

FACULTY RIGHTS AND RESPONSIBILITIES–GENERAL

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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:

	<u>Instruction</u>	<u>Research/ Scholarship</u>	<u>Service</u>
% of effort	45-55% (5 courses/ course units)	35-45%	5-15%

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 service¹ 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 teaching

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.

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.

IV² 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 to the institution on all

²*Sic.*

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 POLICY³

(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

³This 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 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 MISCONDUCT

13.7.1 University System of Maryland Policy on Sexual Misconduct and Other Related Misconduct

([Board of Regents Policies and Procedures IV-1.60](#); Approved by the Board of Regents, June 27, 2014; Amended June 19, 2015)

The University System of Maryland (“USM”) is committed to providing a working and learning environment free from Sexual Misconduct, including sexual and gender-based harassment, sexual violence, dating violence, domestic violence, sexual exploitation, and sexual intimidation. USM prohibits and will not tolerate Sexual Misconduct. Sexual Misconduct is a form of sex discrimination prohibited by state and federal laws, including Title IX of the Education Amendments of 1972 as amended (“Title IX”) and Title VII of the Civil Rights Act of 1964 as amended, and also may constitute criminal activity.

USM endeavors to foster a System-wide climate free from Sexual Misconduct through training, education, prevention programs, and through policies and procedures that promote prompt reporting, prohibit retaliation, and promote timely, fair and impartial investigation and resolution of Sexual Misconduct cases in a manner that eliminates the Sexual Misconduct, prevents its recurrence, and addresses its effects. All students, faculty, and staff of USM institutions (including USM regional centers), as well as the USM Office and third parties and contractors under USM or USM constituent institution control, are subject to this policy regardless of sex, sexual orientation, gender identity and gender expression.

Each institution shall adopt and publish policies and procedures, as needed, that: i. Prohibit Sexual Misconduct; ii. Prohibit Retaliation against any individual who reports, testifies, assists, or participates in any manner in a Sexual Misconduct investigation, hearing, or proceeding; iii. Maintain employee and student procedures that provide for the prompt and equitable reporting, investigation, and adjudication of Sexual Misconduct and/or Retaliation cases; iv. Require prompt Interim Measures be implemented, as necessary, to protect the parties during the investigation and adjudication processes; v. Apprise the institution community of various USM institution resources and education programs, as well as other community resources and programs, geared to promote the awareness of and eliminate Sexual Misconduct, prevent its recurrence; and, as appropriate, remedy its effects; and vi. Are easily understood, easily located, and widely distributed.

13.7.2 University of Maryland, Baltimore County Policy on Prohibited Sexual Misconduct and Other Related Misconduct

(Approved by the President December 31, 2014; Amended August 24, 2015)

Introduction

The University of Maryland, Baltimore County (“UMBC”) [Policy](#) on Prohibited Sexual Misconduct and Other Related Misconduct (“Sexual Misconduct Policy”) has been developed in accordance with the USM Policy on Sexual Misconduct, IV-1.60, adopted by the Board of Regents, June 27, 2014.

UMBC is a dynamic public research university integrating teaching, research and service. UMBC understands that as an educational institution, it plays an essential role in preparing the future generations of leaders. By virtue of this special role, the University is fully committed to providing an environment where all UMBC community members are treated with respect and dignity and UMBC community member differences are honored. To achieve this environment, the University recognizes its responsibility to maintain an environment which is free from Sexual Misconduct and other Related Misconduct. Such acts violate the essential dignity of our community members and are contrary to our institutional values.

To that end, the Sexual Misconduct Policy sets forth how the University defines Sexual Misconduct and other Related Misconduct, describes available resources and reporting options, explains whether and to what extent interactions with various resources are confidential, identifies interim measures that may be available in particular cases, and describes the University’s education and prevention programs. The accompanying [Procedures](#) set forth how the University will address reports of Sexual Misconduct and other Related Misconduct, as well as identify the rights of all parties involved in the process.

I. Policy Statement

The University is dedicated to fostering an inclusive and welcoming environment for all members of the campus community and recognizes its responsibility to maintain a campus environment which is free from Sexual Misconduct, and other Related Misconduct. This [Policy](#) embodies the University’s commitment to increasing awareness of such prohibited conduct and actively promoting prevention and educational programs for community members in an effort to eliminate occurrences, prevent reoccurrences, and address and remedy the discriminatory effects of the Sexual Misconduct.

This Policy expressly prohibits all forms of **Discrimination** and **Harassment** on the basis of an UMBC community member’s sex (including pregnancy), gender, sexual orientation, or gender identity or expression (collectively referred to as “**Protected Status**”) in its educational programs and activities or with respect to terms and conditions of employment. It expressly, therefore, also prohibits **Sexual Misconduct**, which is a form of sex discrimination, including **Sexual and Gender Based Harassment, Sexual Violence, Relationship Violence, Domestic Violence, Sexual Exploitation, and Sexual Intimidation**. This Policy further expressly prohibits **Sex and Gender Based Stalking**. Finally, this Policy expressly prohibits **Retaliation** against an UMBC community member for their good faith participation in reporting, assisting others in reporting, or opposing a violation of this Policy. University faculty, staff, and students who violate this Policy may face disciplinary action up to termination or dismissal.

Discrimination, Harassment, Sexual Misconduct (including Sexual and Gender Based Harassment, Sexual Violence, Relationship Violence, Domestic Violence, Sexual Exploitation, Sexual Intimidation, and Sex and Gender Based Stalking), and Retaliation (collectively hereafter referred to as “**Prohibited Conduct**”) are defined below in Section IV of this Policy.

The University’s commitment is consistent with the values and standards of an intellectual community of distinction, as well as the law and USM policies.

The University is also committed to the principles of free inquiry and expression. Nothing in this Policy is intended to abridge teaching methods, freedom of expression, or the University’s educational mission.

II. Scope and Applicability

A. UMBC Community Members Covered By This Policy

This Policy applies to the conduct of, and protects all students (including but not limited to, undergraduate, graduate, professional and doctoral, post-doctoral, and student employees), faculty, and staff.

The Policy also applies to the conduct of and protects all interns, contractors, volunteers, guests, visitors, and other third parties under circumstances within the University’s control.

The individuals covered by this policy, shall be collectively hereafter referred to as “member of the UMBC community” or “UMBC community member.”

B. Jurisdiction

This Policy applies to Prohibited Conduct in connection with any UMBC office, or regional center education program or activity. Including Prohibited Conduct: (1) in any UMBC facility or on any UMBC property; (2) in connection with any UMBC sponsored, recognized, or approved program, visit, or activity, regardless of location; (3) that impedes equal access to any UMBC educational program or activity or adversely impacts the employment of a member of the UMBC community; or (4) that otherwise threatens the health or safety of a member of the UMBC community. Nothing in this policy is intended to supersede or conflict with any federal compliance obligation.

C. Reports Involving Minors

Any member of the UMBC community, who suspects that a child is being harmed, or observe a child being harmed, should contact law enforcement by dialing 911 or 410.455.5555.

In addition, pursuant to Family Law Article of the Maryland Annotated Code, Sections 5-701 through 5-708, any member of the UMBC community, who has a reason to believe that a child has been abused or neglected, has a mandatory obligation to report that suspicion to the local department of social services or local police department **and** to the University's Designee for reporting child abuse

The Baltimore County Department of Social Services:	410.853.3000
University Police Department:	410.455.5555
Baltimore County Police Department:	410.887.2214
UMBC Title IX Coordinator:	410.455.5745

Detailed information regarding reporting suspected child abuse and neglect may be found at www.usmh.usmd.edu/regents/bylaws/SectionVI/VI150.pdf.

III. Preservation of Evidence

Seeking assistance promptly may be important to ensure physical safety, obtain medical care, or other support including assistance with peace/protective orders. It may also be necessary to preserve relevant evidence, particularly forensic evidence, which can assist the University and/or law enforcement in responding effectively. Because the standards for finding a violation of criminal law are different from the standards for finding a violation of this Policy, criminal investigations or reports are not determinative of whether Sexual Misconduct, for purposes of this Policy, has occurred. In other words, conduct may constitute Sexual Misconduct under this Policy even if it is not a crime or law enforcement agencies lack sufficient evidence of a crime and therefore decline to prosecute.

IV. Prohibited Conduct

This Policy prohibits all forms of Discrimination and Harassment, due to a UMBC community member's Protected Status. This Policy expressly prohibits Sexual Misconduct, which is a form of sex discrimination, which includes Sexual and Gender Based Harassment, Sexual Violence, Relationship Violence, Domestic Violence, Sexual Exploitation, Sexual Intimidation, and Sex and Gender Based Stalking. Finally, this Policy expressly prohibits Retaliation against any UMBC community member for their good faith participation in reporting, assisting others in reporting, or opposing a violation of this Policy.

The use of alcohol, drugs, and/or legally prescribed medication, does not justify or excuse behavior that constitutes Prohibited Conduct under this Policy. Further, the use of alcohol, drugs, and/or legally prescribed medication never makes an individual at fault for being subjected to behavior that constitutes Prohibited Conduct under this Policy.

A. Discrimination

This Policy prohibits Discrimination. For the purposes of this Policy, Discrimination is defined as any unlawful preference or prejudice to a UMBC community member as compared to others, that is based on the UMBC community member's Protected Status, and that is sufficiently serious to unreasonably interfere with or limit a UMBC community member's: access to employment or conditions and benefits of employment; ability to participate in, access, or benefit from educational programs, services, or activities; or ability to participate in, access, or benefit from the University's extracurricular programs.

B. Sexual Misconduct

This Policy prohibits Sexual Misconduct. For purposes of this Policy, Sexual Misconduct is defined as a form of sex discrimination, which includes Sexual and Gender Harassment, Sexual Violence, Relationship Violence, Domestic Violence, Sexual Exploitation, Sexual Intimidation, and Sex and Gender Based Stalking, as defined below.

1. Sexual and Gender Based Harassment

This Policy Prohibits Sexual and Gender Based Harassment. For purposes of this Policy, Sexual and Gender Based Harassment includes Quid Pro Quo Harassment and Hostile Environment Harassment.

a. *Quid Pro Quo Harassment*

This Policy prohibits Quid Pro Quo Harassment. For purposes of this Policy, Quid Pro Quo Harassment is defined as unwelcome conduct based on the UMBC community member's Protected Status, where submission to, or rejection of, such unwelcome conduct is used, explicitly or implicitly, as the basis for any decision affecting a UMBC community member's education, employment, or participation in a University sponsored, recognized, or approved program, visit, or activity.

b. Hostile Environment Sexual and Gender Based Harassment

This Policy prohibits Hostile Environment Sexual and Gender Based Harassment. For purposes of this Policy, Hostile Environment Sexual and Gender Based Harassment is defined as any unwelcome sexual advance, unwelcome request for sexual favors, unwelcome verbal, physical, electronic or other conduct of a sexual nature, that targets a UMBC community member because of their Protected Status, when: such conduct is sufficiently severe or pervasive that it alters the conditions of education, employment, or participation in a University sponsored, recognized, or approved program, visit, or activity; and creates an environment that a reasonable person in similar circumstances would find intimidating, hostile, humiliating, demeaning or a sexually offensive. An isolated incident, unless sufficiently severe, does not amount to Hostile Environment Sexual and Gender Based Harassment.

Hostile Environment Sexual and Gender Based Harassment is also defined as harassment for exhibiting what is perceived as a stereotypical characteristic for one's sex or gender or for failing to conform to stereotypical notions of masculinity and femininity, regardless of the individual's actual or perceived sex, gender, sexual orientation, or gender identity or expression.

2. Sexual Violence

This Policy prohibits Sexual Violence. For purposes of this Policy, Sexual Violence is defined as physical sexual acts perpetrated or attempted without consent. Sexual Violence includes, but is not limited to, rape, sexual assault, sexual battery, and sexual coercion. Sexual Violence, in any form, is a criminal act.

a. Sexual Assault I

This Policy prohibits Sexual Assault I. For purposes of this Policy, Sexual Assault I is defined as any act of non-consensual sexual intercourse (vaginal, anal, or oral). For purposes of this Policy, non-consensual sexual intercourse can occur between UMBC community members and between a UMBC community member and a Non-UMBC community member. Sexual intercourse includes vaginal or anal penetration (however slight) by a penis, object, tongue, finger, or any body part; and oral copulation involving mouth to genital or genital to mouth contact.

b. *Sexual Assault II*

This Policy prohibits Sexual Assault II. For purposes of this Policy, Sexual Assault II is defined as any act of non-consensual sexual contact (however slight) without consent. For purposes of this Policy, non-consensual sexual contact can occur between UMBC community members and between a UMBC community member and a Non-UMBC community member. Non-consensual sexual contact means any intentional touching of the intimate body parts of another person, causing another person to touch someone's intimate body parts, or disrobing or exposure of another person without consent. Intimate body parts may include genitalia, groin, breast, buttocks, or clothing covering them, or any other body part that is touched in a sexual manner. Non-consensual sexual contact also includes attempted non-consensual sexual intercourse.

3. Relationship Violence

This Policy prohibits Relationship Violence. For purposes of this Policy, Relationship Violence is defined as physical violence, coercion, threats, intimidation, isolation, stalking, or other forms of emotional, sexual, or economic abuse directed towards a person who is or has been in a social relationship of a romantic or intimate nature with a UMBC community member. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound another. Relationship Violence can be a single act or a pattern of behavior.

The existence of a social relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

4. Domestic Violence

This Policy prohibits Domestic Violence. For purposes of this Policy, Domestic Violence is defined as physical violence, coercion, threats, intimidation, isolation, stalking, or other forms of emotional, sexual, or economic abuse directed towards: a.) a UMBC community member's current or former spouse or intimate partner; b.) a person with whom the UMBC community member shares a child in common; c.) a person who is cohabitating with or has cohabitated with the UMBC community member as a spouse or intimate partner; d.) a person similarly situated to a spouse of the UMBC community member; or e.) any other person who is protected from those acts under the domestic or family violence laws of Maryland. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound another. Domestic Violence can be a single act or a pattern of behavior.

5. Sexual Exploitation

This Policy prohibits Sexual Exploitation. For purposes of this Policy, Sexual Exploitation is defined as non-consensual or abusive sexual advantage of another person for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any other non-legitimate purpose. Sexual Exploitation may take many forms, subtle and indirect or blatant and overt.

6. Sexual Intimidation

This Policy prohibits Sexual Intimidation. For purposes of this Policy, Sexual Intimidation means threatening to sexually assault another person; Sex and Gender-based Stalking, including cyber-stalking; or engaging in indecent exposure.

7. Sex and Gender Based Stalking

This Policy prohibits Sex and Gender Based Stalking (“Stalking”). For purposes of this Policy, Stalking is defined as a form of Sexual Intimidation, when there is a course of conduct that would cause a reasonable person to fear for their immediate health or safety or the safety of others, or suffer substantial emotional distress, which is directed at a specific person based upon that person’s Protected Status.

C. Retaliation

This Policy prohibits Retaliation. For the purposes of this Policy, Retaliation is defined as intimidating, threatening, coercive, or discriminatory action, inaction, conduct, or words, taken against a UMBC community member, for the purpose of interfering with any right or privilege secured by law or this Policy that is intended to discourage a reasonable person from engaging in a protected activity. Retaliation does not include petty slights and annoyances.

Protected activity includes a UMBC community member’s: good faith participation in filing, reporting, investigating, or resolving an alleged violation of this Policy; opposition to policies, practices, or actions that a UMBC community member has a good faith and reasonable belief are in violation of this Policy; providing assistance to another UMBC community member in filing or reporting an alleged violation of this Policy; or participation as a witness in an investigation of an alleged violation of this Policy. Protected activity does not include unlawful activities such as acts or threats of violence.

V. Related Concepts used in this Policy

A. Coercion

For purposes of the Policy, Coercion is defined as unreasonable pressure to persuade or compel a person to engage in any conduct or behavior, including sexual activity.

B. Complicity

For purposes of this Policy, Complicity is defined as any act that knowingly aids, facilitates, promotes, or encourages the commission of a violation of this Policy.

C. Consent

For purposes of this Policy, Consent is defined as a knowing, voluntary, and affirmatively communicated willingness to mutually participate in a particular sexual activity or behavior. It must be given by a person with the ability and capacity to exercise free will and make a rational and reasonable judgment. Consent may be expressed either by affirmative words or actions, as long as those words or actions create a mutually understandable permission regarding the conditions of sexual activity or behavior. It is the responsibility of the person who wants to engage in sexual activity or behavior to ensure that they have the consent from the other person to engage in the sexual activity or behavior.

- Consent cannot be inferred from silence, passivity, or a lack of resistance.
- There is no requirement that a UMBC community member verbally or physically resist unwelcome sexual activity or behavior.
- Consent must be present throughout the entire sexual activity or behavior and may be withdrawn at any time. Once consent is withdrawn, the sexual activity or behavior must cease immediately. If there is confusion as to whether there is consent or whether prior consent has been withdrawn, it is essential that the sexual activity or behavior cease until the confusion is resolved.
- Consent cannot be obtained by force, threat, coercion, fraud, manipulation, reasonable fear of injury, intimidation, or through the use of one's mental or physical helplessness or incapacity.
- Consent cannot be implied based upon the mere fact of a previous or existing consensual dating or sexual relationship. In the context of a current relationship, consent for future sexual activity or behavior cannot be implied.
- Consent to one form of sexual activity or behavior cannot automatically imply consent to engage in other forms of sexual activity or behavior.

D. Group Infractions

For purposes of this Policy, Group Infractions are defined as members of a group, organization, team, or individuals acting collusively, who commit an act that constitutes Prohibited Conduct under this Policy. The individuals may be charged as a group or individually, depending upon the specific circumstances.

E. Incapacitated or Incapacitation

For the purposes of this Policy, Incapacitation is a state in which a person's decision-making ability is impaired such that the person lacks the ability to understand the "who, what, where, why, or how" of their sexual activity or behavior. Incapacitation may result from sleep or unconsciousness, temporary or permanent mental or physical disability, or the influence of alcohol, drugs, including but not limited to, Rohypnol, Ketamine, GHB, Burundanga, and other substances used to facilitate date-rape or Sexual Misconduct, or legally prescribed medication. Incapacitation may also occur when a person is physically restrained, without their consent, so the person is physically unable to resist sexual activity or behavior.

F. Interim Protective Measures

For purposes of this Policy, Interim Protective Measures are defined as the reasonably available steps the University may take to protect UMBC community members in response to an allegation of Prohibited Conduct under this Policy.

G. Protected Status

For purposes of this Policy, Protected Status is defined as a UMBC community member's gender, gender identity or expression, sex (including pregnancy), and/or sexual orientation.

1. Gender

For purposes of this Policy, Gender is defined as a person's socially constructed status based on the behavioral, cultural, or psychological traits typically associated with societal attribution of masculinity and femininity, typically related to one's assigned sex at birth.

2. Gender Identity or Expression

For purposes of this Policy, Gender Identity or Expression is defined as a person's actual or perceived gender identity, self-image, appearance, behavior, or expression, regardless of whether that identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the person's gender at birth.

3. Pregnancy

For purposes of this Policy, Pregnancy is defined as a range of matters concerning the childbearing process, including current pregnancy, past pregnancy, potential or intended pregnancy, and medical conditions related to pregnancy or childbirth.

4. Sex

For purposes of this Policy, Sex is defined as an individual's biological status of male or female.

5. Sexual Orientation

For purposes of this Policy, Sexual Orientation is defined as the identification, perception, or status of an individual as to homosexuality, heterosexuality, or bisexuality.

H. Reporting Party

For purposes of this Policy, Reporting Party is defined as the UMBC community member, who has been subjected to conduct that constitutes Prohibited Conduct under this Policy, regardless of whether the Reporting Party makes a report or seeks redress under this Policy.

I. Responding Party

For purposes of this Policy, Responding Party is defined as the UMBC community member, group, organization, team, or individuals acting collusively, alleged to have committed an act that constitutes Prohibited Conduct under this Policy.

VI. University Employee Reporting Obligations

The University values the privacy of its students, faculty, and staff and will make every effort to respect and safeguard the information they share. Information related to a report made under this Policy will only be shared with others, on a limited need-to-know basis. However, pursuant to federal and state law, in some circumstances, certain UMBC community members have specific reporting obligations.

A. Confidential Resources

The University understands that some individuals may not be prepared to make a report to law enforcement or to the University. Therefore, the University has Confidential Resources available to provide confidential counseling, crisis support, medical care, and/or advocacy services for UMBC community members affected by an incident of Prohibited Conduct.

Pastoral Counseling: Professional, licensed, ordained clergy, who provide pastoral counseling to members of the UMBC community at the University are Confidential Resources.

Professional Licensed Mental Health Providers: Professional, licensed mental health providers who provide mental-health counseling to members of the UMBC community, and also those who act in roles under the supervision of a licensed counselor, through the Counseling Center (for students) and the Employee Assistance Program (for employees) are Confidential Resources. Conversations with these Confidential Resources will remain confidential, *except*, when there is clear and imminent danger that someone's life is at risk, there is apparent or suspected abuse of a child or dependent adult; or there is a legal obligation to reveal such information under enforceable court order.

Notification to any of the Confidential Resources, identified above, does not constitute notice to the University nor does it trigger an obligation on the part of the University to investigate the alleged Prohibited Conduct.

B. Quasi-Confidential Resources

Non-Licensed Counselors, Non-Licensed Healthcare Providers, and/or Advocates who work or volunteer at the Counseling Center, University Health Services, Voices Against Violence, or Women's Center are Quasi-Confidential Resources. Conversations with these Quasi-Confidential Resources can remain confidential *unless*, there is a continuing threat of harm, as determined in the sole discretion of the University, or there is a legal obligation to reveal such information (for example in cases of mandatory reporting related to abuse or neglect of minors or in response to a legally sufficient subpoena). Further, Quasi-Confidential Resources may report incidents of Prohibited Conduct under this Policy, without any identifying information and will send the reports to the University's Title IX Coordinator.

C. Responsible Employees

The University recognizes that some UMBC community members may be most comfortable disclosing information about an incident of Prohibited Conduct to someone they know. Many University employees have been designated as Responsible Employees.

For purposes of this Policy, a Responsible Employee is defined as including any UMBC community member who (1) has the authority to take action regarding Prohibited Conduct covered under this Policy; (2) is an employee who has been given the duty of reporting Prohibited Conduct under this Policy; or (3) is someone another UMBC community member could reasonably believe has this authority or duty.

Responsible Employees are Non-Confidential which means they will safeguard the UMBC community member's privacy, however **they are required to immediately** share the known details of an incident of Prohibited Conduct (date, time, location, names of parties involved, description of the incident, etc.), to the Title IX Coordinator and other need-to-know University officials. Responsible Employees will try to ensure that any UMBC community member making a disclosure to a Responsible Employee, understands the Responsible Employee's reporting obligations. Those identified below have been designated as Responsible Employees:

- Title IX Coordinator
- All Title IX Team Members
- All employees in Human Resources
- All employees in the Office of the General Counsel
- All University Police
- All UMBC Administrators (President, Provost, Vice Presidents, Vice Provosts, Deans, Associate Deans, Directors, Department Chairs)
- All UMBC Supervisors (excluding Supervisory Confidential Resources)
- All UMBC Faculty (including Adjuncts)
- All UMBC Graduate Assistants
- All UMBC Academic Advisors
- All UMBC Athletic Coaches (including Volunteer Coaches), Trainers, and Advisors
- All UMBC Resident Assistants
- All UMBC First Responders (excluding First Responders who are Confidential Resources)

D. Disclosures to Others on Campus Not Designated As Confidential or Quasi-Confidential Resources or Responsible Employees

All members of the UMBC community are strongly encouraged to forward all information received about an incident of Prohibited Conduct to the Title IX Coordinator and/or other Designated Responsible Employees. However, if a UMBC community member receives information about a child being abused or neglected, this information must be immediately reported, as explained in more detail under Section II. C of this Policy.

VII. Reporting Prohibited Conduct

The University has a variety of welcoming and accessible ways for UMBC community members to raise concerns and report instances of Prohibited Conduct. While there are multiple reporting options available across the University, the University recognizes that centralized reporting is an important tool in addressing, ending, and preventing Prohibited Conduct under this Policy. The University encourages UMBC community members to report and/or seek support, regardless of when or where an incident occurred.

The University understands that at the time a report is made, the Reporting Party may only want to seek resources and support and may not be prepared to decide what steps in the process they want to take. Choosing to make a report and informing the University of the Reporting Party's preferred method of addressing the report, can unfold over time as the process proceeds. The University recognizes that the decision whether or not to make a report of Prohibited Conduct is personal, and that there are many barriers and influences, both individual and societal, to reporting. A Reporting Party can choose to pursue both a report under this Policy and a criminal investigation at the same time.

A. Making a Report to a Designated Responsible Employee

Under the Policy, a Reporting Party can make a report to the University by telling a **Designated Responsible Employee** what happened, in-person, by telephone, in writing, by e-mail, electronically, or anonymously. Designated Responsible Employees are Non-Confidential, which means they will disclose the known details of the incident (date, time, location, names of parties involved, description of the incident, etc.), to the Title IX Coordinator and other need-to-know University administrators.

Reports of incidents of Prohibited Conduct can be made to any of the **Designated Responsible Employees** identified below:

- Paul Dillon, University Police
410.707.6012
- Jeff Cullen, Student Judicial Programs
410.455.2453
- John Fox, Office of Residential Life
410.455.2591
- Lee Hawthorne, Office of Student Life
410.455.1745
- Stephanie Lazarus, Title IX Coordinator:
410.455.5745

B. Making a Report to a Quasi-Confidential Resource

Under the Policy, a Reporting Party can make a report to the University by telling a Quasi- Confidential Resource what happened, in-person, by telephone, in writing, by-email, electronically, or anonymously. Quasi-Confidential Resources will report incidents of Prohibited Conduct under this Policy, without sharing any identifying information to the University’s Title IX Coordinator.

Reports of incidents of Prohibited Conduct can be made to any of the following **Quasi-Confidential Resources** identified below:

- Rina Rhyne, Voices Against Violence Coordinator
410.455.3748
- Jess Myers, Women’s Center
410.455.2714

C. Anonymous Reporting

Any UMBC community member may make an anonymous report of Prohibited Conduct to the University without disclosing one’s name and without identifying the Responding Party or requesting any action. Based upon the amount of information provided about the incident and the UMBC community member’s involved, the University’s response to an anonymous report may be limited.

VIII. Reporting Party Requests for Confidentiality

A Reporting Party may request that their identity is not disclosed to anyone else, including the Responding Party **or that the University not investigate or take action.** While such request may limit the University’s ability to address and respond to the reported Prohibited Conduct, in consultation with the Title IX Coordinator, the request will be taken into consideration and weighed against the University’s responsibility to provide a safe and non-discriminatory environment for all UMBC community members. However, the University will endeavor to honor any request, whenever possible, considering the totality of the circumstances. The University will promptly notify the Reporting Party whether the request can be honored, and, if not, the reasons why it cannot be honored and discuss any appropriate Interim Protective Measures.

IX. Time Frame for Resolution

The University will seek to resolve every report of Prohibited Conduct within sixty (60) calendar days after receiving the report, excluding any appeal. The time frame may be extended for good cause, as determined on a case-by-case basis, as necessary to ensure the integrity and completeness of an investigation, comply with a request by law enforcement, reasonably accommodate the availability of witnesses, reasonably accommodate delays by the parties, account for University closures, or address other legitimate reasons, including the complexity of the investigation (e.g. the number of witnesses and volume of information provided by the parties) and the severity and extent of the alleged Prohibited Conduct.

X. Amnesty

The University prohibits student conduct action (except for mandatory intervention/assessment for substance abuse) for a violation of the University's alcohol or drug use policies by a student who reports Prohibited Conduct to the University or law enforcement or participates in a matter that involves Prohibited Conduct as a witness, if the institution determines that (1) the violation occurred during or near the time of the alleged Prohibited Conduct; (2) the student made the report of Prohibited Conduct, or is participating in an investigation as a witness, in good faith; and (3) the violation was not an act that was reasonably likely to place the health or safety of another individual at risk.

XI. Co-Occurring Criminal Investigation

The filing of a report of Prohibited Conduct that constitutes Sexual Misconduct under this Policy is independent of any criminal investigation or proceeding, which means a report made to law enforcement, does not preclude a person from proceeding with a complaint of Sexual Misconduct under this Policy. The University is required to conduct an investigation in a timely manner, which means in most cases, the University will not wait until a criminal investigation or proceeding is concluded before conducting its own investigation or implementing Interim Protective Measures to protect the safety of the Reporting Party and/or the entire UMBC campus community, if necessary. However, at the request of law enforcement, the University's investigation may be delayed temporarily, during the initial evidence gathering stage of the criminal investigation, as long as the delay does not inhibit the University's ability to respond to the Prohibited Conduct in a prompt manner. If such a request is made, the University Police will submit the request in writing to the Title IX Coordinator, and the Reporting Party and Responding Party will be notified. In addition, when possible, in cases where there is a co-occurring criminal investigation by University Police, Baltimore County Police or the local prosecutor's office, the University will work collaboratively and supportively with each respective agency within the parameters outlined above.

XII. Exceptions for Public Disclosures and Certain Research-Based Disclosures

Disclosures in the following categories shall not be considered notice to the University of Prohibited Conduct for the purpose of triggering its obligation to investigate any particular incident(s):

A. Public Disclosures

Public disclosures include disclosures of incidents of alleged Sexual Misconduct during or in connection with public awareness events such as “Take Back the Night,” candlelight vigils, protests, “survivor speak-outs,” or other forums. Although such disclosures do not constitute notice to the University of Sexual Misconduct for purposes of triggering its obligation to investigate any particular incident(s), such disclosures may inform the need for campus-wide education and prevention efforts, and the University will provide information at these events about UMBC community members’ Title IX rights and about available University and community resources and support services.

B. Certain Research-Based Disclosures

Research-based disclosures include disclosures of incidents of alleged Sexual Misconduct made by a University student during such student’s participation as a subject in an Institutional Review Board-approved human subject’s research protocol. Institutional Review Boards may, however, in appropriate cases, require researchers to provide information to all subjects of a study about their Title IX rights and about available University and community resources and support services.

XIII. Clery Act Compliance and Release of Information

In handling reports related to Prohibited Conduct, the University remains responsible for complying with the requirements of the Crime Awareness and Campus Security Act of 1990 (“Clery Act”) and its amendments. The University will comply with Clery Act requirements, including crime recording and reporting requirements, where compliance is not otherwise reached by actions under this Policy.

Pursuant to the Clery Act anonymous statistical information regarding reported criminal incidents must be shared with the UMBC Police Department for inclusion in the daily crime log. This information will be included in the University’s Annual Security Report and the University may also share aggregate and non-personally identifiable data about reports, outcomes, and sanctions.

XIV. Interim Protective Measures

Interim Protective Measures are temporary actions taken by the University prior to concluding the investigation which may be applied to the Reporting Party, Responding Party, and other involved UMBC community members as appropriate to ensure their safety and well-being and to limit undeterred campus educational and employment access. Interim measures may be requested by the Reporting Party or the Responding Party, or the University can initiate the Interim Measures in the absence of a request, at any time, during the process. Individuals can make a request for Interim Protective Measures in-person or in-writing to any of the Designated Responsible Employees listed above, in Section II.

When a report is received, the University, in consultation with the Title IX Coordinator, can impose reasonable and appropriate Interim Protective Measures.

Interim Protective Measures are taken based on the information available at the time and are not intended to be permanent resolutions. Interim Protective Measures may be withdrawn or amended as additional information is discovered. The University will take appropriate, responsive, and prompt action to enforce Interim Protective Measures and to respond to any reports about the inadequacy or failure of another UMBC community member to abide by the Interim Protective Measures. The range of Interim Protective Measures can include, but are not limited to:

- Access to counseling and medical services and assistance in setting up initial appointments, both on and off campus
- Imposition of a campus “No-Contact Order”
- Rescheduling of exams and assignments
- Providing alternative course completion options
- Change in class schedule, including the ability to drop a course without penalty or to transfer sections
- Change in work schedule or job assignment
- Arranging for class incompletes, a leave of absence, or withdrawal
- Change in campus housing assignment or housing license
- Assistance from University support staff in completing University housing relocation
- Restricting access to certain University facilities, resources, or activities pending resolution of the report
- To the extent practicable, preserving eligibility for academic, athletic, or other scholarships, institution-based financial aid, or program eligibility
- Providing academic support services, such as tutoring
- University-imposed leave or suspension for the Responding Party

XV. Range of Disciplinary Actions or Sanctions

This Policy prohibits a broad range of conduct, which is serious in nature. In keeping with the University’s commitment to fostering an environment that is safe, respectful, inclusive, and free of Prohibited Conduct, this Policy allows for wide latitude in the imposition of disciplinary actions or sanctions tailored to the facts and circumstances of each report, the impact of the Prohibited Conduct on the Reporting Party and surrounding UMBC community members, and accountability for the Responding Party. The imposition of disciplinary actions (in employment context) or sanctions (in educational context) are designed to eliminate Prohibited Conduct

under the Policy, prevent its recurrence, and remedy its effects, while supporting the University's mission and federal obligations. Disciplinary actions or sanctions may include educational, restorative, rehabilitative, and punitive components. Some conduct, however, is so egregious in nature, so harmful to the individuals involved and the entire UMBC community, or so deleterious to the educational or working environment, that it requires severe disciplinary action, up to and including termination from the University or severe sanctions, up to and including dismissal from the University.

Disciplinary actions which may be imposed on faculty, staff, and student employees in the employment context, can include, but are not limited to the following: no contact orders, a letter of reprimand, censure, service to the University, counseling, retraining, transfer, demotion, suspension, and/or termination.

Sanctions which may be imposed on students in the academic context, can include, but are not limited to the following: no contact orders, housing restrictions (including removal from on-campus housing), community service, educational requirements, written warning, reprimand, probation, suspension, and/or dismissal.

Individuals who commit certain Prohibited Conduct in violation of federal, state, or local law may also be subject to criminal charges and penalties.

XVI. Agreements with Local Law Enforcement and Rape Crisis Programs

UMBC will pursue formalized agreements with (1) the local law enforcement and (2) a State designated rape crisis program and/or federally recognized sexual assault coalition. The agreement with law enforcement will comply with Title IX and clearly state when the University will refer a matter to local law enforcement. The agreement with rape crisis or sexual assault programs will formalize a commitment to provide trauma-informed services to victims/survivors of sexual assault and to improve the University's overall response to sexual assault.

XVII. University Sexual Assault Climate Survey

On or before March 1, 2016, and at least every two (2) years thereafter, the University will: (1) develop an appropriate Sexual Assault campus climate survey using nationally recognized best practices for research and climate surveys; and (2) administer the Sexual Assault campus climate survey to students in accordance with the procedures set by the Maryland Higher Education Commission (MHEC). On or before June 1, 2016, and at least every two (2) years thereafter, each institution shall submit to MHEC a report in accordance with the requirements set forth in Md. Code Annotated, Education Article, Section 11-601(g).

XVIII. University Procedures for Responding to Reports of Prohibited Conduct

Procedures for Reports of Prohibited Conduct against Students: Reports alleging Prohibited Conduct by students under this Policy shall be reviewed in accordance with the Procedures for Reporting and Responding to Reports of Sexual Misconduct and Other Related Misconduct when the Responding Party is a Student.

Procedures for Reports of Prohibited Conduct against Staff: Reports alleging Prohibited Conduct by staff under this Policy shall be reviewed in accordance with the Procedures for Reporting and Responding to Reports of Sexual Misconduct and other Related Misconduct when the Responding Party is Staff.

Procedures for Reports of Prohibited Conduct against Faculty: Reports alleging Prohibited Conduct by faculty under this Policy shall be reviewed in accordance with the Procedures for Reporting and Responding to Reports of Sexual Misconduct and other Related Misconduct when the Responding Party is Faculty.

Procedures for Reports of Prohibited Conduct against Interns, Contractors, Volunteers, Guests, Visitors, and/or Other Third Parties: If a member of the UMBC community is subjected to Prohibited Conduct under this Policy by an intern, contractor, volunteer, guest, visitor, or other third party, the University can/may request that a formal letter be issued to deny their access to the University. The University is authorized to deny campus access to third-parties who engage in disruptive behavior under Maryland State Law, §§ 26-101 and 26-102, Education Article, Annotated Code of Maryland.

XIX. Title IX Coordinator and Title IX Team

Pursuant to Title IX of the Education Amendments of 1972 and the U.S. Department of Education's implementing regulations at 34 C.F.R. Part 106, the University's Title IX Coordinator has primary responsibility for coordinating the UMBC's efforts to comply with and carry out the University's responsibilities under Title IX, which prohibits sex discrimination in all the operations of the University, as well as retaliation for the purpose of interfering with any right or privilege secured by Title IX. The Title IX Coordinator oversees the University's response to reports and complaints that relate to Prohibited Conduct involving UMBC community members, to monitor outcomes, identifies and addresses any patterns, and assesses effects on the campus climate, so the University can address issues that affect the wider campus community. The Title IX Coordinator is also responsible for leading the University's Title IX Team, which may include Deputy Title IX Coordinators, Title IX Investigators, members from University Police, Student Affairs, the Provost's Office, Human Resources, and other campus members who work with matters of gender equity and/or sexual violence.

XX. Educational and Prevention Programs and Training

The University's Division of Student Affairs, Women's Center, Office of Human Relations, Human Resources, and other campus partners offer educational and prevention programs to promote the awareness and prevention of incidents of Prohibited Conduct. The educational and prevention programs include an overview of the University's policies and procedures; discussion of the impact of alcohol and illegal drug use; safe and positive options for bystander intervention; and information about risk reduction.

The University's Voices Against Violence ("VAV") program addresses all aspects of sexual violence prevention, response, and referral and further serves as a coordinated and collaborative campus resource. The VAV program has established a University protocol for receiving and responding to reports of sexual violence. University-wide training regarding the VAV protocol is provided throughout the year and is available for groups, upon request.

The University sponsors the Peer Health Educators program which partners students with the University's Health Services to provide educational programs about sexual violence to residence halls, classes, sports teams, and greek organizations. Further, the University supports the "I Deserve" campaign, which raises awareness about relationship violence, and the "What Is Your Green Dot" campaign, which provides awareness and training regarding bystander intervention.

Further, incoming first year and transfer students and new employees will receive primary prevention and awareness training as part of their orientation. Returning students and employees will also have ongoing opportunities for training and education.

Also, all persons involved in any way in responding to, investigating, or adjudicating reports involving Prohibited Conduct, including but not limited to, the Title IX Team, Responsible Employees, law enforcement, pastors, counselors, health professionals, resident advisers, and on-campus advocates, must have annual training in receiving, reporting and handling complaints of Prohibited Conduct; must be familiar with the University's procedures; and must understand the parameters of confidentiality.

XXI. Record Keeping

The University will keep records of Prohibited Conduct matters, including, but not limited to records of any (1) complaints/ reports of Prohibited Conduct; (2) investigation, adjudication and resolution of complaints; (3) training (including, but not limited to, lists of trainees, training dates and content); and (4) related surveys and reports. Records will be maintained in accordance with the University's Records Retention Schedule.

XXII. Related Policies

University of Maryland, Baltimore County Policy on Amorous and Sexual Relationships, Revised July 1, 2004.

XXIII. External Reporting Agencies

In addition to or as an alternative to the University's procedures for reporting Prohibited Conduct, reports of Prohibited Conduct, may be filed with the following agencies:

- Equal Employment Opportunity Commission (EEOC)
City Crescent Building
10 S. Howard Street, Third Floor
Baltimore, Maryland 21201
Phone: 1.800.669.4000
Fax: 410.962.4270
TTY: 1.800.669.6820
Website: www.eeoc.gov
- Maryland Commission on Civil Rights (MCCR)
William Donald Schaefer Tower
6 St. Paul Street, Ninth Floor
Baltimore, Maryland 21202
Phone: 410.767.8600
Fax: 410.333.1841
TTY: 410.333.1737
Website: www.mccr.maryland.gov
- Office for Civil Rights
U.S. Department of Education
The Wanamaker Building
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Phone: 215.656.8541
Fax: 215.656.8605
TDD: 1.800.877.8339
Email: OCR.Philadelphia@ed.gov
Website: http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html

- Reporting parties who wish to file complaints with these external agencies should make contact as soon as possible, to verify any applicable filing time limits and deadlines.

13.8 RESOURCES FOR SEXUAL MISCONDUCT AND OTHER RELATED MISCONDUCT

13.8.1. How to Get Help in the Event of an Emergency

Because Sexual Misconduct may constitute both a violation of this Policy and criminal activity, the University encourages all students, faculty, staff, and community members affected by Sexual Misconduct to seek **Immediate Assistance** from the University Police or a local law enforcement agency. University police may also be contacted directly, by using the Blue Light emergency phones, located throughout the UMBC campus along sidewalks and buildings. Additionally, individuals can call 410.455.3133 if they are in need of a University escort on campus.

Emergency Response:

Emergency Law Enforcement:	Call 911
University Police (assistance provided 24 hours a day, 7 days a week):	410.455.5555
Baltimore County Police Department:	410.887.2214

On-Campus Support and Resources for Students:

Confidential Support and Resources:

University Health Services:	410.455.2542
Counseling Center:	410.455.2472

Quasi Confidential Support and Resources:

Voices Against Violence: 410.455.3748

Women's Center: 410.455.2714

On-Campus Support and Resources for Faculty and Staff:

Employee Assistance Program (INOVA):	1.800.346.0110
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Additional Resources*:

Greater Baltimore Medical Center (GBMC)

6701 North Charles Street

Baltimore (Towson), MD 21204

SAFE Program:	443.849.3323
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Emergency Room:	443.849.2226
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Mercy Hospital

301 Saint Paul Street

Baltimore (City), MD 21202

SAFE Program:	410.332.9499
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Emergency Room:	410.332.9477
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Howard County General Hospital

5755 Cedar Lane

Columbia, MD 21044

Emergency Room and SAFE Program:	410.740.7778
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*If you are interested in a free Sexual Assault Forensic Exam (SAFE) exam, it should happen within 120 hours/5 days of the assault and, if possible, before showering, using the bathroom, and changing or washing clothes. The University Health Services, Voices Against Violence, or University Police can arrange for free transportation for a SAFE exam.

Helplines

Hopeworks (Columbia, MD)	410.997.0304 or 1.800.752.0191 (24-hr hotline)
TurnAround, Inc. (Baltimore City and Towson, MD)	443.279.0379 (24-hr hotline)
Baltimore County Domestic Violence Referral Program	410.828.6390 (24-hr hotline)
Rape, Abuse, Incest National Network (RAINN) Sexual Assault	1.800.656.4673 (24-hr hotline)
	Online chat hotline: https://ohl.rainn.org/online/
National Domestic Violence Hotline	1.800.799.7233 (24-hr hotline)
	Online chat hotline: http://www.thehotline.org
Family & Children's Services (Catonsville, MD)	410.281.1334

Website Resources (Campus, Local, and National)

Voices Against Violence at UMBC <http://vav.umbc.edu/>
Relationship Violence Awareness & Prevention (RVAP) at UMBC <http://rvap.umbc.edu/>
Turnaround, Inc, a local sexual assault and domestic violence center www.turnaroundinc.org
House of Ruth, local domestic violence provider www.houseofruth.org
Maryland Network Against Domestic Violence www.ndvh.org
Maryland Coalition Against Sexual Assault www.mcasa.org
National Sexual Assault Hotline www.rainn.org
National Sexual Violence Resource Center www.nsvrc.org
Gay and Lesbian National Hotline www.glnh.org
Assistance for Stalking Victims <http://stalkingvictims.com/>

The contact information for the resources listed was confirmed at the time the Policy was amended, effective August 26, 2015. The contact information will be periodically updated, however, up to date contact information and additional resources can always be found at the University's website <http://umbc.edu/>

13.9 MAINTENANCE OF PUBLIC ORDER

(Section headings and paragraph style adapted to the format of this *Handbook*)

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 infringed 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.
3. Censure: Written reprimand for violation of specified regulation.
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.

1. Censure: Written reprimand for violating specific regulation.
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

([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.⁵

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 Sciences⁶, the Graduate School, the College of Engineering⁷; 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 senate⁸ 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

⁶The 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.

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

⁸The 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 be 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, Analysis & Decision Support.

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 IO, 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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