provide educational opportunities include instruction, advisement and student research opportunities.

4. The research mission of UMBC is directly related to the national and international stature of its faculty in research and other creative efforts. Moreover, excellence in research and other creative efforts promotes excellence in both undergraduate and graduate teaching. Therefore, workload principles must recognize the research mission of the University.

5. Workload Principles must affirm the value of the active participation of faculty members in UMBC's system of shared governance at the department, campus and system levels; their responsiveness to the institution's mission of public service; and their responsibility to their disciplines and professions.

6. Workload principles must be flexible enough to recognize the diverse activities of departments as well as the changing career patterns of individual faculty members. Thus:
   
   a. Workload principles shall recognize the range of scholarly, creative, instructional, and service activities of different departments and disciplines. Normative standards in each of these areas that are appropriate to various disciplines shall be established by each department.

   b. Workload principles are based on the assumption that each faculty member will engage in teaching, scholarship, and service. Emphasis on these three broad areas of responsibility may vary at times in a faculty member's career.

   c. Workload principles must also recognize that departments at UMBC compete nationally and internationally with leading institutions for faculty, students and funding for research and other creative efforts.

13.2.4 Procedures

1. Department faculty members should participate fully in the determination of department workload policy. Reappraisal of department workload policy at regular intervals is essential in order that established patterns of faculty responsibility may be adjusted to changes in such areas as the department's
size, mission, structure, programs, and resource base. Department workload policies will be reviewed by the appropriate dean.

2. The responsibility for department workload assignments rests with the department chairperson in consultation with the faculty members of the department in accord with the policy developed collegially within the department.

3. Existing department workload policy should be in writing and made available to all department faculty members including those new to the department each year.

4. The individual faculty member may have several quite different duties, some of which may vary strikingly at different times during the year. It is important, therefore, that care be taken to consider all of the individual's services to the institution in determining each faculty member's overall workload.

5. The department's reward structure, especially its system of determining merit pay, shall take cognizance of the workload assignment for each faculty member.

6. Department workload policies shall be in conformity with UMBC policies as defined in the UMBC Faculty Handbook. Issues that relate to workload but that are not addressed by the principles in the "UMBC Policy on Faculty Responsibilities" or department workload policy shall be resolved in accordance with faculty rights and responsibilities as defined in the UMBC Faculty Handbook.

13.2.5 Guidelines

1. The Board of Regents' Policy on Faculty Workload and Responsibilities provides the following guidelines for departments to use in setting standard expectations for faculty members:

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<th>Research/</th>
<th>Instruction</th>
<th>Scholarship</th>
<th>Service</th>
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<tr>
<td>% of effort</td>
<td>45-55% (5 courses/course units)</td>
<td>35-45%</td>
<td>5-15%</td>
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2. When departmentally defined expectations vary from these guidelines, a department chair shall notify the respective dean, who shall obtain approval for the departmentally defined expectations from the Provost, subject to the President’s approval.
3. For purposes of defining standard instructional load expectations, the course unit is defined as equivalent to a three credit course. Individuals whose instructional load includes other than three credit courses will have their standard instructional load expectations defined accordingly. The weights used to convert graded instructional experiences that do not follow the traditional course format (e.g., individual studies, supervision of dissertation research, etc.) to course units shall be consistent with the formula defined in the BOR's "Policy on Faculty Workload and Responsibilities."

4. Each department workload policy shall address the following issues:

   a. the standard course assignment for faculty members and basis on which this course assignment is adopted;

   b. balance between graduate and undergraduate courses;

   c. the department's expectations regarding advisement and other student-related activities;

   d. the department's expectations regarding thesis and dissertation supervision;

   e. the department's expectations regarding supervision of undergraduate research and independent study at both the undergraduate and graduate level.

   f. the department's expectations regarding participation in extra-departmental instructional activities such as continuing education, Interdisciplinary Studies, and the Honors College;

   g. the department's expectations with regard to research and other creative efforts (including faculty development of grant and contract support) and service.

   In some cases, there may not be standard expectations regarding items d, e, or f. In these cases, the department workload policy must specify how participation in these activities will be recognized in the instructional activities of faculty.

13.2.6 Exceptions

The Board of Regents' Policy on Faculty Workload and Responsibilities recognizes that exceptions to the standard expectations may be made based on several considerations. As stated in that policy (pages 4-5), these considerations include:
1. Instruction. ... based upon a number of factors, including class size; development of new courses; modality of instruction, including distance education; level of instruction; discipline; accreditation requirements.

2. Departmental Administration. Assumption of responsibility for the functions of chair, assistant chair, or program director, or for special departmental projects, may require reduction of expectations for service, research/scholarship or instruction. The magnitude of such reduction shall be dependent on the scope of administrative responsibilities and size of the department.

3. Externally Funded Research and Service Activities. Assignment of additional time for research or service activities can be supported by external funds, either research or training grants. In these instances, the accompanying reduction of expectations for service or instruction should mirror the replacement of departmental salary support by externally-funded salary support.

4. Department-Supported Research (Departmental Research). Assignment of additional time for research activities supported by the department and consequent reduction of expectations for service or instruction should be related to the institution's mission.

5. Department-Supported Service. Assignment of additional time in areas of service and consequent reduction of expectations for research/scholarship or instruction should be directly related to the duration and the extent of the commitment....

13.2.7 Accountability

1. The focus of external accountability (to the Regents and to the State) will be the department or academic unit, not the individual faculty member. The primary means for ensuring proper accountability will be after-the-fact reporting of actual departmental performance in comparison with the departmentally defined expectations previously approved by the President.

2. Department chairs have the responsibility for completing the annual teaching assignment report which is required of departments by the Board of Regents. Also required will be a report from the chair as a supplement to the faculty annual reports submitted to the Dean reconciling each faculty member's actual

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1UMBC’s Workload Policy defines service as: actively participating in UMBC’s system of shared governance at the departmental and system levels; responding to the institution’s mission of public service; and fulfilling their responsibility to their disciplines and professions.
teaching assignment for the academic year with that expected on the basis of the department's workload policy.

3. The departments' workload reports shall be the basis for the accountability report which the UMBC President forwards to the University of Maryland System Administration. The accountability report indicates by academic department the number of faculty who meet or exceed the departmentally defined standard expectations for faculty workload and responsibilities, the number of faculty who have been excepted from these standard expectations and the total course reduction.

4. In addition to the annual review of faculty performed by department chairs and reported to their respective deans, UMBC's and the BOR's policies on Appointment, Rank and Tenure provides for the systematic institutional review of faculty. In addition, each chair shall consider the performance of core faculty members when nominations are solicited for the annual Presidential Awards for outstanding teaching and research.

13.3 POLICY ON PROFESSIONAL COMMITMENT OF FACULTY

(Board of Regents Policies and Procedures II-3.10; Approved by the Board of Regents, November 30, 1989; amended by the Board of Regents, June 27, 2003)

I. INTRODUCTION

By accepting an appointment to an institution in the University System of Maryland, faculty members make a major professional commitment to the institution, its students, and the State of Maryland. Maryland law encourages higher education institutions to promote economic development in the State and to increase their financial resources through arrangements with the private and nonprofit sectors, including collaborative research and development, commercial application of institution-owned intellectual property, and provision of technical assistance. The University System of Maryland encourages its faculty to use its expertise in serving the economic and social interests of the community and the advancement of the academic disciplines.

Faculty members may be expected to contribute to all aspects of the mission of the institution, including such essential components as teaching, student direction, and advisement; research and economic development; professional, public, and institutional service; and administration. The distribution of assignments will vary greatly from year to year and from person to person according to the particular talents and interests of the faculty member and the needs of the institution and the academic unit as determined in consultation with the department chair or responsible administrator.
II. SCOPE AND PURPOSE

A. Scope. This policy applies to all faculty members in the University System of Maryland and shall be incorporated in the published policies of each institution. By explicit reference, some sections of the policy apply only to full-time faculty members.

B. Purpose. Recognizing the need for balance among personal, institutional, and social missions and goals, this policy establishes broad guidelines for avoiding conflicts of commitment and requires each institution to review or develop procedures for handling possible instances of conflict of commitment.

C. Definition. A conflict of commitment situation arises when outside activities substantially interfere with the person’s obligation to students, colleagues, or the institution.

III. PROFESSIONAL SERVICES WITHIN THE INSTITUTION

Full-time faculty members may undertake consulting, overload teaching, or professional services within the constituent institution during an appointment period for a stipend only with the advance written approval of the President or designee.

IV. EXTERNAL COMMITMENTS

Consulting and other external professional services may enhance the reputation of the institution as well as the individual, assist in recruiting or placing students, apply the expertise developed in its academies to the enterprises of the State, and test the applicability of theoretical ideas. Nevertheless, the faculty and the institution must remain vigilant to ensure that such external services enhance and do not detract from a faculty member’s fulfillment of his or her responsibilities to the institution. Therefore, external professional services, whether income-producing or not, may be undertaken only when it is ensured that all responsibilities associated with the individual’s faculty position are fully satisfied and will continue to be met.

A. Professional Services

1. Within USM or State of Maryland. Consulting or professional services which carry a stipend and are rendered to another institution in the University System or another State agency in Maryland require the advance written approval of the President or designee of the faculty member’s institution.

2. Use of University Resources. A faculty member may use the physical resources of his or her institution in connection with consulting or professional services beyond routine use of the office, computer,
library, and telephone only if the institution is reimbursed in accordance with prior arrangements, or if such reimbursement is waived by the President or designee of the affected institution.

3. Endorsement Not Implied. A faculty member shall not convey endorsement by the institution or the University System of the recommendations or results from his or her consulting or professional services.

4. Protection of Intellectual Property. No individual shall enter into an agreement in the pursuit of consulting or professional services which conflicts with the University System policy on intellectual property (See Policy IV-3.20) without the advance written waiver or consent of the Chancellor or designee.

B. Teaching Outside the Home Institution. A full-time faculty member, with the advance written permission of the President (or designee) of his or her institution, may teach a maximum of two courses at another institution for extra compensation during the individual’s contract year.

V. DISCLOSURE TO PREVENT CONFLICT OF COMMITMENT

Although external activities may enhance the institution and the University System of Maryland, they also bring with them the potential for conflicts of commitment. Although some situations carry the potential for a conflict of commitment, the faculty member and the University may be able to avoid actual conflict by careful attention to the individual’s assigned institutional responsibilities. In situations that have the potential for conflict, a faculty member must confer with the department chair or other appropriate administrator and resolve the potential conflict according to institutional procedures before assuming additional professional responsibilities outside the unit.

IV. IMPLEMENTATION

A. Limits of Application to Contract. Nothing contained in this policy shall be construed as imposing any obligations on faculty members to the institution or to the University System beyond those required by law or contract, nor as adding any grounds for termination of a faculty appointment beyond those stipulated in the policies governing faculty appointments, ranks, and tenure, as approved by the Board of Regents.

B. Procedures at Each Institution. Each institution of the University System of Maryland shall develop and publish procedures to implement this policy. Such procedures shall include provisions for regular reporting by faculty members.

\(^2\text{Sic.}\)
to the institution on all outside professional consulting or teaching and substantial external professional services, whether paid or unpaid.

13.4 UMBC PROCEDURES ON REPORTING CONSULTANCY

(Implementation of Board of Regents Policy II-3.10 Policy on Professional Commitment of Faculty, approved by the Board of Regents, November 30, 1989. Section headings and paragraph style adapted to the format of this Handbook.)

1. Chairs/directors will distribute a form to all faculty and associate staff in their departments/areas and collect a form from each individual. A form must be submitted even if there has been no consulting. The report form (if there has been consulting) must contain the name of the agency, the amount of time spent in consulting (hours/days), and the nature of the work performed.

2. At the end of each regular semester, chairs/directors will submit to the appropriate dean or other supervisory officer a summary report indicating that the procedure has been accomplished, that all reports indicate conformity to the policy, or, if appropriate, a statement of definition and explanation for each individual faculty member or associate staff person who has exceeded the time allowed by University policy for outside consulting.

3. The report forms from faculty members and associate staff are to be kept on file in the department/area office for each semester. They should be available for examination by the UMBC Office of Human Resources representative and State auditors.

4. The deans/supervisory officers will forward the summary reports submitted by the chairs and directors, along with their own analysis, to the Provost and/or the President.

NOTE: With each semester's collection of report forms, chairs/directors should keep a list of the faculty/associate staff in residence for that semester. A checklist of those persons reporting should be available with the reports.

13.5 POLICY ON TEACHING OUTSIDE THE HOME INSTITUTION BY FULL-TIME FACULTY

(Board of Regents Policies and Procedures II-3.20; Approved by the Board of Regents, November 30, 1989)

A full-time faculty member, with the written permission of the President (or designee) of his or her institution, may teach a maximum of two courses at another institution for extra compensation during the individual's contract year.
13.6 INTELLECTUAL PROPERTY POLICY\(^3\)

(Approved by the Faculty Senate, April 9, 2002; Section headings and paragraph style adapted to the format of this *Handbook*. Appendices not included, but available in the online version of the policy at Research@UMBC under Policies & Procedures)

13.6.1 Introduction

The primary mission of universities is to create, preserve, and disseminate knowledge. When that knowledge takes the form of intellectual property, a university must establish a clear and explicit policy that will protect the interests of both its creators and the university while ensuring that society benefits from the fair and full dissemination of that knowledge.

13.6.2 Effective Date

This policy shall be effective as of July 1, 2002 ("Effective Date"). It shall apply to all intellectual property disclosed to the University on or after July 1, 2002. Intellectual property disclosed to the University prior to the Effective Date shall remain subject to the University System of Maryland Policy on Patents effective May 31, 1990 or the University System of Maryland Policy on Copyrights effective May 31, 1990, unless otherwise agreed by the University and all creators of the intellectual property (or the heir or assignee of any creator's share of Revenue).

13.6.3 Definitions

The terms defined in this section are given special meanings in this policy and appear capitalized throughout.

A. Personnel. All University employees, full-time and part-time, including Student Employees acting within their Scope of Employment; non-employee consultants; visiting faculty and visiting employees; and others using University resources.

B. Resources Usually and Customarily Provided. All resources provided unless specified otherwise, in advance and in writing, as a condition of using the resource.

C. Revenue. Consideration paid in cash or equity by a third party in exchange for specific intellectual property rights. Revenue does not include research support in any form (e.g., from Sponsored Research Agreements [as defined

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\(^3\)This policy supersedes Board of Regents Policies and Procedures IV-3.20, "University System of Maryland Policy on Intellectual Property," approved by the Board of Regents, February 8, 2002. Copyrights and patents processed before July 1, 2002 remain subject to the former USM policies on Patents (see Section 15.2) and Copyrights (see Section 15.3).
below], restricted grants, unrestricted grants, or equity), tuition income, and contract income received by the University including contract income received in lieu of tuition.

D. Scope of Employment. All activities, related to the field or discipline of the faculty member's appointment, including the general obligation of a faculty member to teach, to do creative work, and to conduct research; or related to the employment responsibilities of non-faculty Personnel, and for which Personnel receive compensation from the University, where compensation is any consideration, monetary or otherwise, including but not limited to, title and the ability to use University resources.

E. Sponsored Research Agreements. Grants, contracts, cooperative agreements, and other agreements under which research or development activities will be carried out, or other agreements administered by the University that contain a provision governing rights to intellectual property created under the agreement.

F. Students. Persons enrolled in the University, acting within the course of their academic work, including, but not limited to, undergraduates, graduate and professional students, non-degree students, and not-for-credit students.

G. Student Employee. A Student who is also a University employee, acting within the Scope of Employment.

H. University. University shall mean the University of Maryland, Baltimore County, a constituent institution of the University System of Maryland, except as otherwise stated.

13.6.4 General Provisions

A. Purpose. The purpose of this policy is to set forth the terms, conditions, and procedures whereby University Personnel and Students establish and maintain their interests in intellectual property created by or used at the University, taking into account intellectual property laws governing patents, copyrights, trademarks, and other forms of intellectual property. This policy governs the ownership and protection of such property at the University.

B. Scope of Application. All Personnel and Students shall comply with this policy, as amended from time to time. This policy shall be included in the faculty handbook, as directed in Board of Regents Policy II - 1.00, Section I. B.2. In addition, a reference to this policy shall be made in the Student and Personnel handbooks and in academic catalogues, e.g., graduate and undergraduate, or their equivalent. Said reference shall be in enough detail to enable Students and Personnel to easily obtain the full text of this policy.
C. Protecting University Interests. Personnel and Students may not (1) sign agreements or take any action on behalf of the University unless they are authorized agents of the University, or (2) make unauthorized use of the name of the University. In cases where Personnel or Students take such actions, the University is not bound to honor those actions or agreements.

D. Acquisition. The University may acquire ownership or use of intellectual property by assignment, license, gift, bequest, or any other legal means. The University shall administer such intellectual property in accordance with this policy unless otherwise required by the terms of the acquisition.

E. Administration of Intellectual Property which is not University-owned. At the request of the owner, intellectual property, which is not owned by the University, may be administered by the University. In such cases, this policy shall govern that administration unless the University agrees otherwise in writing.

F. Sponsored Research

1. Ownership. Sponsored Research Agreements shall provide that all intellectual property developed by Personnel or Students under such agreements shall belong to the University; however, the University, on a case-by-case basis (as circumstances warrant and consistent with applicable private use restrictions, e.g., under bond covenants), may agree to assign ownership or licensing rights to the sponsor, subject to the University's right to use and reproduce the intellectual property for research and educational purposes. The University's president or designee shall approve any such agreement.

2. Federal Sponsorship. Any research project that is funded, in whole or in part, by a federal agency is subject to specific federal statutes and regulations. Those regulations generally allow the University to elect title to any invention that is conceived of or first actually reduced to practice in the performance of federally funded research with the purpose of commercializing the invention, subject to the government's rights, which include reservation of a nonexclusive license to use the invention world-wide for government purposes.

3. Internal Research Funding. The University's internal research funding, unless subject to another provision in this section, shall not be considered funding under a Sponsored Research Agreement.

G. Implementation Authority. The Chancellor shall have the ultimate authority and responsibility for implementation and coordination of this policy and the other institutional policies for the University System of Maryland. The
University's president shall have the authority and responsibility to implement and coordinate this policy within the University. Subject to the other provisions of this policy and applicable law, the University president may enter into agreements with respect to ownership, licensure, disposition of intellectual property, disposition of royalty income, resolution of disputes, and other matters related to intellectual property in which the University has an interest under this policy, and may register intellectual property; seek protection under copyright, trademark, and/or patent laws; and enforce, defend, manage, and take any action relevant to the institution's intellectual property rights that is necessary for the proper administration of this policy.

13.6.5 Copyrights

A. Ownership by Creator. Personnel and Students shall have all rights in copyrights of their work subject to Section V.B., below, including traditional scholarly works such as textbooks, journal articles, and monographs, and other literary or artistic works, regardless of the form in which such works exist (e.g., tangible or electronic), with the following exceptions:

1. Scope of Employment. The University owns all rights in copyright for works produced by non-faculty Personnel within the Scope of Employment.

2. Sponsored Research Agreements. The University owns all rights in copyright for works, which are expected deliverables, produced by Personnel or Students under Sponsored Research Agreements.

3. Signed agreements. The University owns all rights in copyright for all work as stated in written agreements.

4. Computer Programs and Software. Ownership of copyrighted computer software and programs is addressed in Section VII.

B. Right of Use

1. University rights. Except for commercially available works and works created by Students as part of their academic coursework, the University shall have the right to use and reproduce for its internal research and educational purposes scholarly and original works, whether owned by the University or Personnel, for which it has provided resources.

2. Additional rights. If the University wishes to secure additional rights in a copyrighted work, it shall so specify in writing at the time it
provides resources beyond Resources Usually and Customarily Provided or other consideration.

C. Responsibilities of Personnel and Students

1. Assignment. For work to which the University has or had rights of ownership or use under this policy, Personnel and Students shall, upon request, execute all legal documents designed to assist the University, or its assignees, in proving or benefitting from such rights, as deemed appropriate by the University.

2. External Collaborations. See Section IV.C and the Policy on Professional Commitment of Faculty, BOR II-3.10.

3. Use of Copyrighted Materials. All Personnel and Students are responsible for complying with University guidelines on the fair use of copyrighted material and for complying with the requirements of copyright law, including obtaining required permissions to use copyrighted material (See Appendix A).

D. Responsibilities of the University

1. Agreement Regarding Use of Resources Beyond Resources Usually and Customarily Provided. When the University authorizes or directs efforts to create a work or works using University resources beyond Resources Usually and Customarily Provided, it shall enter into a written agreement addressing the extent of use of resources, the schedule for the project (if appropriate), control over the work and its revisions, and ownership of the work. When the work done by Personnel routinely involves resources beyond Resources Usually and Customarily Provided, compliance with this section may be accomplished by including the required terms in an employment agreement.

2. Sharing of Revenue. Except as may be set forth in an agreement between the University and the creators, the University shall remit to creators or their assignees or heirs, their share of Revenue from copyrights as specified in Section XI.A. of this policy.

3. Use of Copyrighted Materials. The University has developed guidelines for the use of copyrighted materials and guidelines that address library and educational fair use as well as fair use exceptions for research and scholarly work (See Appendix A).
13.6.6 Patents

A. Ownership

1. University Ownership

a. Within Scope of Employment. The University owns inventions created by Personnel within the Scope of Employment.

b. Use of University Resources. The University owns inventions created by Personnel, graduate Students, or professional Students, with the use of University resources other than library resources.

c. Signed Agreements. The University owns all inventions made by Personnel or Students under Sponsored Research Agreements and as stated in written agreements.

2. Creator Ownership

a. Outside Scope of Employment. Personnel, graduate Students, and professional Students shall own patent rights to inventions conceived and first reduced to practice outside the Scope of Employment and without the use of University resources and not subject to Sponsored Research Agreements or other written agreements.

b. Student Ownership. Unless an invention is subject to another provision under this Section, VI.A, the University will not assert its right of ownership for inventions made solely by Students as part of their academic coursework.

B. Responsibilities of Personnel and Students

1. Disclosure. Personnel and Students shall disclose inventions which are subject to University ownership to the University's Office of Technology Development in a timely manner, fully, and in writing. When uncertain about the University's rights, Personnel and Students shall disclose.

2. External Collaborations. In accord with Section IV.C., Personnel and Students may not: (a) sign patent agreements or other documents (e.g., invention reports, licenses, assignments, Material Transfer Agreements, or Confidential Disclosure Agreements) which abrogate the University's rights; (b) make unauthorized use of the name of the University; or (c) transfer material relating to intellectual property outside the University, except pursuant to a properly authorized
Material Transfer Agreement. See also the Policy on Professional Commitment of Faculty, BOR II-3.10.

3. **Assignment.** As to an invention in which the University has a right to ownership or use, the inventor, upon request, shall execute promptly all contracts, assignments, waivers or other legal documents necessary to vest in the University, or its assignees, any or all rights to the invention, including assignment of any patents or patent applications relating to the invention.

### C. Responsibilities of University

1. **Timely Evaluation.** The University shall evaluate inventions disclosed in accordance with Section VI.B.1) and shall do so with reasonable promptness and in good faith. The University shall decide whether to seek legal protection of its ownership rights, such as filing for patent protection; the scope of patent protection; and whether and how to pursue, limit, or abandon commercialization. The University may at any time decide not to pursue or to abandon the pursuit of patenting and/or commercialization of any invention in which it has an interest.

2. **Timely Information.** The University shall inform inventors in a timely manner about substantive decisions regarding protection, commercialization and/or disposition of inventions disclosed in accordance with Section VI.B.1). Terms of agreements which constitute proprietary business information may be treated as confidential by the University in accordance with applicable law. The University shall notify inventors promptly when it decides either not to pursue, or to abandon pursuit of, all efforts to commercialize an invention.

3. **Commercialization by Inventors.** The University, at its discretion and consistent with the public interest, may license intellectual property to the inventors on an exclusive or non-exclusive basis. Inventors must demonstrate technical and business capability to commercialize the intellectual property. Agreements with inventors shall be subject to review and approval of conflict of interest issues in accordance with applicable University policy.

4. **Assignment of Ownership.** The University may assign ownership to the inventors as allowed by law, subject to the rights of sponsors and to the retention by the University of a license which at a minimum shall grant the University the right to use intellectual property in its internally administered programs of teaching, research, and public service on a perpetual, royalty-free, non-exclusive basis. The
University may retain more than the minimum license rights, and assignment or license may be subject to additional terms and conditions, such as Revenue sharing with the University or reimbursement of the costs of legal protection. The University shall negotiate promptly, upon written request by the inventors, the transfer to the inventors of the University's interest in any invention that it has chosen not to protect or commercialize, subject to any legal obligation to offer its interest to a sponsor, licensee, or another institution with rights to the invention before it can agree to negotiate the transfer of the University's interest in an invention to the inventors.

5. Sharing of Revenue. Except as may be set forth in an agreement between the University and the creators, the University shall remit to the inventors or their assignees or heirs, their share of Revenue from inventions as specified in Section XI.B. of this policy.

13.6.7 Computer Programs and Software

A. Ownership

1. University Ownership
   
   a. Scope of Employment. The University owns computer programs and software created by Personnel within the Scope of Employment.
   b. Use of University Resources. The University owns computer programs and software created by Personnel, graduate Students, or professional Students, with the use of University resources other than library resources.
   c. Signed Agreements. The University owns all computer programs and software created or made by Personnel or Students under Sponsored Research Agreements and as stated in written agreements.

2. Personnel Ownership
   
   a. Outside Scope of Employment. Personnel, graduate Students, and professional Students own software and computer programs conceived and first reduced to practice, and/or authored, outside the Scope of Employment and without the use of University resources and not subject to Sponsored Research Agreements or other written agreements.
   b. Student Ownership. Unless computer programs and software are subject to another provision under this section, the University will not assert its right of ownership for computer
programs and software created solely by Students as part of their academic coursework.

B. Responsibilities of Personnel and Students

1. Disclosure. Personnel and Students shall disclose computer programs and software that are subject to University ownership to the University's Office of Technology Development in a timely manner, fully, and in writing. When uncertain about the University's rights, Personnel and Students shall disclose. Disclosure may include deposit of a digital-time-stamped copy of the software program, with appropriate annotations.

2. External Collaborations. See Section IV.C. See also the Policy on Professional Commitment of Faculty, BOR II-3.10.

3. Assignment. As to a computer program or software in which the University has a right to ownership or use, the creator, upon request, shall execute promptly all contracts, assignments, waivers or other legal documents necessary to vest in the University, or its assignees, any or all rights to the computer program or software, including assignment of any patents, copyrights, patent applications, or copyright applications, relating to the work.

C. Responsibilities of University

1. Timely Evaluation. The University shall evaluate computer programs and software disclosed in accordance with Section VII.B.1) and shall do so with reasonable promptness and in good faith. The University shall decide whether to seek legal protection of its ownership rights, such as filing for patent protection, the scope of patent protection, and whether and how to pursue, limit, or abandon commercialization. The University may at any time decide not to pursue or to abandon the pursuit of patenting and/or commercialization of any computer program or software in which it has an interest.

2. Timely Information. The University shall inform creators in a timely manner about substantive decisions regarding protection, commercialization and/or disposition of computer programs or software disclosed in accordance with Section VII.B.1). Terms of agreements which constitute proprietary business information may be treated as confidential by the University in accordance with applicable law. The University shall notify creators promptly when it decides either not to pursue, or to abandon pursuit of, all efforts to commercialize computer programs or software.
3. Commercialization by Creators. The University, at its discretion and consistent with the public interest, may license intellectual property to the creators on an exclusive or non-exclusive basis. Creators must demonstrate technical and business capability to commercialize the intellectual property. Agreements with creators shall be subject to review and approval of conflict of interest issues in accordance with applicable University policy.

4. Assignment of Ownership. The University may assign ownership to the creators as allowed by law, subject to the rights of sponsors and to the retention by the University of a license which at a minimum shall grant the University the right to use intellectual property in its internally administered programs of teaching, research, and public service on a perpetual, royalty-free, non-exclusive basis. The University may retain more than the minimum license rights, and assignment or license may be subject to additional terms and conditions, such as Revenue sharing with the University or reimbursement of the costs of legal protection. The University shall negotiate promptly, upon written request by the creators, the transfer to the creators of the University's interest in any computer program or software that it has chosen not to protect or commercialize, subject to any legal obligation to offer its interest to a sponsor, licensee, or another institution with rights to the intellectual property before it can agree to negotiate the transfer of the University's interest in intellectual property to the creators.

5. Sharing of Revenue. Except as may be set forth in an agreement between the University and the creators, the University shall remit to the creators or their assignees or heirs, their share of Revenue from computer programs or software as specified in Section XI.B. of this policy.

13.6.8 Technology-Mediated Instructional Materials

Section V, Copyrights, shall apply to any materials that may be considered technology-mediated instructional materials.

13.6.9 Other Types of Intellectual Property

A. Tangible Research Property. The principles in Section VI. that apply to inventions and patents also apply to tangible research property.

B. Mask Works. The principles in Section VI. that apply to inventions and patents also apply to mask works.
C. Plant Varieties. The University owns and may protect or commercialize plant varieties according to the principles of Section VI.

D. Trademarks, Service Marks, and Trade Dress. Trademarks, service marks, and trade dress may be created in association with an underlying license for another form of intellectual property, such as a patent or a plant variety ("associated with other intellectual property"), or independently, such as a university logo or symbol ("independently created").

1. Associated with Other Intellectual Property. A trademark, service mark or trade dress is owned by the University if it is associated with other intellectual property owned by the University.

2. Independently Created. The University owns trademarks, service marks, and trade dress that are independently created by Personnel within the Scope of Employment, unless the University agrees otherwise in writing.

3. Commercialization. The University may commercialize or license its trademarks, service marks, and trade dress.

4. Registration. The University President or his designee shall approve registration of trademarks or service marks, at the state or federal level.

E. Research Data and Results. The University shall own all research data and results generated by Personnel within their Scope of Employment, including, without limitation, notes, laboratory notebooks and other documentation of research results and data. Faculty shall have a non-exclusive royalty-free right to publish and use for research or educational purposes such research data and results.

13.6.10 Interinstitutional Agreements

For the purposes of this Section, University shall mean any one of the following: a constituent institution of the University System of Maryland, the University of Maryland Biotechnology Institute, the University of Maryland Center for Environmental Science, or the University System of Maryland Office.

A. Joint Appointments and Affiliations. This section applies when an individual has an appointment in, and receives support for research or creative work from two or more Universities and when a Student or Student Employee is earning a degree in one University but doing research or creative work in another.

1. Ownership. When more than one University can claim ownership to intellectual property under this policy, they own it jointly.
2. Management Agreements. Universities that are or may become joint owners of intellectual property shall enter into agreements stating which University will be responsible for management of the intellectual property. Universities are encouraged to negotiate standard agreements whenever possible.

   a. Terms to be Addressed. The agreements shall state which institution will be responsible for prosecution of patent applications or other forms of intellectual property protection, which institution will license the intellectual property, how expenses and deductions from Revenue will be allocated, and how each University's share of Net Revenue, Project Specific Costs, and General Costs shall be distributed.

   b. Student Requirements. With regard to Students and Student Employees, agreements shall specify whether the degree-granting University or the supporting University will be responsible for managing intellectual property they create when that property is subject to University ownership.

3. Responsibilities of Managing University. The University managing intellectual property under an agreement shall promptly inform the other University or Universities about steps taken with regard to ownership. Such information shall include at minimum copies of the invention disclosure form, documents associated with filing for statutory protection, assignment of rights, and license agreements. If the managing University decides not to proceed, the other owning University or Universities shall have the right to assume responsibility as the managing University.

4. Distribution of Revenue. The managing University shall distribute Revenue to the creators and share net revenue in all cases according to Section XI.

5. Disputes. A president may ask the Chancellor to intercede if the Universities are unable to reach agreement or differ in their interpretation of an agreement. The Chancellor's decision shall be final and binding on all parties.

B. Joint Creators. This section applies when Personnel or Students from two or more Universities collaborate.

1. Early Notification. As soon as collaborators from different Universities recognize that their efforts have resulted in, or are likely to result in, the creation of intellectual property subject to this policy, they shall inform their respective Universities that an agreement is needed.
2. Agreements Govern. In these instances, signed agreements between Universities shall determine ownership of intellectual property, responsibility for managing it, and distribution of expenses and Revenue resulting from its development. Universities whose Personnel or Students are engaged in frequent collaboration are encouraged to negotiate standard agreements within the framework of this policy.

3. Disputes. A president may ask the Chancellor to intercede if the Universities are unable to reach agreement or differ in their interpretation of the agreement. The Chancellor's decision shall be final and binding on all parties.

13.6.11 Revenue Sharing

Unless otherwise agreed to in writing by the creators of a work or inventors of an invention, each named creator or inventor shall receive equal shares of Net Revenue.

A. Copyrights. The University shall share with creators Revenue it receives from copyrights of their work subject to certain exceptions.

1. Exceptions

a. Scope of Employment. Revenue generated from work produced by non-faculty Personnel within the Scope of Employment is excluded from sharing. However, the University may elect, by written agreement or University policy, to pay up to fifty percent of net Revenue to such non-faculty Personnel.

b. Contract. When a third party contract dictates apportionment of Revenue different from that specified in this policy, the terms of the contract govern.

c. Equity. Equity shall be distributed in accord with Section XI.G.

2. Deductions from Revenue. The University shall make the following deductions from Revenue before distributing Net Revenue (Section XI.A.3).

a. Creators' Share. First, ten percent of Revenue shall be distributed among the creators of the work until the cumulative total reaches the limit set pursuant to this paragraph that was in effect during the fiscal year in which the University first received Revenue. The limit in FY2003 is $10,000 to be shared among the inventors. The Chancellor shall establish a new limit for each succeeding fiscal year by adjusting the previous year's limit by an amount reflecting the change in the Consumer Price Index (CPI).
Index during the last calendar year completed, rounded to the nearest $100.

b. General Costs. Second, the University will deduct 30% of Revenue to cover the general cost of developing, obtaining, managing, and defending creative works, unless otherwise agreed to by the University and creators, in writing.

c. Project Specific Costs. The remaining portion of the Revenue received from a work shall be applied to reimburse any specific, incremental expenses incurred by the University in obtaining and maintaining the copyright, and in developing, marketing, licensing, and defending the work. After reimbursement of the University's expenses, Revenue may be used to reimburse costs incurred by creators on behalf of their own works but only if the University had authorized such expenses in advance in writing.

d. Residual Creators' Share. Fourth, after project specific costs have been paid in full, any remaining Revenue shall go to the creators until the threshold dollar amount has been paid as specified above in Section XI.A.2.a.

3. Distribution of Net Revenue. 'Net Revenue' is the Revenue remaining after deductions under Section XI.A.2.

a. Creators' Share. The University shall distribute among the creators fifty percent (50%) of the Net Revenue it receives from their creative work unless applicable laws, regulations, provisions of grants or contracts, or signed agreements with creators provide otherwise.

b. University's Share. The University shall receive 50% of the Net Revenue. Net Revenue received on account of copyrighted work shall be dedicated to research, scholarship, creative work, and related academic activities. The University's share shall be distributed as follows:

i. Department's Allocation. 85% of the University's share shall be distributed to the creator's department or analogous unit until the portion allocated to the creator's department or analogous unit totals a maximum of $100,000 in any fiscal year; thereafter, 15% of the University's share shall be distributed to the creator's department or analogous unit.

ii. Remaining University Share. The remaining portion of the University's share shall be devoted to research as directed by the University President or his designee.

c. Department's Allocation. The Department's Allocation shall be that amount allocated to the creator's department or analogous
unit as set forth above. The department or analogous unit shall allocate its Department Allocation as follows:

i. Creator's Research Funds. 50% of the Department's Allocation shall be allocated to the creator as unrestricted research funds for use in University research until the portion allocated to the creator totals a maximum of $50,000 in any fiscal year; thereafter, 20% of the Department's Allocation shall be allocated to the creator as unrestricted research funds for use in University research.

ii. Remaining Department Share. The remaining portion of the Department's Allocation, the Department's Share, shall be devoted to research, scholarship, creative work, and related academic activities at the discretion of the Department Chair or equivalent.

4. Timely Distribution. The University shall distribute accrued Revenue due creators under this policy at least annually. Distribution will be made along with a statement of related income and expenses.

B. Patents and Computer Programs and Software. The University shall share with inventors or creators Revenue it receives from their inventions or creations as provided in this section.

1. Exceptions:

a. Contract. When a third party contract dictates apportionment of Revenue different from that specified in this policy, the terms of the agreement govern.

b. Equity. Equity shall be distributed in accord with Section XI.G.

2. Deductions from Revenue. The University shall make the following deductions from Revenue before distributing Net Revenue (Section XI.B.3).

a. Creators' or Inventors' Share. First, ten percent of Revenue shall be distributed among the inventors or creators until the cumulative total reaches the limit set pursuant to this paragraph that was in effect during the fiscal year in which the University first received Revenue. The limit in FY2003 is $10,000 to be shared among the inventors or creators. The Chancellor shall establish a new limit for each succeeding fiscal year by adjusting the previous year's limit by an amount reflecting the change in the Consumer Price Index during the last calendar year completed, rounded to the nearest $100.
b. General Costs. Second, the University shall deduct 30% of Revenue to cover the general cost of developing, obtaining, managing, and defending inventions or creative work, unless otherwise agreed to by inventors or creators and the University, in writing.

c. Project Specific Costs. Third, the remaining portion of Revenue received from a creative work, patent or invention shall be applied to reimburse any specific, incremental expenses incurred by the University in obtaining and maintaining the patent and in developing, marketing, licensing, and defending the patent or licensable invention or creative work. After reimbursement of the University's expenses, Revenue may be used to reimburse costs incurred by inventors or creators on behalf of their own works but only if the University had authorized such expenses in advance in writing.

d. Residual Creators' or Inventors' Share. Fourth, after project specific costs have been paid in full, any remaining Revenue shall go to the inventors until the threshold dollar amount has been paid as specified above in Section XI.B.2.a.

3. Distribution of Net Revenue. 'Net Revenue' is the Revenue remaining after deductions under Section XI.B.2.

a. Inventors' or Creators' Share. The University shall distribute among the inventors or creators fifty percent (50%) of the Net Revenue it receives from their inventions unless applicable laws, regulations, provisions of grants or contracts, or signed agreements with inventors or creators provide otherwise.

b. University's Share. The University shall receive 50% of the Net Revenue. Net Revenue received on account of an invention or creative work shall be dedicated to research and to the promotion of patenting and patents. The University's share shall be distributed as follows:

i. Department's Allocation. 85% of the University's share shall be distributed to the inventor's or creator's department or analogous unit until the portion allocated to the inventor's or creator's department or analogous unit totals a maximum of $100,000 in any fiscal year; thereafter, 15% of the University's share shall be distributed to the inventor's or creator's department or analogous unit.

ii. Remaining University Share. The remaining portion of the University's share shall be devoted to research as directed by the President or his designee.
c. Department's Allocation. The Department's Allocation shall be that amount allocated to the inventor's or creator's department or analogous unit as set forth above. The department or analogous unit shall allocate its Department Allocation as follows:

i. Inventors' or Creators' Research Funds. 50% of the Department's Allocation shall be allocated to the inventors or creators as unrestricted research funds for use in University research until the portion allocated to the inventors or creators totals a maximum of $50,000 in any fiscal year; thereafter, 20% of the Department's Allocation shall be allocated to the inventor as unrestricted research funds for use in University research.

ii. Remaining Department Share. The remaining portion of the Department's Allocation, the Department's Share, shall be devoted to research, scholarship, creative work, and related academic activities at the discretion of the Department Chair or equivalent.

4. Timely Distribution. The University shall distribute Revenue due inventors under this policy at least annually. Distribution will be made along with a statement of related income and expenses.

C. Tangible Research Property, Mask Works, and Plant Varieties. When tangible research property, mask works, or plant varieties are licensed, Revenue shall be distributed in the same manner that Revenue is distributed under Section XI.B.

D. Trademarks, Service Marks, and Trade Dress

1. Creators' Share.

a. Associated with Other Intellectual Property. Revenue received from commercialization of a trademark, service mark, or trade dress that is related to an intellectual property license shall be shared with creators of the trademark, service mark or trade dress, as specified in Section XI.B.

b. Independently Created trademark, service mark, or trade dress. Except as provided herein or unless subject to prior written agreement between the creators and the University, the University will not share the Revenue from commercialization of a trademark, service mark, or trade dress with the individuals who created the trademark, service mark, or trade dress.
2. University Ownership. Revenue received from commercialization of a trademark, service mark, or trade dress licensed independently and not directly related to another form of intellectual property license shall not be shared and shall belong to the University.

E. Joint Appointment. In situations covered by section IX, the University's share of Net Revenue shall be divided equally among the Universities or as otherwise provided by written agreement.

F. Joint Creators. If joint creators are from different Universities, the University's share of Net Revenue shall be divided equally unless determined by signed agreements as provided in Section IX.B.2.

G. Equity.

1. Issuance of Shares. Equity may be issued separately to the University and the inventors or creators.

2. Distribution of Shares. Equity in a commercial venture received as consideration for intellectual property rights shall be shared equally between the University and the creators, unless a different distribution is negotiated in an agreement signed by the University and the creators of the relevant intellectual property.

3. Timely Distribution. When the University receives all shares directly, as soon as practicable after the University receives equity, and subject to the creators receiving any conflict of interest exemptions that must be granted and complying with any conditions for those exemptions, the University shall transfer equity shares to the creators. The University and creators shall have independence in their exercise of equity holder privileges within the constraints of law, policy, and specific exemption under Maryland law from the State Ethics Law, and contractual agreements.

4. Unqualified Persons. Personnel or Students not qualified to hold the equity under applicable law shall designate a qualified person to receive the equity. If no designee is named within thirty days of a written request by the University to do so, the right to a share of the equity shall be forfeited to the University.

13.6.12 Administration

A. Implementation. This policy was adapted from the University System of Maryland Policy Framework approved by the Board of Regents on February 8, 2002 and includes all of the procedures and policies required therein. Any
revisions to this policy shall not go into effect until approved by the Chancellor in writing.

B. Point of Contact. The Director of the Office of Technology Development shall be the University's contact person for intellectual property issues.

C. Authority to Subcontract. The University may enter into contracts with third parties in connection with the development, administration, and protection of its intellectual property.

D. Special Cases.

1. Issues not addressed. The Board of Regents recognizes that special cases will arise that are not specifically covered by this policy. In such cases, Presidents may make a decision on how to proceed and report that decision to the Chancellor. Alternatively, the President may submit such cases to the Chancellor or designee for resolution. All decisions on such cases shall be reported to the Intellectual Property Committee, which will take them into account in its annual review of this policy.

2. Policy Waivers. Only the Chancellor may waive any provision of this policy. All decisions concerning waiver shall be reported to the Intellectual Property Committee and to the Board of Regents.

3. Recourse.

   a. Disputes. In the event of a dispute regarding the interpretation of this policy, the matter may be taken to the University's Research Council for resolution. In such cases, a written request shall be sent to the Research Council Chairperson describing the dispute. Should the Research Council Chairperson decide to hear the dispute, which shall be at his or her discretion, the person or persons seeking a resolution shall make an oral presentation of the dispute to the Research Council. The Research Council will make a decision regarding the dispute and will report that decision to the University President. The Research Council's decision shall be binding unless overturned on appeal. Appeals of the Research Council's decision may be made to the University President or his/her designee.

   b. Annual Review. On an annual basis, the Research Council may review this Policy and make recommendations for modifications. Any such recommendations shall be forwarded to the University's President and must be approved by the
Chancellor in writing before any modifications shall go into effect.

E. University System of Maryland Intellectual Property Committee.

1. Membership. At the call of the Chancellor, the President shall nominate representatives from the University. The Chancellor will assure that faculty members constitute a significant proportion of the membership and that representatives of technology transfer offices shall routinely meet with the Committee. Members shall serve a three-year term. No voting member may serve more than two consecutive terms. The Vice Chancellor for Academic Affairs shall chair the Committee, without a vote.

2. Responsibilities. The Committee shall advise the Chancellor on intellectual property matters. It shall convene at least once each academic year to review this policy and may recommend revisions to the policy. The Committee shall also meet at the call of the Chair. The President or the Chancellor may refer to the Committee for its recommendations to the Chancellor matters relating to this policy, including relevant matters not addressed by the policy, and suggestions for revisions. The Chancellor may ask the Committee for advice on the resolution of disputes over intellectual property.

3. Creator's Right to Participate. Whenever the Committee considers this policy's application in order to advise the Chancellor about a specific work, Personnel or Students who created the work or their representative may make a written presentation and an oral presentation to the Committee.

13.6.13 Reporting

The President shall report annually to the Chancellor and the Board of Regents on intellectual property activity at the University. The report, in a format to be determined by the Chancellor, shall include data for the preceding year on disclosures, patent applications, patent awards, licenses, and start-up companies, distinguishing when appropriate between Maryland-based companies and those outside of the State. The report shall also include data on revenue and expenditures associated with the University's technology transfer function.

13.6.14 Glossary

(This section is provided for information only. It is not part of the policy.)

Commercial Venture - a start-up company, limited partnership, joint venture or any other entity that has obtained an option or a license to university technology.
Confidential Disclosure Agreement - An agreement or section of an agreement that prevents parties to the agreement from releasing knowledge or information without the other's permission.

Copyright - The intangible property right granted by statute for an original work fixed in a tangible means of expression. A copyright provides the owner with the following exclusive rights over a work: to reproduce, to prepare derivative works, to distribute, to perform publicly, and to display publicly. Copyright comes into existence immediately at the time the work is fixed in a tangible means of expression.

Creative Works - "Original works of authorship" that are fixed in a tangible form of expression that may be protected by copyright. The fixation need not be directly perceptible so long as it may be communicated with the aid of a machine or device. Copyrightable works include the following categories: (1) literary works; (2) musical works, including any accompanying words; (3) dramatic works, including any accompanying music; (4) pantomimes and choreographic works; (5) pictorial, graphic, and sculptural works; (6) motion pictures and other audiovisual works; (7) sound recordings; and (8) architectural works.

Creator - Refers to an individual or group of individuals who make, conceive, reduce to practice, or otherwise make a substantive intellectual contribution to the creation of intellectual property. "Creator" follows the definition of "inventor" used in U.S. patent law and the definition of "author" used in the U.S. Copyright Act.

Disclose - Formally record the essence of a potentially patentable concept, the circumstances in which it was conceived, the persons participating in the invention, and the steps taken to reduce it to practice, if applicable, in accord with the requirements of U.S. patent law for establishing precedence.

Equity or Equity Shares - Shares of common or preferred stock, warrants, options, convertible instruments, units of a limited partnership, or any other instruments conveying ownership interest in a commercial venture, or options or rights to purchase an ownership interest.

Faculty - Those persons appointed to a faculty position in the University as set forth in the Board of Regents Policy II 1.00.

Intellectual Property - The intangible value developed by human creativity that is protected by the legal mechanisms of patents, trademarks, copyrights, service marks, trade secrets, mask works, and plant variety protection certificates. Rights derived from legislation include ownership and disposition, including commercialization. Intellectual property encompasses inventions, discoveries, know-how, show-how, processes, unique materials, copyrightable works, original data and other creative or artistic works that have value. It also includes the physical embodiments of intellectual effort such as models, machines, devices,
designs, apparatus, instrumentation, circuits, computer programs and visualizations, biological materials, chemicals, other compositions or matter, plants, and records of research.

Invention - any discovery which is or may be patentable or which may be commercially licensable.

License - A contract in which an intellectual property owner grants permission to exercise one or more of the rights that an owner holds.

Mask Work - A series of related images representing a predetermined, three-dimensional pattern of metallic, insulating, or semiconducting layers of a semiconductor chip product.

Material Transfer Agreement - A contract covering transfer of physical possession and use of tangible research property into or out of the university.

Patent (U.S. only) - The intangible property right to exclude others from making, using, offering for sale, or selling the invention in the United States or importing the invention into the United States. In order to obtain patent protection, an invention must be useful, novel and unobvious.

Royalty - Payment made to an owner of intellectual property for the privilege of practicing a right held by the owner of the intellectual property under applicable law.

Software - Programs, routines, and symbolic languages that control the functioning of the hardware and direct its operation.

Tangible Research Property - Includes the physical embodiments of intellectual effort such as models, machines, devices, designs, apparatus, instrumentation, circuits, computer programs and visualizations, biological materials, chemicals, other compositions of matter, plants, and records of research. Tangible research property is distinct from intangible properties such as patents, trademarks, copyrights, service marks, trade secrets, mask works, and plant variety protection certificates. Individual items of tangible research property may be associated with one or more intangible properties. Trade dress - Distinctive and unique packaging, color combinations, building designs, product styles, and overall presentations identifying the source, product, producer, or distributor of goods and services where the appearance distinguishes the product or business from other similar products or businesses but is not distinctive or specific enough to be considered a trademark.

Trademarks and Service Marks - Distinctive words or graphic symbols identifying the source, product, producer, or distributor of goods and services.
13.7 SEXUAL HARASSMENT

13.7.1 University of Maryland System Policy on Sexual Harassment

(Board of Regents Policies and Procedures VI-1.20; Approved by the Board of Regents, June 5, 1992)

The University System of Maryland is committed to creating and maintaining an environment in which every individual can work and learn without being harassed. All members of the academic community should support the principle that sexual harassment represents a failure in ethical behavior and that sexual exploitation of professional relationships will not be condoned. Sexual harassment is inconsistent with commitment to the goals of quality, access and choice that characterize the activities of the System and its constituent institutions. Sexual harassment is a form of discrimination prohibited by federal and state law.

Each institution of the University System of Maryland shall have procedures for implementation of the policy prohibiting sexual harassment, consistent with federal and state laws and policies.

Those procedures shall ensure that the community is educated about the problem and sanctions which can be imposed and is well informed concerning resources available to complainants, and informal and formal means of complaint resolution.

Procedures shall be designed to give due consideration to confidentiality, prevent retaliation, and achieve prompt and equitable resolution of complaints while protecting the rights of the person bringing the complaint and of the person accused of harassment.

13.7.2 University of Maryland Baltimore County Policy on Sexual Harassment

(Adaptation of the policy portions of The University of Maryland Baltimore County Policy Prohibiting Sexual Harassment and Procedures for Complaints of Sexual Harassment by UMBC Faculty Senate February 12, 1991; Adaptation approved by the President, July 1, 2004)

Introduction

The UMBC Policy on Sexual Harassment has been developed in accordance with the USM Policy on Sexual Harassment, No.VI -1.20, adopted by the Board of Regents, June 5, 1992 which states in part:

“The University System of Maryland is committed to creating and maintaining an environment in which every individual can work and learn without being harassed. All members of the academic community should support the principle that sexual harassment represents a failure in ethical behavior and that sexual exploitation of
professional relationships will not be condoned. Sexual harassment is inconsistent with commitment to the goals of quality, access and choice that characterize the activities of the System and its constituent institutions."

The University of Maryland Baltimore County does not discriminate on the basis of race, color, national origin, ethnic background, ancestry, sex, disability, age, marital status, sexual orientation, veteran’s status, or religion in admission to and participation in educational programs and activities, or employment practices. Sexual harassment is a form of sex discrimination which violates federal and state law, University System of Maryland policy and the University of Maryland, Baltimore County policy.

In general, sexual harassment impedes the ability of the community to support the intellectual, professional, personal and social development of students, faculty and staff. Specifically, sexual harassment threatens the legitimate expectation of all members of the UMBC campus community that academic or employment opportunity and progress is determined only by the published requirements for job, academic, and extra curricula performance.

I. Policy Statement

It is the policy and commitment of the University of Maryland, Baltimore County to maintain a campus environment which is free of discrimination and permits equal access and opportunity for all campus members. Sexual harassment, a form of sex discrimination, is prohibited.

Sanctions against UMBC faculty and staff for violations of this sexual harassment policy may range from formal reprimand to termination. Likewise, sanctions against UMBC students, for violations of this sexual harassment policy, may range from formal reprimand to suspension or expulsion from UMBC educational programs or extra curricula activities.

Retaliation against persons raising concerns about sexual harassment, or persons who are parties to sexual harassment complaints, is also prohibited. Any act of retaliation in regards to the implementation of this policy will constitute separate grounds for sanctions up to and including termination of employment, or expulsion, from the University.

II. Application of Policy

A. Definitions
For the purposes of this Policy, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
1. Such conduct has the purpose or effect of unreasonably interfering with an individual’s academic or work performance, or of creating an intimidating, hostile, or offensive educational or working environment; or

2. Submission to such conduct is made either explicitly or implicitly a term or condition of employment or for participation in a UMBC - sponsored educational program or activity; or

3. Submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions.

Sexual harassment may occur within any relationship in the University. This may include peer, superior/subordinate, faculty/student, client, vendor, different gender or same gender relationships.

In assessing whether a particular act constitutes sexual harassment under this Policy, the standard shall be the perspective of a reasonable person within the UMBC campus community. The rules of common sense and reason shall prevail. Allegations of sexual harassment shall be judged with attention to the facts particular to the case and the context in which the alleged incident(s) occurred. Nothing in this Policy is intended to abrogate an individual’s right to academic freedom.

B. Complaints

1. Any member of the UMBC campus community who believes that s/he is a party to sexual harassment may utilize the Procedures for Filing Sexual Harassment Complaints to file a complaint with the UMBC Human Relations Office, or an alternate UMBC representative, as identified in the Procedures for Filing Sexual Harassment Complaints. Complaint forms may be obtained from the Human Relations Office, the Human Resources Office, or from the Human Relations Web site. (http://www.umbc.edu/ola/hr.html)

2. Alternatively, complaints of sexual harassment may be filed with the following external agencies:

   a. Equal Employment Opportunity Commission (EEOC)
      10 Howard Street, Third Floor
      Baltimore, Maryland 21201

   b. Maryland Commission on Human Relations
      6 St. Paul Street
      Baltimore, Maryland 21202 - 1631
C. Confidentiality

Complaints brought under this policy, and actions taken pursuant to investigation and or resolution of complaints of sexual harassment, will be confidential.

D. Responsibilities

1. Office of Human Relations Programs - The Director of Human Relations is responsible for the dissemination, implementation and coordination of this Policy. In addition the Director of Human Relations shall serve as the primary campus resource for sexual harassment complaint investigation and resolution and general sexual harassment prevention education and advising.

The Director of Human Relations will publish annually the operative portions of this policy statement, including the resources available to advise, counsel and assist in the mediation of sexual harassment allegations, in the UMBC Student Handbook, the UMBC Faculty Handbook, the campus newspaper, The Retriever, the Personnel Policies and Rules for Professional and Classified Staff, and other widely available printed or electronic sources, as practical.

In cooperation with the UMBC Human Relations Committee, the Director of Human Relations shall develop and implement a campus-wide sexual harassment prevention training program for faculty, staff and students. This training shall be mandatory for all persons with supervisory/management responsibilities.

The Office of Human Relations Programs shall gather data from offices and departments across the campus and publish annually summary statistics of all complaints of sexual harassment, including, but not limited to a listing of all verbal and written complaints, and resolutions. The statistics should include gender and professional status of both the complainant and the alleged harasser, but shall not include any names or other identifying characteristics. This annual report will be available through the offices of the Provost and Human Relations Programs.

2. Campus Management (University Officers, Deans, Department Chairs, Directors, etc.) - Each member of UMBC campus management shall be responsible for developing and maintaining a work and educational environment that is free from any form of sex discrimination, including sexual harassment. This includes informing complainants about the University’s sexual harassment policy and procedures for filing sexual harassment complaints, participating in university sponsored sexual harassment training programs, cooperation with any complaint investigation or resolution efforts, and, if required, the implementation of recommended
sanctions. The Director of Human Relations should be notified immediately of any sexual harassment complaint received by any member of campus management.

3. UMBC Campus Community - Each member of the UMBC campus community is responsible for discouraging sexual harassment and full compliance with this policy.

III. UMBC Resources

The following resources are available to members of the campus community who seek information, or instruction regarding this policy. They include, but are not limited to:

A. The Human Relations Office
B. The Department of Human Resources
C. University Health Services
D. University Counseling Center
E. University Police
F. Deans, Department Chairs, Directors and University Officers
G. The Office of Student Judicial Programs
H. The Office of Residential Life

13.7.3 UMBC Procedures for Filing Complaints of Sexual Harassment

(Adaptation of the procedures portions of The University of Maryland Baltimore County Policy Prohibiting Sexual Harassment and Procedures for Complaints of Sexual Harassment by UMBC Faculty Senate February 12, 1991; Adaptation approved by the President, July 1, 2004)

Introduction

Any member of the UMBC campus community, who believes that s/he is a victim of sexual harassment, may file a sexual harassment complaint. Complaints filed with the UMBC Office of Human Relations Programs (OHRP), or any member of UMBC management, will be processed in accordance with the procedure outlined below. Complaints filed with external agencies such as the U.S. Equal Employment Opportunity Commission, the U.S. Department of Education (Office for Civil Rights), or the Maryland Commission on Human Relations, will conform to the complaint procedures of the respective external agency.

I. Filing Internal Complaints

All students, faculty or staff may, within one hundred eighty (180) days of the offending behavior, file a written complaint of sexual harassment with the OHRP. Complainants must choose either Informal Mediation or Formal Review as the means for resolving the complaint.

The OHRP shall inform the alleged harasser in writing of the charges, provide a copy and verbal explanation of the UMBC Policy on the Prevention of Sexual Harassment, inform the alleged harasser of his/her right to have an Advocate present at various times throughout the process, and inform the alleged harasser of the method of complaint resolution chosen by the complainant.
The alleged harasser shall have the right to submit a written response to the charges within ten (10) calendar days of receipt of the written notice of charges.

If the alleged harasser is a member of the faculty or staff, the OHRP shall also notify, in confidence, the Chair or Director of the division or department responsible for the supervision of the alleged harasser. If a student is charged, the Vice President for Student Affairs, or the Vice President for Research and Dean of the Graduate School, will be duly notified. However, if a student is accused in his/her instructional or evaluative capacity, the OHRP will notify, in confidence, the Chair or Director of the division or department responsible for the supervision of the student.

If a complaint is filed against an OHRP employee, the Provost's Office will implement this Policy. If the complaint is filed against either the Provost or President, the complaint will be forwarded to the Office of the Chancellor of the University System of Maryland.

II. Internal Complaint Investigation and Resolution

A. Informal Mediation

1. During Informal Mediation, the Director of the OHRP, or her designee, will serve as the Mediator between the complainant and the alleged harasser. The Mediator will seek a resolution of the complaint through individual and/or joint discussions with both parties.

2. If the complaint is resolved by Informal Mediation, a written statement containing the mutually agreeable resolution, signed by the complainant and the alleged harasser, shall be prepared, copied and distributed to the complainant and the alleged harasser. The OHRP shall maintain a copy of the mediated agreement in its confidential files.

3. If the complaint cannot be resolved by Informal Mediation, a Formal Review will be initiated.

4. In cases where there is a mutually agreeable resolution but, in the opinion of the Director of the OHRP, the charges are egregious, the Director of the OHRP may advise the appropriate offices within UMBC of the need for corrective or preventative administrative action.

B. Formal Review

1. Throughout the Formal Review all persons involved are expected to cooperate with the inquiry and treat the proceedings as confidential.

2. The Formal Review will be conducted by the Director of the OHRP or the Director's designee (referred to herein as the "Hearing Officer"). The Formal Review will be a closed conference of the complainant, the alleged harasser, the Hearing Officer, and legal counsel if desired by either of the parties. However, if an unsuccessful Informal Mediation has preceded the Formal Review, then the OHRP shall designate a Hearing Officer from another University System of Maryland institution who will conduct the
Formal Review. In such cases, a UMBC representative not formerly affiliated with the case will attend the Formal Review.

3. The complainant and the alleged harasser are free to seek the assistance of legal counsel. Legal counsel may accompany and speak for the complainant and the alleged harasser during the Formal Review. The Formal Review will be audio-taped and the tape included as a part of the Formal Review File.

4. The Hearing Officer will present the charges and provide the complainant the opportunity to substantiate the charges through the presentation of evidence and calling and questioning of witnesses. The alleged harasser will then have the opportunity to present evidence and call and question witnesses to respond to the charges. Both the alleged harasser and the complainant shall have the right to cross examine the witnesses called by the other party.

5. At the termination of the Formal Review, the Hearing Officer shall submit to the Provost a written report, based on the evidence presented, that includes the findings of the Hearing Officer, the basis for such findings, and the recommendations of the Hearing Officer.

6. The Provost shall make a decision based on the record. The Provost shall then notify the complainant and the alleged harasser in writing of the final decision, and the basis for such decision, within fifteen (15) days of receiving the report from the Hearing Officer. The Formal Review should be completed when possible within sixty (60) days of the initiation of the process.

C. Exigencies

UMBC is responsible for protecting the health and safety of its students, faculty and staff. If there is cause to believe that the health or safety of any of these persons is endangered as a result of pursuing or responding to allegations of sexual harassment, interim administrative action may be taken by the Provost prior to the conclusion of either the Informal Mediation or the Formal Review. Such action may range from slight restrictions to complete suspension of the individual responsible.

III. Internal Complaint Appeal

Either party dissatisfied with the decision of the Provost may within fifteen (15) days of notice of the decision appeal it in writing to the President. For the purpose of filing an appeal, the parties shall have access to the Formal Review file. The written appeal must include a detailed statement of the basis for the appeal. The President shall make the final decision and notify the parties of the final decision in writing within thirty (30) days of the receipt of the appeal.

If the alleged harasser is a faculty member, and the President's decision affects the appointment, rank or tenure of the alleged harasser, the alleged harasser can appeal the decision of the President to the Faculty Grievance Committee under the procedures set forth in the UMBC Policy on Appointment, Rank and Tenure of Faculty. If the President's decision involves the termination of a faculty member who is the alleged harasser, the alleged harasser has a right to a review pursuant to
the Procedures for Hearings Conducted by the Faculty Board of Review as set forth in the UMBC Faculty Handbook.

IV. Alternative Means for Initiating Internal Complaints of Sexual Harassment

A. Faculty and Staff Complaints

1. Classified and associate staff, and academic administrators may complain of sexual harassing behavior to the Department Chair/Director or to their immediate supervisor, and utilize the Grievance and Appeals provisions of the *Personnel Policies and Rules for Classified Employees* and the *Personnel Policies and Rules for Associate Staff*.

2. If the offending behavior affects a faculty member's rights respecting appointment, salary, promotion, or tenure, or other conditions of employment, then the faculty member has the option of filing a complaint with the appropriate Dean and utilizing the Faculty Grievance Procedure.

3. Prior to taking any action, the office receiving the complaint shall notify the OHRP immediately that a complaint has been filed.

B. Student Complaints

1. The Office of Judicial Affairs may be used to resolve complaints of sexual harassment made by undergraduate students against undergraduate students.

2. The Vice President for Research and Dean of the Graduate School may also receive and resolve complaints of sexual harassment made where a graduate student is concerned.

3. Prior to taking any action, the OHRP should be notified immediately by the Office of Judicial Affairs and/or the Vice President for Research and Dean of the Graduate School that a complaint has been filed.

V. Protection of Complainants

Resolution of complaints will be initiated only with the complainant's consent. Complainants will be informed fully of their rights and or steps to be taken under these procedures. All reasonable action shall be taken to assure that complainants and those testifying on their behalf or supporting complainants in other ways will suffer no retaliation as the result of their actions in regard to these procedures.

VI. Protection of the Alleged Harasser

Before investigation of the complaint is initiated, the alleged harasser will be informed by the OHRP of the allegations, the identity of the complainant, and the facts surrounding the allegations. In the event the allegations are not substantiated, all reasonable steps will be taken to restore the reputation of the alleged harasser if it was damaged by the proceedings.
VII. False or Malicious Complaints

Complaints found to have been intentionally dishonest in making the allegations or to have made them maliciously are subject to UMBC discipline.

13.7.4 University of Maryland Baltimore County Policy on Amorous and Sexual Relationships

(Adaptation of portions of The University of Maryland Baltimore County Policy Prohibiting Sexual Harassment and Procedures for Complaints of Sexual Harassment by UMBC Faculty Senate February 12, 1991; Adaptation approved by the President, July 1, 2004)

Introduction

The educational relationship between faculty (all those who teach at UMBC, including graduate students and other instructional personnel) and students is central to the academic mission of UMBC. The respect and trust accorded a professor by a student, as well as the power exercised by the professor in giving praise or criticism, grades, and recommendations for further study and future employment, diminishes the student's freedom of choice in amorous and sexual relationships, even when no coercion is intended by the faculty member. Likewise, the power exercised by a supervisor in the assignment of tasks, evaluations of work performance and recommendations for future promotion or employment diminishes a subordinate's freedom of choice in amorous and sexual relationships, even when no coercion is intended by the supervisor. In addition, such relationships can give rise to charges of favoritism by other students or employees in regard to grading, recommendations, promotions, salary increases, and access to educational or employment resources and opportunities. Thus, such relationships may subvert the fair and equal access to educational and employment resources to which UMBC is committed.

UMBC will not infringe upon the rights of faculty, staff, and students to associate freely, or upon their rights to privacy. At the same time, no personal ties should be allowed to interfere with the academic integrity of the faculty-student relationship or with the professional integrity of the supervisor-employee relationship. In the particular case of amorous and sexual relationships, the potential for harm to that integrity exists not only for the principals involved, but for the larger community. Consequently, it is prudent to avoid sexual relationships where educational or supervisory relationships exist and to presume that sexual advances are not welcomed by other prudent individuals in such contexts.

I. Amorous and Sexual Relationships Initiated Within the Instructional/Supervisory Context

Given the asymmetry of the relationship between faculty and students, faculty members are strongly cautioned against entering into an amorous or sexual relationship with students enrolled in their classes or subject to their supervision or evaluation. Likewise, given the asymmetry of the relationship between a supervisor and employee, supervisors are strongly cautioned against entering into an amorous or sexual relationship with employees subject to their supervision or evaluation. Such a relationship may result in a complaint of sexual harassment.

II. Amorous and Sexual Relationships Predating Instruction or Supervision

When a faculty member or supervisor is or has been involved in an amorous or sexual relationship with a person, entering into an evaluative role with that person can create a conflict of interest. When the principal parties are in the same academic unit, academically allied units, or in
the same office or division, a pre-existing amorous or sexual relationship between the parties may appear to others to promote favoritism or other differential access to educational or employment resources.

III. Requirement to Distance Oneself

To avoid conflicts of interest, if a sexual or amorous relationship arose prior to or during an instructional or supervisory role, the faculty member or supervisor shall distance himself or herself from evaluative or supervisory decisions that involve that person.

IV. Implementation

Questions or instructions regarding the implementation of this policy should be directed to the Office of Human Relations Programs, the Office of the Provost, the Office of the Dean of the Graduate School and Vice Provost of Research & Planning, or the Office of the Vice President of Student Affairs.

13.8 UNIVERSITY OF MARYLAND SYSTEM POLICY ON SEXUAL ASSAULT

(Board of Regents Policies and Procedures VI-1.30; Approved by the Board of Regents, December 1, 1995; Replacement for Board of Regents Interim Policy on Sexual Assault, approved August 27, 1993; Change approved by Board of Regents, December 4, 1999)

I. Purpose and Applicability

The University of Maryland System and its constituent institutions adopt this policy on sexual assault, consistent with the requirements of (i) Section 484(f) of the Higher Education Act of 1965, as amended by Section 486(c)(2) of the Higher Education Amendments of 1992, and (ii) Section 11-601 of the Education Article of the Annotated Code of Maryland. This policy applies to all students and employees, both faculty and non-faculty, of the University System of Maryland or its constituent institutions.

II. Definitions

The following policy recognizes two levels of sexual assault.

| Sexual Assault I       | By stranger or acquaintance, rape, forcible sodomy, or forcible sexual penetration, however slight, of another person's anal or genital opening with any object. These acts must be committed either by force, threat, intimidation or through the use of the victim's mental or physical helplessness of which the accused was aware or should have been aware. |
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III. Responsibilities of the Chief Executive Officer

Each Chief Executive Officer of a constituent institution shall have the following responsibilities pursuant to this policy: (i) identification of the person responsible for coordinating the constituent institution's educational program to promote awareness of sexual assault; (ii) identification of the person who will serve as the initial contact after an alleged sexual assault has occurred; and (iii) adoption of procedures to be followed should a sexual assault occur, including the importance of preserving evidence as may be necessary to the proof of criminal sexual assault, and to whom the alleged offense should be reported.

IV. Educational Programs to Promote Awareness of Sexual Assault

Each institution in the University of Maryland System shall make available to its students, faculty and employees programs to promote awareness of what constitutes sexual assault, how to prevent it, and what the institution's procedures are for handling reports of alleged sexual assault. In addition to general educational programs for the campus community, each institution shall provide specialized training on the topic of sexual assault and the provisions of sexual assault procedures to those individuals who might be involved in providing services to or interacting with alleged victims so as to ensure timely, accurate and sensitive assistance to all concerned. The UMS policy, together with the institution's procedures concerning sexual assault, shall be distributed to all students, faculty members and employees and shall be posted in appropriate locations at the institution and published in appropriate institution and System publications.

V. Off-Campus Reporting of Sexual Assaults

When a report of sexual assault is made to the institution's initial contact, that person will encourage the alleged victim to contact law enforcement or medical personnel as soon as possible following the incident to receive guidance in the preservation of evidence needed for proof of criminal assaults and the apprehension and prosecution of assailants. Campus authorities will assist in notification of off-campus authorities at the request of the alleged victim.

Additionally, campus personnel will retain the right to contact law enforcement personnel directly where an issue of campus security is involved. Campus personnel will also assist the alleged victim in obtaining medical attention, if the victim chooses, including providing transportation to the hospital or other emergency medical facility. Each institution shall designate one or more nearby hospitals which are equipped with the Maryland State Police sexual assault evidence collection kit.

VI. Campus Disciplinary Procedures

1. Student Disciplinary Procedures.

a. In addition to any criminal or civil remedies available under law, any act of sexual assault is a violation of this University of Maryland Policy on Sexual Assault and is subject to disciplinary proceedings under the institution's
judicial system. The range of judicial system penalties for students shall include, but not be limited to, one or more of the following: alteration of class schedule, disciplinary reprimand, loss of privilege, restitution, disciplinary probation, disciplinary suspension, disciplinary dismissal, and disciplinary expulsion.

b. The on-campus procedures shall provide (1) the accuser and the accused are afforded the same opportunities to have others present during a campus disciplinary proceeding; (2) both the accuser and the accused are informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault; (3) the offense must be reported according to federal reporting mandates and Maryland State law.

2. Faculty and Employee Disciplinary Procedures.

In addition to any criminal or civil proceedings available under law, any act of sexual assault is a violation of this University of Maryland System Policy on Sexual Assault and is subject to appropriate faculty and employee disciplinary procedures. The range of employment penalties for faculty and employees shall include, but not be limited to, one or more of the following: counseling, reprimand, suspension, or termination of employment.

VII. Services for Victims

Faculty, employees and students who are victims of sexual assault shall be offered access to counseling through mental health services available at the institution, other victim service entities in the surrounding community, or the nearest state designated rape crisis program. Each institution shall designate existing counseling, mental health and student services, both on campus and in the community, which are available to victims of sexual assault.

After a sexual assault has been reported at the institution, and upon the request of the alleged victim, the victim shall be offered an alternative academic, living or employment situation if such alternative is available, feasible, and appropriate to the facts of the sexual assault reported.

VIII. Implementation and Reporting Procedures

Each Chief Executive Officer shall identify his/her designee(s) as appropriate for this policy; shall develop procedures as necessary to implement this policy; shall communicate this policy and applicable procedures to his/her institutional community; and shall forward a copy of such designations and procedures and any subsequent changes in such designations and procedures to the Chancellor.

Institutional procedures that are part of this policy are on file in the Office of the Chancellor.
13.8.1 UMBC Sexual Assault Response and Risk-Reduction Procedures

(Approved by the UMBC Faculty Senate; approved with revisions by the Office of the Attorney General February 3, 2000. To view the most up-to-date information/procedure/policy see the Office of Human Relations Web page for Title IX. Section headings and paragraph style adapted to the format of this Handbook.)

13.8.1.1 Introduction

The University of Maryland, Baltimore County (UMBC) Sexual Assault Response and Risk-Reduction Procedures are designed to implement the University System of Maryland (USM) Policy on Sexual Assault (VI-1.30), approved by the Board of Regents on December 1, 1995. (See Appendix A.)

Sexual assault severely violates the standards of conduct expected of every member of the UMBC community. Sexual assault threatens the personal safety, well being, educational experience, careers and aspirations of individuals within the UMBC community. Such behavior, therefore, is not tolerated at UMBC. Specifically, UMBC prohibits nonconsensual sexual contact between individuals, strangers or acquaintances as described in the USM Policy on Sexual Assault (VI-1.30). This policy applies to all students, faculty, and staff of UMBC.

UMBC is committed to:

- educating the campus community about the nature, consequences, prevention and/or reduction of the risk of sexual assault, and
- recognizing and responding to the severe trauma imposed by sexual assault on its survivors, by providing support, advocacy and assistance to survivors of sexual assault, including information and referrals for:
  - health care
  - emotional support
  - community, legal and law enforcement systems, and
  - adjudication through the Code of Student Conduct and other administrative procedures

Sexual assault is a serious offense. In addition to criminal and legal penalties, sexual assault may result in sanctions including expulsion from the University for students and termination of employment for faculty and staff, as provided for in the USM Policy on Sexual Assault, the UMBC Code of Student Conduct, and UMBC Personnel Policies and Procedures.

13.8.1.2 Definitions

The University System of Maryland Policy on Sexual Assault recognizes two levels of sexual assault:

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4 Appendices to this policy have been omitted from this Handbook. Appendix A appears as section 13.8 above.
Sexual Assault I: Any act of rape, forcible sodomy, or forcible sexual penetration, however slight, of another person’s anal or genital opening with any object by a stranger or acquaintance constitutes Sexual Assault I. These acts must be committed either by force, threat, and intimidation or through the use of the victim’s mental or physical helplessness of which the accused was aware or should have been aware.

Sexual Assault II: Any act, by a stranger or acquaintance, of touching an unwilling person’s intimate parts (defined as genitalia, groin, breast, or buttocks or clothing covering them) or of forcing an unwilling person to touch another’s intimate parts constitutes Sexual Assault II. These acts must be committed either by force, threat, and intimidation or through the use of the victim’s mental or physical helplessness of which the accused was aware or should have been aware.

13.8.1.3 Education and Risk Reduction

The President of UMBC has designated the University Health Services Health Educator as the Sexual Assault Education/Risk Reduction Program Coordinator for the UMBC Campus. The Sexual Assault Education/Risk Reduction Program Coordinator, or her/his designee(s), will develop and/or coordinate campus-wide education programs for faculty, staff and students to promote awareness and reduce the risk of sexual assault.

13.8.1.3.1 Educational Programs

UMBC provides a variety of education and risk reduction programs related to sexual assault. The Sexual Assault Education/Risk Reduction Program Coordinator develops, coordinates, and/or provides consultation regarding these efforts, including the following:

1. Faculty and Staff

   a. Programs will be presented to faculty and staff at least 2 times per year which promote:

      i. understanding of sexual assault and its consequences, ways in which the risk of sexual assault occurrences can be reduced,
      ii. knowledge of action to take if a sexual assault occurs,
      iii. understanding of ways to be helpful to survivors of sexual assault, and
      iv. review of USM Policy and UMBC Procedures related to sexual assault.

   b. Individual campus departments or offices may request additional programs by calling the Sexual Assault Education/Risk Reduction Program Coordinator at x3751.
2. Students

a. New Student Orientation Programs: Sexual assault education and risk reduction programs are presented during new student orientation each year. The USM/UMBC policy and other educational materials are distributed during these programs. (See Appendix B.)

b. Peer Education Program: Peer Educators are trained each semester in USM/UMBC Sexual Assault Policy and Procedures, sexual assault and sexual assault risk reduction and related issues, e.g., substance use and abuse, and sexuality. University Health Services Office of Health Education and the Department of Social Work will coordinate peer education training. Peer Educators provide sexual assault education and risk reduction programming in the UMBC residential community and throughout the campus. (See Appendix C.)

c. PHED 202: Introduction to Health Behaviors: Sexual assault, rape, acquaintance rape, and sexual assault risk reduction are included in this required course for UMBC athletes.

13.8.1.3.2 Distribution of Sexual Assault Policy and Procedures

These Sexual Assault policies and procedures will be published each year in the Student Handbook and the UMBC Directory and each semester in the Schedule of Classes, UMBC’s Web site, and other appropriate publications. These policies and procedures will also be posted in appropriate campus locations including residential communities, University Center, and dining facilities.

Faculty and staff supervisors will distribute the USM Policy and UMBC Procedures to all new employees during their orientation to UMBC and review the information covered therein. Supervisors will report in writing to the Sexual Assault Education/Risk Reduction Program Coordinator that this procedure has been followed.

13.8.1.3.3 Campus Safety and Risk Reduction

1. Escort Service

UMBC provides a police/student marshal Escort Service during evening and early morning hours. Whenever anyone on campus is concerned for his/her safety and cannot travel with a friend, he/she may call the UMBC Police at X3133 to request an escort. A foot patrol student marshal will meet and escort him/her to the destination. When student marshals are not on duty, a police officer or a resident patrol officer will escort the student.

2. Blue Light Emergency Telephones

Clearly marked “blue light” emergency telephones are located throughout the UMBC campus. When the call button is pushed on the blue light telephone the caller is connected directly to the UMBC Police. Individuals are advised to use the
emergency phones whenever they feel uncomfortable, or that they are being followed, or need UMBC Police for any emergency.

13.8.1.4 Sexual Assault Response Procedures

The President of UMBC has designated the Director of University Health Services (or designee) as the initial contact after an alleged sexual assault has occurred.

To reach the Director of University Health Services after a sexual assault has occurred,
8 a.m. – 5 p.m.: call University Health Services at 410.455.2542
At all other times: call UMBC Police at 410.455.3133
Indicate that it is an emergency, and that you need to speak to the director of University Health Services or designee. No additional information will be required of the caller.

The Director of University Health Services, or designee, will assist the survivor or other(s) acting on behalf of the survivor, by providing appropriate information regarding the importance of personal safety, medical attention, and emotional support. Information will include services available through University Police and from campus and community health, mental health and rape crisis services.

The Director will help the survivor decide about seeking medical attention, police protection, and other issues, including transportation to a hospital or other emergency medical facility. A brochure will be provided to all campus community members informing them of UMBC Sexual Assault Policy and Procedures. This brochure can be found in Appendix D.

13.8.1.5 Reporting Sexual Assault

Accurate information about the nature and number of sexual assaults occurring on campus can significantly affect the University’s risk reduction and education efforts. Therefore, it is extremely important that students, faculty, and staff report all incidents to the Director of University Health Services. This report may be made anonymously and should include sufficient information to distinguish one event from another.

Please note: The University cannot take student disciplinary action or criminal action unless a report is filed with the Student Judicial Programs Office or with the University Police.

13.8.1.6 Resources for Survivors of Sexual Assault

University Health Services and the Counseling Center offer health care and personal counseling to UMBC students who may have been sexually assaulted. Outside regular office hours, these services may be contacted through University Police.

Health care services and/or personal counseling for faculty and staff are available through their health care providers. Campus and community resources for students, faculty, and staff can be found in Appendix E.

All contacts with University Health Services, Counseling Center and Police Department are confidential. No information will be released without the consent of the individual involved. Exceptions to this confidentiality policy may occur when an individual is considered to be actively suicidal or homicidal, or to comply with a court order.
13.8.1.7 Legal and Institutional Procedures for Redress

When a sexual assault is reported, the campus official or individual receiving the report should, with the consent of the survivor, notify University Health Services and the UMBC Police. Working collaboratively, these departments are responsible for all the subsequent referrals to campus or civil authorities, that are requested by the survivor.

In addition to any criminal remedies available, a sexual assault perpetrator is subject to appropriate faculty, employee or student disciplinary procedures.

Faculty and Staff: The range of employment penalties for faculty and employees includes but is not limited to, one or more of the following: counseling, reprimand, suspension, or termination of employment.

Students: Students who violate federal, state, or local laws are subject to criminal charges. In addition to any criminal remedies available, an alleged or adjudged perpetrator who is a UMBC student may be subject to charges through the University's judicial system. University judicial procedures are set forth in the Code of Student Conduct, published in the UMBC Directory, Student Handbook, Schedule of Classes, and on UMBC’s WWW Page. The range of sanctions for violations under the Code of Student Conduct include, but are not limited to, one or more of the following: suspension or expulsion, alteration of class schedule, termination of Residential Life contract, disciplinary probation, loss of privileges, and making restitution. Suspension and expulsion are the standard recommended sanctions if a student is found guilty of an incident of sexual assault or other acts of violence.
A sexual assault survivor, the University Police, or other representative of the university, with the consent of the survivor, may file a complaint with the Student Judicial Programs Office if the accused is a student. University disciplinary procedures and due process protections are set forth in the Code of Student Conduct published in the Student Handbook.

In addition to the above procedures and protections, the following actions will be undertaken if sexual assault is the alleged violation:

1. The survivor and the suspect will be afforded the same opportunities to have an advisor/advocate present during a campus disciplinary proceeding,

2. Both the survivor and the suspect will be informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault, and

3. An offense will be reported statistically according to federal reporting mandates, Maryland State law, and USM policy.

13.8.1.8 Rights of a Survivor

A person who reports having been sexually assaulted has the right to:

1. request a female or male officer to take the report

2. have his/her identity protected, consistent with legal or judicial requirements

3. be treated professionally and with sensitivity, regardless of the race, ethnicity, religion, gender, or sexual orientation of the survivor or the suspect

4. assistance with medical treatment, counseling, and other resources if desired, including transportation to a hospital

5. have one primary investigator assigned to the case and have his/her case investigated fully, if he/she chooses to report the assault to University Police

6. have an advisor/advocate (or others, upon the approval of the Director of Student Judicial Programs, the appropriate dean or the Human Resources department) present during the University judicial process

7. be informed of the outcome of a police investigation or judicial hearing, if conducted

8. request an alternative academic, living, or employment situation if such an alternative is available, feasible, and appropriate to the facts of the sexual assault reported

9. have all questions fully answered

For information about this document, please contact the Director, University Health Services, at 410-455-2542.
13.9 MAINTENANCE OF PUBLIC ORDER

In accordance with the requirements of the State of Maryland educational law, the following rules are adopted for the maintenance of public order. These rules do not conflict with the provisions of the A.A.U.P. 1940 Statement of Principles and the joint statement on Rights and Freedoms of Students.

13.9.1 Prohibited Conduct

1. Intentional obstruction of teaching, research, administration, etc. on university owned or controlled premises.
2. Intentional obstruction that interferes with free flow of pedestrian and vehicular traffic.
3. Intentional detention or physical abuse of any person on university premises (owned or controlled) or conduct that endangers health or safety of such person.
4. Theft from or malicious damage to university property.
5. Unauthorized possession or use of firearms, explosives and dangerous chemicals or weapons on university premises.
6. Intentionally aiding and abetting other persons to engage in any act or conduct herein proscribed.

13.9.2 Ejection of Persons from University Premises

Persons on university premises whose conduct constitutes a danger to public order or any person who refuses the request of an authorized university official to leave a controlled premises.

13.9.3 Student Disciplinary Sanctions

Appropriate sanction will be determined for a student whose actions infracted the proscribed conduct above.

1. Admonition: Oral statement to student that university rules have been violated.
2. Warning: Oral and written warning. Repetition of conduct within a year may cause disciplinary action.
4. Disciplinary probation: Exclusion from participation in privileges as set forth in the notice of disciplinary probation.
5. Restitution: Reimbursement for damage to or misappropriation of property. Appropriate repair.

6. Suspension: Exclusion from classes and other privileges as set forth in notice of suspension.

13.9.4 Faculty, Staff and Administrator Disciplinary Sanctions

Any faculty, staff or administrative member of the university in violation of the proscribed conduct may be subjected to one of the sanctions below.


2. Suspension: Suspension of rights and responsibilities, either with or without salary for a specified period.

3. Termination: Where violation is found to constitute cause for terminating the member's term, contract or tenured position or where administrators subject to disciplinary penalties are subject only to the discipline of the President (i.e., Chancellor) recommendation shall be made to the President.

13.10 UNIVERSITY SYSTEM OF MARYLAND POLICY ON ACTS OF VIOLENCE AND EXTREMISM

(Board of Regents Policies and Procedures VI-1.10; Approved by the Board of Regents, January 11, 1990)

The essential nature of the university requires an atmosphere of tolerance and understanding of diverse groups, ideas, and opinions.

Acts of destruction or violence which are racially, ethnically, religiously, and/or otherwise motivated against the person or property of others and which infringe on the rights and freedom of others will not be tolerated at the University System's institutions or facilities.

Individuals committing such acts at any facility of the System are subject to campus judicial and personnel action, including suspension, expulsion, or termination.

In addition, the Board of Regents encourages its institutions to pursue criminal prosecution of persons committing such acts under state and federal criminal laws.

13.11 UNIVERSITY OF MARYLAND SYSTEM POLICY ON A DRUG-FREE WORKPLACE

(Board of Regents Policies and Procedures VII-1.10; Approved by the Board of Regents, January 2, 1989)

The University of Maryland System, as an employer, strives to maintain a workplace free from the illegal use, possession, or distribution of controlled substances*. Unlawful manufacture, distribution, dispensation, possession or use of controlled substances by University employees in the workplace is prohibited under University policy.
In addition to any legal penalties under federal and state law, employees found to be in violation of this policy may be subject to corrective action under applicable University personnel policies.

The University supports programs aimed at the prevention of substance abuse by University employees. Employees are encouraged to seek assistance for substance-dependency problems. Employee-assistance counseling and leaves of absence to attend rehabilitation programs are appropriate means for dealing with these problems.

*As defined pursuant to Controlled Substances Act, 21 U.S.C. Sections 801, et seq.

13.12 UNIVERSITY OF MARYLAND SYSTEM POLICY ON AIDS

(Updated Board of Regents Policies and Procedures VI-11.00; Approved by the Board of Regents, June 21, 1990)

A. The University of Maryland System Board of Regents recognizes that in many cases it will not be necessary or appropriate to deny any individual access to academic, social or employment opportunities because they have AIDS or are infected with HIV. The Board of Regents also recognizes that in some cases it will be necessary and prudent to limit or deny such opportunities to protect the health of the HIV-infected individual or to avoid inappropriate risk of transmission of the HIV virus in the course of study or employment.

B. In all matters relating to persons who have AIDS or who are infected with HIV, the University of Maryland System will observe requirements of applicable federal and state laws.

C. Faculty members, employees or students with any form of HIV infection will be permitted to continue their activities at an institution or unit without change to the extent (1) permitted by their health status, including their risk of contraction of infectious diseases from others; and (2) consistent with the University's interest in preventing infection of others.

D. Although current knowledge indicates that there is no health risk from living quarter contact with persons with AIDS or HIV infection, requests to change living arrangements (a) to minimize contact with persons with AIDS or (b) to minimize contact of the HIV-infected with other persons having infectious diseases will be considered.

E. Confidentiality will be observed by each institution or unit as to information about individuals who know or suspect that they have AIDS or HIV infection unless an exception is granted by the affected person, a report of infection is required by law, or a report of possible infection of others is required by law or infection control policy. However, such information will be shared among institution officials and the University's legal counsel on a need-to-know basis.

F. A program of education about AIDS and HIV prevention and transmission will be provided to students and employees by the institution or unit.
G. Each President or unit head may adopt infection control policies for his [or her] institution or unit dealing with the activities of HIV-infected faculty members, employees or students. Such policies are encouraged for institutions having faculty, students and employees involved in health care. For cases not falling under an infection control policy, each president or unit head shall appoint a committee to examine the matter, evaluate the risks presented to the faculty member, employee or student and to others, and recommend any reasonable measures to reduce or avoid risk of transmission of the HIV virus or unreasonable exposure of the HIV-infected individual to other contagious illnesses.

H. Each institution shall develop a policy, to include a procedure to deal with exposure to blood-borne pathogens, for the education and protection of employees at risk to infection from blood-borne diseases. All employees and students who handle human blood or other tissues will be provided personal protective equipment necessary to perform their jobs with minimum risk of infection.

I. Each institution and unit of the University System of Maryland shall designate an individual or office which will have responsibility for maintaining a current roster of agencies and organizations to which persons seeking further information about AIDS, including persons concerned that they may have AIDS or are infected with HIV, may be referred for counseling and other related services.

13.13 LEGAL PROCEEDINGS, IMMUNITY FOR CERTAIN TORTS, LEGAL REPRESENTATION AND PUBLIC PAYMENT

13.13.1 Introduction

The information provided in this section does not constitute a policy of the University. It is intended to provide general information about the effect of selected State statutes, which may be amended from time to time without notice. The actual rights and responsibilities of faculty members with regard to legal proceedings by third parties are governed by State law, not this section.

Faculty served with papers in any legal proceeding arising out of the faculty member’s employment at the University should immediately notify University Counsel and provide a copy of all papers that have been served. Faculty members, like other State personnel, are immune from suit and liability for certain kinds of claims arising under State law. Even when that immunity does not apply, the faculty member may be entitled to legal representation by the Office of the Attorney General (“OAG”), and the Board of Public Works has the discretion to approve payment of any judgment, provided that the faculty member did not act with malice or gross negligence.

13.13.2 Immunity under the Tort Claims Act

Historically, State personnel were responsible for their own acts or omissions that caused personal injury, damage to another’s reputation, or property damage, and the State and the University, as an entity, were shielded from liability by the doctrine of “sovereign immunity.” In 1981, the State enacted the first version of the Maryland Tort Claims Act (“MTCA”) which granted a limited remedy to persons injured by State personnel. The statute waived the State’s immunity for

5 At UMBC this person is the Director of University Health Services, 410-455-2542.
certain tortious conduct of State personnel, and conferred on State personnel a correlative immunity from suit and personal liability for such conduct.

Generally, under the current version of the MTCA, codified in Sections 12-101 through 12-110 of the State Government Article and Section 5-522 of the Courts and Judicial Proceedings Article, the State has waived its immunity in State court for tort claims up to $200,000. In order for the State’s waiver to apply, and consequently, in order for a faculty member to be entitled to immunity, the faculty member’s acts or omissions must have been (1) performed in the scope of the faculty member’s public duties, and (2) made without malice or gross negligence. Examples of claims that ordinarily are subject to the MTCA are claims of simple negligence arising out of an automobile accident in the State of Maryland, or libel or slander claims based on false statements made without an intent to harm and without knowledge of falsity or a reckless indifference for the truth.

The MTCA does not afford any immunity to faculty for claims based on various federal statutes or for alleged violations of rights arising under the Constitution of the United States, e.g., claims filed by employees or students dealing with "discrimination," "denial of due process" or “equal protection.” Nor does it cover various intentional wrongs. For such claims, individual faculty remain subject to suit and personal liability, but, if certain conditions are met, they may still be entitled to legal representation by the Office of the Attorney General and the Board of Public Works may authorize payment of any judgment or settlement.

13.13.3 Legal Representation and Payment of Judgments or Settlements

The OAG is statutorily authorized to provide full legal representation in civil litigation directed against State officers and employees so long as the underlying act or omission arose within the scope of employment and was done without malice or gross negligence. Faculty desiring representation must make a written request to the OAG, which then must investigate to determine whether representation is appropriate. The OAG does not provide representation for matters covered by a faculty member’s own insurance policy, criminal matters, or where the employee prefers to retain his or her own counsel. The ability of the OAG to provide legal representation requires full cooperation by faculty, and may be limited by conflicts of interest involving other state agencies or personnel. See Sections 12-304 through 12-310 of the State Government Article.

Under State law, the Board of Public Works is authorized in its discretion to approve payment of public money for settlements or for judgments against University employees personally on account of acts or omissions arising in the scope of employment and performed without malice or gross negligence. See Sections 12-401 through 12-501 of the State Government Article.

13.13.4 Conclusion

The application of the foregoing statutes to any actual lawsuit can be complex. Occasionally, lawsuits include multiple claims, only some of which are covered by the MTCA. Issues about potential immunity and representation often require investigation and consultation between and among the faculty, the Office of Human Resources, University Counsel and the OAG. Because State law does not immunize State personnel against all claims, and because payment of judgments by the Board of Public Works is discretionary for claims for which there is no immunity, faculty members whose work involves higher than normal risk may wish to consult their own insurance advisor about the availability of liability insurance to cover their specific situation.
13.14 USE OF UNIVERSITY STATIONERY

University of Maryland Stationery may only be used for official business.

13.15 UMBC POLICY ON RECORDS MANAGEMENT

(Issued by the UMBC Archivist, November 17, 2003; Revised September 12, 2008. Formatting adapted to the style of this Handbook.)

To facilitate the management of vital records, preserve the history of the campus and meet the requirements of the USM policy, the following policy is provided to govern non-current office records at UMBC.

I. Non-current University Records:

1. "University Records" means all documents, regardless of form or characteristics, created, received and maintained as evidence and information by any agency, officer or employee of the University in pursuance of legal obligations or in the transactions of business.

2. All documents deemed to be University Records are university property and subject to University guidelines for retention or disposal.

3. "Non-current records" mean records no longer needed by their creator to conduct business or with no further administrative value.

4. The University Archives is the official repository for all non-current university records that have sufficient value to warrant permanent preservation and for which no other Office of Record is designated.

5. Until an electronic records management (ERM) protocol is available on campus to preserve e-records, all records that are designated for permanent retention but are born digital (including email) must be transferred to the University Archives in one of the following formats: paper, microfilm, microfiche. Records saved in PDF format may be accepted with prior approval from the University Archivist. Machine dependent audiovisual records, including analog and digital formats, may be transferred to the University Archives only if the Library has the capability to view the content; prior approval is requested.

II. Transfer of Records to the University Archives

UMBC offices and departments shall provide the following records to the University Archives in a timely manner:

1. Constitutions and by-laws, minutes, memoranda, correspondence (including email), and reports of any administrative or advisory board of the university

2. Records of the chief executive including correspondence (including email), administrative subject files, and reports
3. Correspondence (including email), subject files, and reports of the chief academic affairs officer; i.e. the Provost

4. Correspondence (including email), subject files, and reports of the chief administrative officer, i.e. the Vice-President for Administration and Finance

5. Correspondence (including email), subject files, and reports of the office of the chief student affairs officer i.e. Vice President for Student Affairs

6. Correspondence (including email), subject files, and reports of the chief officer of all University units designated to operate with a high degree of independence such as, the Deans of Arts and Sciences, the Graduate School, the College of Engineering, the Honors College, the Library, and major research institutes

7. Minutes, memoranda, and reports of all major academic and administrative committees, including the faculty senate, the exempt staff senate, the non-exempt excluded staff senate and their committees

8. Accreditation reports and supporting documentation.

9. One copy of the campus wide annual budget and audit reports from the Administration and Finance Department

10. Academic departmental records, including minutes, reports, syllabi, and sample test questions

11. Records of the registrar including timetables and class schedules, enrollment reports, graduation rosters, and other reports issued on a regular basis

12. Alumni records including minutes of the alumni association

13. Reports of the admissions office

14. Reports of the office of institutional research

15. Reports of the university institutional advancement office

16. Records of student organizations

17. All publications, newsletters, or booklets distributed by the university, including: catalogs, special bulletins, yearbooks, student newspapers, university directories, and

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6 The College of Arts and Sciences has been reorganized and now consists of the College of Arts, Humanities and Social Sciences and the College of Natural and Mathematical Sciences.

7 The College of Engineering has been renamed the College of Engineering and Information Technology.

8 The Non-Exempt Excluded Staff Senate has been renamed the Non-Exempt/staff Senate.
faculty/staff rosters, faculty and university newsletters, alumni magazines and ephemeral materials

18. Audiovisual materials documenting the development of the university such as still photographs and negatives, motion picture films, oral history interviews, and audio and videotapes

19. Preservation copies of microfilm produced by any campus vital records program

20. Maps and plot plans documenting campus physical growth and development

21. Reports of research projects, including non-restricted grant records

Email that is to be retained permanently in the archives should be printed out and sent to the archives in paper form.

III. Records to be retained in the Office of Record

All records for which the University has established a retention and disposal schedule should be retained by the Office of Record. The Office of Record is held to be the department in which the files are created with a few exceptions that are so noted. Such records may include:

1. Records for which there is an Office of Record stipulated as responsible for permanent retention such as student records (Registrar) or personnel records (Human Resources)

2. Routine financial records such as invoices and receipts

3. Routine letters of transmittal and acknowledgement

4. Non-personally addressed (e.g. To: Deans and Directors) correspondence and memoranda, except for one record copy provided to the University Archives from the issuing officer

5. Requests for publications or information for which responses have been provided to the requester

6. Replies to questionnaires if the results are recorded and preserved in a published report

7. Non-documentary objects, artifacts and memorabilia related to the university's history except those of great importance and manageable physical size and condition which might preserved by the university Archivist

IV. Procedures for Retention of Records within Departments or Offices of Record

The following records shall be retained and destroyed or forwarded to the Archives by the department or Office of Record which created or houses those records according to the following protocols.
1. General Files includes alpha, subject, administrative, and chronological correspondence containing original incoming and copies of outgoing correspondence, email**, reports, memoranda, statistics, proposed programs, minutes, policy and procedure statements, special projects, and substantive data concerning the operation of the office that maintains it.

Retention: Material with continuing administrative or legal value should be kept in paper by Office of Record for 5 years beyond the date that the file is declared inactive, then destroyed. Non-current material deemed by the archivist to have historical value should be transferred to the UMBC Archives pursuant to Section II of this policy. **Significant email should be printed and placed in a file along with other correspondence at least once a year.

2. Departmental Meeting Minutes includes policy issues and other data relating to the department that are of historical significance.

Retention: Retain for 3 years then send to UMBC Archives.

3. Departmental Publications includes newsletters, technical reports, brochures, annual reports, and other materials published by any department in the university.

Retention: Forward a copy of each publication to the UMBC Archives for permanent retention.

4. Faculty Publications includes articles and other publications of individual faculty members of a department for which a department or individual faculty member is the publisher.

Retention: One copy of each article, publication, and reprint should be sent to the archive at time of publication. In addition the department should retain a copy of each as long as needed, then destroy.

5. Student Course Evaluations includes surveys given to students to evaluate teaching of faculty members.

Retention: Retain for as long as needed, then destroy. A permanent copy of the final report for all departments will be sent to the University Archives from the Office of Institutional Research.

6. Employee Resumes

Retention: Send copy to University Archive when received.

7. Budget Files including email, correspondence, memos, notes, and printed reports.

Retention: Screen annually and destroy that material for which no further reference is required. Documents with continuing administrative value should be kept in paper by department for 5 years, then destroy.
8. **Purchasing Card Transactions Files.** Office of Record: Procurement.

Retention: Retain for at least five (5) years after fiscal year end, either in the cardholder's Department or in readily accessed department archives.

9. **Purchasing Records** includes internal account records, including copies of requisitions, invoices, and packing slips. Office of Record: Procurement.

Retention: Retain for 3 years after the current year and until audit requirements are met, then destroy.

10. **Accounting Records** includes honoraria payments, contract items, revolving fund, checkbook data, special payments, periodic financial reports, telecommunication service and equipment bills, budget items including amendments and estimates, and other data. Office of Record: Accounting Department.

Retention: Retain for 3 years after the current year and until audit requirements are met, then destroy.

11. **Course Final Exams** - copy of course final exams with correct answers included.

Retention: Retain as long as needed by the academic department, then destroy.

12. **Graded final Examinations of Undergraduate and Graduate Students**

Retention: Professors to retain as long as needed, then destroy.

13. **Graded coursework of Undergraduate and Graduate Students** includes graded materials not returned to students.

Retention: Professors to retain graded materials as long as needed, then destroy.

14. **Academic Files for Undergraduate and Graduate Students** includes advising records and correspondence related to academic activity. Office of Record: Registrar.

Retention: Department to retain academic files for 4 years after student graduates, then destroy.

15. **Application Material of Perspective Students** includes student application form, transcripts, letters of recommendation, standardized test scores, statements of purpose, and merit-based award forms.

Retention: Transfer materials of accepted applicants to student's academic file upon matriculation. Retain rejected applicants for 2 years after receipt, then destroy.

16. **Comprehensive Examinations**

Retention: Retain for 20 years, then destroy.
17. **Textbook Orders** includes the list of textbooks ordered by faculty members for departmental courses.

   **Retention:** Retain for 1 year, then destroy.

18. **Faculty Files** includes appointment, promotion, and tenure material, including appointment letters; faculty review files; and leave without pay and sabbatical requests.

   **Retention:** Retain for 10 years after termination of employment, then destroy.

19. **Contract and Grant Files** includes records that document contracts and grants received by any department from any source, including applications, proposals, agreements, research reports, publicity notices, acknowledgements and transfer of funds records, controlling rules and regulations, copies of periodic reports, correspondence, and memoranda.

   **Retention:** Office of Record to retain state contracts and grants for three years after the close of the contract, then destroy. Federal grants and agreements over $25,000 are to be retained for 3 years after the close of contract, then destroy. OMB Circular No. A-1 10, Subpart C. 53 requires that: Financial records, supporting documents, statistical records and all other records pertinent to an [federal] award shall be retained for a period of three years from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, as authorized by the Federal awarding agency. If any litigation, claim, or audit is started before the three-year period ends, the records shall be retained until all litigation, claims, or audit findings involving records have been resolved and final action taken. Records for real property and equipment acquired with federal funds shall be retained for three years after final disposition.

20. **Inventory Material** includes records identifying non-capital and capital equipment and related material including: manual sheets, inventory adjustment forms, replacement of inventory tag forms, equipment loan forms, and disposal of surplus property forms.

   **Retention:** Retain for 3 years after current year and until audit requirements are met, then destroy.

21. **Human Resource Records**

   a. **Timekeeping Records** includes individual sheets approved by the supervisor showing leave taken and hours worked for student, Contingent I, Contingent II contractual, non-exempt, exempt, and faculty employees.

      **Retention:** Retain for at least 3 years and until audit requirements are met, then destroy.

   b. **Faculty Time Reports** includes monthly reports showing days worked and leave taken by faculty members.
Retention: Retain individual monthly reports for at least 5 years and until audit requirements are met, then destroy. Retain summary records of monthly time reports until the faculty member leaves employment, then destroy.

c. **Employee Leave Balances** includes leave balances for faculty members, contractual, exempt and non-exempt employees.

Retention: Retain final leave balance for 3 years after termination of employment, and then destroy. During time employee is active, retain ongoing balances for 3 years for audit purposes.

22. **Payroll Records** includes journals, one-pay certification cards, check register, W2 forms, journal vouchers, payroll entry forms, and other internal adjustment forms. Office of Record: Human Resources.

Retention: Retain for 3 years after the current year and until audit requirements are met, then destroy.

23. **Personnel Files** includes folders prepared upon the commencement of employment, including any of the following items: application and resume; appointment letter; reference checks; payroll form; position action request; recruitment screening report; personnel transaction form; retirement form; transcripts; change of address forms; clearance file; commendations; contracts; correspondence; counseling sessions; grievances; disciplinary actions, including charges for removal, probation, or suspension; efficiency ratings; EOE statistical reports; health insurance benefits forms; leave forms; orientation and training material; position history; promotions and reclassification; suggestion file; summer employment material; and letters of resignation, retirement, transfer, and/or dismissal. Office of Record: Human Resources.

Retention: Department to retain for 7 years after termination of employment and then destroy.

24. **Performance Review and Development Files** includes evaluations of exempt, non-exempt staff members, which indicate employee performance factors, performance ratings given by the employee's supervisor, and employee development plans. Office of Record: Human Resources.

Retention: Department to retain for 7 years after termination of employment, then destroy.

25. **Position Files** includes requests for position classification action, lists of eligibles, study numbers, and position descriptions.

Retention: Retain for 3 years after position is abolished, then destroy.
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