Policy Revision in response to the U.S. Dept. of Education's Final Regulations for Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance

Frostburg State University

FROSTBURG STATE UNIVERSITY POLICY ON SEX DISCRIMINATION

PURPOSE AND APPLICABILITY

Frostburg State University is a University System of Maryland Institution. As such the University fully adheres to all provisions of the University System of Maryland (USM) policy and procedure regarding Sex Discrimination, as noted below, and published under VI-1.60 - UNIVERSITY SYSTEM OF MARYLAND POLICY ON SEX DISCRIMINATION.

The University System of Maryland (USM) is committed to providing a working and learning environment free from Sex Discrimination through training, education, prevention programs, and policies and procedures that promote prompt reporting, prohibit Retaliation, and promote timely, fair, and impartial investigation and resolution in a manner that eliminates the Sex Discrimination, 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. This Policy applies to all conduct occurring within an institution's Education Program or Activity. This Policy addresses the obligations of USM institutions and the USM Office (together, the Institutions) to address Sex Discrimination prohibited by Title IX of the Education Amendments of 1972 (Title IX) and Sex Discrimination prohibited by other federal laws and Maryland law. Federal regulations implementing Title IX require that institutions implement certain procedures when they obtain information about conduct that may reasonably constitute Sex Discrimination. For conduct covered by this Policy but not prohibited under Title IX, Institutions may choose to provide alternative policies and procedures for the adjudication of complaints.

POLICY STATEMENT

Frostburg State University (the "University") values diversity, mutual respect, integrity, and responsibility. To that end, the University is firmly committed to maintaining a learning and workplace environment free from Gender-Based Harassment, Sexual Misconduct, Relationship Violence, Stalking, Complicity, and Retaliation (collectively, "Prohibited Conduct"). Because Prohibited Conduct undermines the University's mission and jeopardizes the character and integrity of our community, Prohibited Conduct will not be tolerated and is expressly prohibited. This policy provides the expectations for maintaining a safe, inclusive, and nondiscriminatory environment and the process for reporting and resolving alleged violations of the policy. Students, faculty, and staff who violate this policy may face disciplinary action up to and including expulsion or termination from the University. The University does not discriminate on the basis of sex or gender in employment or any of its programs or activities.

Sexual harassment, sexual assault, and other categories of sexual misconduct are forms of sex discrimination that are not only prohibited under this policy but also under federal and state discrimination laws. In accordance with Title IX of the Education Amendments of 1972 ("Title IX"), the federal law that prohibits discrimination on the basis of sex in federally funded educational programs and activities and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"), this policy is designed to provide for the prompt, equitable, and impartial investigation and resolution of incidents of Prohibited Conduct. It is the responsibility of all members of the University community to create a safe and inclusive environment that is free from Gender-Based Harassment, Sexual Misconduct, Relationship Violence, and Stalking. Individuals who report violations of this policy in good-faith will be protected from Retaliation.

DEFINITIONS

For purposes of this Policy, the following definitions apply.

A. **Actual knowledge** means notice of Sexual Harassment or allegations of Sexual Harassment to FROSTBURG STATE UNIVERSITY's Title IX Coordinator or any official of FROSTBURG STATE UNIVERSITY who has authority to institute corrective measures on behalf of FROSTBURG STATE UNIVERSITY.

B. **Appellant** refers to the party who files a request for appeal.

C. **Appelle***e* refers to a party opposing an appeal.

D. **Business days** means Monday through Friday and excludes federal and state holidays

E. **Complainant** is an individual who is alleged to be the victim of Sexual Harassment.

F. **Consent** means 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. Consent may be withdrawn at any time. 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 consensual dating or sexual relationship. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.

G. **Dating Violence** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of

such a 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.

H. **Domestic Violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant, or by any other person against an adult or youth Complainant protected from those acts by domestic or family violence laws of Maryland.

I. **Education Program or Activity** includes locations, events, or circumstances over which a the University exercised substantial control over both the Respondent and the context in which the Sexual Harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University.

J. **Formal Complaint** means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that the University investigate the allegation. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the University with which the Formal Complaint is filed. A Formal Complaint may be filed in writing with the Title IX Coordinator in person, by mail, by e-mail, or through the University's online portal.

a. The phrase "document filed by a Complainant" means a document or electronic submission that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party.

K. **Incapacitation** means an individual's decision-making abilities are impaired such that the individual lacks the ability to understand the "who, what, where, why, or how" of the activity. Incapacitation may result from sleep, unconsciousness, intermittent consciousness, physical restraint, or any other state where the individual is unaware that sexual contact is occurring. Incapacitation may also exist because of a temporary or permanent mental or developmental disability that impairs the ability to Consent to sexual contact. Alcohol or drug use is one of the primary causes of Incapacitation. Where alcohol or drug use is involved, Incapacitation is a state beyond intoxication, impairment in judgment, or "drunkenness." Because the impact of alcohol or other drugs varies from person to person, evaluating whether an individual is Incapacitated, and therefore unable to give Consent, requires an assessment of whether the consumption of alcohol or other drugs has rendered the individual physically or mentally helpless.

L. **Investigator** refers to the individual(s) designated by the Title IX Coordinator to conduct a prompt, thorough, fair, and impartial investigation of incidents of Prohibited Conduct. The investigator coordinates the gathering of information to make a determination whether the Respondent is responsible for violating the Policy based on a preponderance of the evidence. Any investigator appointed by the University receives annual and ongoing training on issues related to Prohibited Conduct and how to conduct an investigation in a fair and impartial manner.

M. **Official with Authority ("OWA")** means a University administrator with authority to institute corrective measures. OWAs include the President of the University, any member of the President's Executive Staff, any academic Dean of the University, the Dean of Students, the Associate Vice President of Human Resources, the Title IX Coordinator, and the Deputy Fair Practices Officer, and Assistant Director of Complaint Resolution and Compliance.

N. **Party** *or parties* refers individually or collectively to the Complainant and/or Respondent.

O. **Prohibited Conduct** refers to conduct that is prohibited under the Policy and encompasses sexual harassment, gender-based harassment, sexual violence, sexual exploitation, sexual intimidation, relationship violence, stalking, complicity, and retaliation.

P. **Preponderance of the evidence** refers to the evidentiary standard used to determine whether a Policy violation occurred. A preponderance of the evidence means that the evidence gathered and information provided during an investigation supports a finding that it is more likely than not that the Respondent violated the Policy.

Q. **Responsible Employee** includes the Title IX Coordinator or any FROSTBURG STATE UNIVERSITY official or FROSTBURG STATE UNIVERSITY official who has the authority to institute corrective measures on behalf of FROSTBURG STATE UNIVERSITY.

R. **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.

S. **Retaliation** means intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or FROSTBURG STATE UNIVERSITY policy relating to Sexual Harassment, or because an individual has made a report or complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing related to Sexual Harassment. Retaliation includes retaliatory harassment. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or Sexual Harassment, but arise out of the same

facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of Sexual Harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes **Retaliation.**

T. **Sexual Assault** means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation:

a. **Sex Offenses**—Any sexual act including Rape, Sodomy, Sexual Assault With An Object, or Fondling directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent; also unlawful sexual intercourse.

i. **Rape—(Except Statutory Rape)** The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

ii. **Sodomy—**Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

iii. **Sexual Assault With An Object**—To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

iv. **Fondling**—The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

b. **Incest**—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

c. **Statutory Rape**—Nonforcible sexual intercourse with a person who is under the statutory age of consent.

U. **Sexual Exploitation** means taking non-consensual or abusive sexual advantage of another person for one's own advantage or benefit or for the advantage or benefit of anyone other than the person being exploited. Sexual Exploitation that is not Sexual Harassment is Sexual Misconduct.

V. **Sexual Harassment** means conduct on the basis of sex that satisfies one or more of the following:

a. An employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct;

b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the education program or activity; or
c. Sexual Assault, Dating Violence, Domestic Violence, or Stalking.

W. Sexual Intimidation means:
a. threatening to sexually assault another person;
b. gender or sex-based Stalking, including cyber-Stalking; or
c. engaging in indecent exposure.
    i. Sexual Intimidation that is not Sexual Harassment is Sexual Misconduct.

X. Sexual Misconduct is an umbrella term that includes Sexual Coercion, Sexual Exploitation, Sexual Intimidation, and Sexual Harassment that occurred outside of the United States or in locations, events, or circumstances over which a Frostburg State University did not exercise substantial control over both the Respondent and the context in which the conduct occurred.

Y. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

Z. Student Conduct Administrator refers to the Director of Student Conduct and Community Standards or designee.

AA. Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment, or deter Sexual Harassment. Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

PURPOSE AND APPLICABILITY

The Frostburg State University is committed to providing a working and learning environment free from Sexual Harassment and Misconduct through training, education, prevention programs, and policies and procedures that promote prompt reporting, prohibit retaliation, and

promote timely, fair, and impartial investigation and resolution in a manner that eliminates the Sexual Harassment and Misconduct, prevents its recurrence, and addresses its effects.

All students, faculty, and staff of Frostburg State University (including Frostburg State University regional centers), as well as the Frostburg State University Office and third parties and contractors under Frostburg State University or Frostburg State University constituent institution control, are subject to this Policy.

Federal regulations require Frostburg State University to implement certain procedures when the University obtains Actual Knowledge of Sexual Harassment in its education program or activity against a person in the United States ("Title IX Procedures)"). Frostburg State University's "education program or activity" includes locations, events, or circumstances over which a Frostburg State University exercised substantial control over both the Respondent and the context in which the Sexual Harassment occurs, and also includes any building owned or controlled by Frostburg State University or by a student organization that is officially recognized by Frostburg State University.

Frostburg State University may choose to address allegations of Sexual Misconduct, which includes Sexual Harassment that: occurred outside of the United States, impedes equal access to any FROSTBURG STATE UNIVERSITY education program or activity, adversely impacts the employment of a member of the FROSTBURG STATE UNIVERSITY community, or otherwise threatens the health or safety of a member of the FROSTBURG STATE UNIVERSITY community, through the application of other University policies outside of the jurisdiction of Title IX.

REPORTS INVOLVING MINORS OR SUSPECTED CHILD ABUSE AND NEGLECT

All members of the University community are required to comply with applicable laws and regulations regarding the reporting of child abuse and neglect. Under Maryland law, University employees who learn or have reason to believe that a child under the age of 18 has been subjected to abuse or neglect, including sexual abuse, must report this abuse or neglect to law enforcement or the appropriate child protective services agency. This reporting obligation includes past incidents of abuse or neglect – meaning individuals must report suspected child abuse or neglect even if the abuse occurred in the past and the victim is now an adult. In order to ensure compliance with the law, employees must notify University Police within 48 hours of the event that caused them to believe that a child has been subjected to abuse or neglect. University Police will take immediate steps to assist with the protection of the child and comply with all applicable legal reporting requirements.

REPORTING OPTIONS

It is important for individuals who experience Prohibited Conduct to be aware of their options in order to make informed choices when reporting their experience. The information below discusses the various options available for reporting an incident of Prohibited Conduct.

A. Reports to Law Enforcement

Individuals who experience Prohibited Conduct are strongly encouraged to report the incident to law enforcement. Reporting an incident of Prohibited Conduct to law enforcement does not preclude an individual from also reporting the incident to the University. Reports made to the University and law enforcement may be pursued simultaneously; and the outcome of one investigation does not determine the outcome of the other.

University Police can assist individuals in reporting an incident of Prohibited Conduct to the appropriate law enforcement agency. Individuals who report incidents of Prohibited Conduct to University Police should understand that University Police are Responsible Employees under this policy and will forward the report to the Office of Federal Regulatory Compliance, regardless of whether the incident constitutes a crime under the law.
Contact Information –Frostburg State University Police is located on the corner of College Avenue & University Drive**.** The police station is open 24-hours a day. In the event of an emergency, individuals should call 911. The University Police direct line however is 3016874222 or email police@frostburg.edu

Frostburg City Police is located at 37 Broadway Frostburg, Maryland 21532. In the event of an emergency, individuals should call 911 Non-emergency 3016893000.
When a Complainant wishes to pursue criminal charges related to an incident of Prohibited Conduct, the criminal investigation will most likely be handled by the Combined County Criminal Investigation Unit (C3I). C3I is the local law enforcement agency that investigates all serious crimes that occur in Allegany County.

B. Reports to the University
The University can only take corrective action and provide support when it becomes aware of a problem. Accordingly, individuals who believe they have experienced conduct that violates this policy are encouraged to promptly report the incident to the University by: • Contacting the Office of Federal Regulatory Compliance by telephone, email, mail, or in person during regular office hours: 126 Hitchins Administration Building ● titleix@frostburg.edu ● 301.687.3035 • Submitting an Online Report at www.frostburg.edu/report; or • Contacting University Police or other Responsible Employee.

When reporting an incident of Prohibited Conduct, a Complainant does not need to decide whether to request any particular course of action. Choosing to report an incident and deciding how to proceed after making the report is a process that unfolds over time. The University makes every effort to respect an individual's autonomy in how

to proceed with a report of Prohibited Conduct. Resources are available to support an individual regardless of the course of action ultimately chosen.

1. Time period for reporting
   The University does not impose a time limit for reporting incidents of Prohibited Conduct. However, individuals are strongly encouraged to report the incident as soon as possible after the incident occurred in order to maximize the University's ability to respond promptly and effectively. Delays may make it more difficult to gather relevant and reliable information and impair the University's ability to respond and take appropriate action.

2. Anonymous Reporting
   Individuals have the option of anonymously reporting an incident of Prohibited Conduct to the University. With anonymous reporting, individuals have the option of not providing their name, the identity of the perpetrator, and/or the specific details of the incident. The Title IX Coordinator receives all anonymous reports and may consult with the Title IX team on the most appropriate means to respond, which may include implementing community remedies such as targeted training or increased monitoring or surveillance.

   The University created a system for anonymous reporting as a means to encourage reporting by those who otherwise would not come forward to report Prohibited Conduct. While the University will work hard to respond and remedy the conduct alleged in an anonymous report, please understand that the University's response may be limited. There are two ways to anonymously report an incident of Prohibited Conduct:
   By Phone at 301.687.3434. Upon calling the tip line, the caller will hear a recording that directs them to leave a message containing the information they wish to share. Their message is then forwarded to the Office of Federal Regulatory Compliance. Messages left on the tip line are completely anonymous without phone numbers or names connected to them.

   Online at www.frostburg.edu/report. Individuals who wish to remain anonymous should check the "I wish to remain anonymous" box in the Reporter Information and Complainant Information sections.

   Responsible Employees cannot remain anonymous when reporting Prohibited Conduct they learn of, witness, or is disclosed to them by students or third-parties.

3. Responsible Employees
   Responsible Employees includes the Title IX Coordinator or any FROSTBURG STATE UNIVERSITY official or FROSTBURG STATE UNIVERSITY official who has the

authority to institute corrective measures on behalf of FROSTBURG STATE UNIVERSITY. Responsible Employees will safeguard an individual's privacy, but are required to immediately share all known details about alleged violations of this policy.

Responsible Employees are obligated to report allegations of Prohibited Conduct to the Office of Federal Regulatory Compliance in order for the University to provide timely support for all parties and to allow for an effective institutional response. No employee is authorized to investigate or resolve incidents of Prohibited Conduct without the involvement of the Title IX Coordinator. Responsible Employees may contact the Office of Federal Regulatory Compliance at 301.687.3035 or titleix@frostburg.edu or submit the report online at www.frostburg.edu.

The Title IX Coordinator makes every effort to work collaboratively with the Responsible Employee in order to operate with discretion and maintain privacy of the individuals involved.

4. Students
   All students who are not otherwise required to report as a Responsible Employee are strongly encouraged to report any Prohibited Conduct perpetrated by a member of the University community or occurring at a University program or activity.

5. Public
   Awareness Events and Programs Public awareness events and programs (e.g., Take Back the Night) at which students or employees disclose experiences of Prohibited Conduct are not considered notice to the University for the purpose of this policy unless the individual disclosing their experience also initiates a complaint under this policy.

6. IRB
   Approved Research Disclosures of incidents of Prohibited Conduct that are made as part of an Institutional Review Board-approved human subjects research study, including the University's campus climate study, are not considered notice to the University for the purpose of this policy unless the individual disclosing their experience also initiates a complaint under this policy.

OBTAINING HELP AND SUPPORT

Members of the University community who experience Prohibited Conduct are urged to immediately seek help. In addition to filing a report with law enforcement and the University, help also includes seeking medical treatment and obtaining confidential counseling or crisis

response. It is important for individuals who experience Prohibited Conduct attend to any physical injuries as well as their emotional well-being.

FINDING A SAFE PLACE

Prohibited Conduct, especially acts of relationship and sexual violence, can be traumatic and shatter a person's sense of security. In the immediate aftermath of an incident, it is important to seek a safe place. Individuals who are in immediate danger or seriously injured should dial 911.

SEEKING MEDICAL ATTENTION AND PRESERVING EVIDENCE

If it is safe to do so, individuals are encouraged to take precautions in order to preserve any evidence that may help with a criminal prosecution or University investigation. Regardless of whether a person intends to file criminal charges, they are encouraged to obtain a forensic medical exam in order to preserve evidence that may be on their body and clothes. A forensic examination will allow a trained healthcare professional to assess the individual's medical needs and collect evidence that can later be used if the person decides to pursue a criminal complaint. UPMC Western Maryland, located at 12500 Willowbrook Road, Cumberland, Maryland 21502, has specially-trained nurses who can perform a forensic exam and provide medical care to individuals who have experienced sexual violence.

If possible, individuals should refrain from showering or bathing, brushing their teeth, washing their hands, and urinating or defecating. The best way to preserve evidence is to go to the hospital in the clothing worn at the time of the assault. Individuals who end up changing their clothes should take the clothes worn during the assault with them to the hospital. Try to use a paper bag to store any clothing rather than a plastic bag, which can degrade or contaminate forensic evidence. In addition to the physical evidence on the body and clothes, evidence may also include texts, emails, voicemail messages, social network postings, photographs, and written documents such as cards, notes, and letters. Individuals should preserve this evidence as well in order to assist investigators if a person decides to file a complaint with law enforcement and/or the University.

Individuals who experience sexual violence are encouraged to be examined by a healthcare professional even if they have no visible injuries and do not want a forensic exam. Individuals may go to Western Maryland Regional Medical Center and have a medical exam performed without having any forensic evidence collected. In addition, students can go to Brady Health Center, located on campus, where medical staff can perform a physical exam and screen and provide treatment for STIs and pregnancy.

OBTAINING SUPPORT

It is important to find people who can provide support after experiencing a form of Prohibited Conduct. Individuals may use any of the resources listed below to access confidential assistance or to explore reporting options without initiating further action from the University. This means that Confidential Employees and the other resources listed below will not share information about an individual (including whether that individual has received services) without the individual's consent, unless there is an imminent threat of harm to self or others. Individuals who choose to discuss incidents of Prohibited Conduct with Confidential Employees or utilize only Confidential Resources should understand that the University will not be able to conduct an investigation into the particular incident, or pursue disciplinary action against the alleged perpetrator, unless the incident is reported to the Office of Federal Regulatory Compliance directly by the victim, law enforcement, or someone who does not have the obligation to keep it confidential.

Individuals who initially choose only to disclose Prohibited Conduct to Confidential Employees or Confidential Resources may report the incident to the Office of Federal Regulatory Compliance or law enforcement at a later time to initiate an investigation.

On-Campus Resources

Counseling and Psychological Services (CAPS). Cumberland Hall, 101 Braddock Road ● Frostburg, Maryland 21532 301.687.4234, caps@frostburg.edu

CAPS is staffed by trained counselors who can provide confidential support and assistance to current students. CAPS offers individual and group counseling for those who experience sexual misconduct, relationship violence, and stalking as well as to students who may need support in assisting a friend who is a survivor. There is no cost for counseling services. Counselors are available from 8:00 am to 4:30 pm Monday through Friday.

Brady Health Center. 101 Braddock Road, Frostburg, Maryland 21532, 301.687.4310, bradyhealth@frostburg.edu

Brady Health Center is staffed by confidential licensed healthcare providers. The health center offers complete physical exams, screening and treatment for sexually transmitted infections (STIs), emergency contraception, and pregnancy tests. The closest hospital that can conduct a forensic medical examination is Western Maryland Regional Medical Center in Cumberland. Students who have been sexually assaulted may go to Brady Health Center to learn more about their options regarding a forensic exam and a Brady Health staff member can contact the hospital in order to have a forensic nurse ready for the student's arrival. The University can also arrange transportation to the hospital for any student wanting a forensic medical examination performed.

Reverend Elijiah Ferebee – United Campus Ministry, 301.687.7490 REV-e.ferebee@frostburg.edu

Reverend Ferebee is available for students, faculty, and staff to discuss religious, spiritual, and personal issues.

Off-Campus Resources

Family Crisis Resource Center (FCRC) ●301.759.9244 (24-hour helpline)

FCRC offers a 24-hour helpline and emergency shelter for survivors of relationship and sexual violence. FCRC also has trained counselors and advocates to assist individuals who may have experienced sexual misconduct, relationship violence, and stalking. They offer advocacy and accompaniment, individual and group counseling, and crisis intervention services. In addition to their office and emergency shelter in Cumberland, FCRC has a satellite office in Frostburg, located at 62 Frost Village Road. Individuals wishing to speak to a confidential FCRC advocate or counselor can call the 24-hour helpline to make an appointment for either the Cumberland or Frostburg location.

UPMC Western Maryland
12500 Willowbrook Road ● Cumberland, Maryland 21502 ●240.964.7000

UPMC Western Maryland is the designated hospital in Allegany County with a certified forensic nurse examiner who can perform a forensic medical exam for sexual assault survivors. There is no charge for a forensic medical examination and survivors have the option of reporting the assault to the police or can remain anonymous and have the evidence held for a time with no personal identifying information.

Allegany Law Foundation, Inc. 110 Greene Street ● Cumberland, Maryland 21502
●301.722.3390

The Allegany Law Foundation is a legal services program assisting low-income clients in civil cases in Allegany County. Assistance includes referrals to pro bono attorneys and representation by contract attorneys providing reduced fee assistance through legal clinics and court representation. Eligible clients are provided assistance with their cases at no costs. Individuals interested in legal services can call Allegany Law during their client intake hours, Monday through Thursday 9:00 am to noon. Office of the

Allegany County Public Defender 248 North Mechanic Street ● Cumberland, Maryland 21502 ●301.777.2142 The Office of the Public Defender provides low-cost representation for individuals in criminal cases.
Office of the Allegany County State's Attorney 59 Prospect Square, Suite 111 ●Cumberland, Maryland 21501 ●301.777.5962

The Office of the State's Attorney prosecutes crimes occurring in Allegany County and provides victim/witness assistance.

Other Community Resources

Maryland Coalition Against Sexual Assault (MCASA) ● www.mcasa.org

MCASA has valuable information and resources on its website for sexual assault survivors, including the locations of rape crisis and recovery centers located across the state of Maryland so survivors can find help when they are home and away from the campus.

Sexual Assault Legal Institute (SALI) ● www.mcasa.org/for-survivors/sali/

SALI provides legal services to sexual assault survivors in the state of Maryland.

Maryland Criminal Injuries Compensation Board
●http://www.dpscs.state.md.us/victimservs/cicb/index.shtml

Provides aid and assistance to victims of crime such as reimbursement for medical and dental expenses, counseling expenses, loss earnings, disability, and crime scene clean up.

The Pro Bono Counseling Project (PBCP) ●1.877.323.5800

PBCP links Maryland individuals and families with limited resources with licensed mental health professionals who can provide counseling and therapy at no cost.

National Sexual Assault Hotline• 1.800.656.HOPE (4673) ● https://ohl.rainn.org/online The National Sexual Assault Hotline was created by the Rape, Abuse & Incent National Network (RAINN). It provides 24- hour confidential support and referral information for survivors. Individuals can also use online instant messaging to connect with a confidential support specialist.

National Domestic Violence Hotline ●1.800.799.SAFE (7223)

The National Domestic Violence Hotline operates 24-hour confidential and free support for survivors. Individuals who have experienced abuse, have abused, or are trying to help a friend in an abusive relationship can speak with an advocate via telephone or instant message.

Tahirih Justice Center • 571.282.6161• http://www.tahirih.org/

The Tahirih Justice Center works to protect immigrant women and girls seeking justice in the United States from gender-based violence. Tahirih provides holistic legal services, case

management, advocacy, and education. It can assist domestic violence and sexual assault survivors with adjustment to their immigration status and with family law matters.

PRIVACY AND CONFIDENTIALITY

The University is committed to protecting the privacy of all individuals involved in an incident reported under this policy. Every effort will be made to respect and safeguard the privacy interests of the individuals involved in a manner consistent with the need for a careful assessment of the allegations and any necessary steps to eliminate the misconduct, prevent its recurrence, and address its effects.

DISTINCTION BETWEEN PRIVACY AND CONFIDENTIALITY

Privacy generally means that information related to a reported incident will only be shared with a limited number of individuals "who need to know" the information in order to assist in the review, investigation and/or resolution of the incident. While not bound by confidentiality, these individuals will be discrete and respect the privacy of all individuals involved in the process. If a decision is made to pursue disciplinary action against a Respondent, information related to the report will be shared with him or her.

When the parties involved are students, information regarding a reported incident will not be shared with either party's parents or guardians unless the party has signed a waiver that complies with FERPA or there is an articulable threat to the health or safety of the party or other individuals.

While a Responsible Employee cannot offer confidentiality to an individual who discloses an incident of Prohibited Conduct, the Responsible Employee will maintain the privacy of all individuals involved by sharing the information related to the report with only those who "need to know" as outlined above.

Confidentiality means that information shared with a designated campus or community professional will only be disclosed with the individual's express written permission, unless there is an imminent threat of harm to self or others. An individual can seek confidential assistance and support by speaking with specifically designated Confidential Employees and using the Confidential Resources identified in this policy.

REQUESTS FOR CONFIDENTIALITY

When a Complainant requests that their name or other identifiable information not be shared with the Respondent or that no formal action be taken, the Title IX Coordinator, in consultation with the Title IX Team, will balance this request with the University's obligation to provide a safe and non-discriminatory environment to the Complainant and the rest of the University community. If the University honors the request for confidentiality, it will still take all

reasonable steps to investigate and respond to the report, but its ability to do so may be limited based on the nature of the Complainant's request. At times, in order to maintain safety and a non-discriminatory environment, the University will not be able to honor a Complainant's request for confidentiality. In such circumstances, the Title IX Coordinator will inform the Complainant prior to starting a formal investigation. The Complainant can choose not to participate in the University's investigation and in such cases the University's ability to meaningfully investigate the incident and/or pursue disciplinary action against the alleged perpetrator may be limited.

RELEASE OF INFORMATION

If a report made under this policy discloses a serious and immediate threat to the University community, University Police will issue a timely warning notification to protect the health or safety of the community as required by the Clery Act. This timely warning notification will not include any identifying information about the Complainant.

Pursuant to the Clery Act and state law, anonymous statistical information regarding reported criminal incidents must be shared with University Police for inclusion in the daily crime log. This information will also be included in the University's Annual Security Report and annual report to the Maryland Higher Education Commission. The University may also share aggregate and not personally identifiable data about reports, outcomes, and sanctions.

All University proceedings are conducted in accordance with the requirements of Title IX, the Clery Act, FERPA, state and local law, and University policy. No information, including the identity of the parties, will be released from such proceedings except as required or permitted by law or under University policy.

AMNESTY FOR ALCOHOL AND DRUG POSSESSION AND CONSUMPTION

Sometimes students may be reluctant to seek help after experiencing Prohibited Conduct, or reluctant to help others who may have experienced Prohibited Conduct because they fear being disciplined for underage alcohol consumption and/or consumption of other drugs. To encourage reporting, a student who reports Prohibited Conduct, either as a Complainant or third party witness, will not face disciplinary action for their consumption of alcohol or drugs at or near the time of the incident. Because alcohol and drug misuse can negatively impact a student's physical and emotional well-being, the University may still refer a student for health or medical intervention related to their alcohol or drug use.

INSTITUTIONAL OBLIGATIONS

A. Response

Once the University has Actual Knowledge of Sexual Harassment in its education program or activity against a person in the United States, the University must respond promptly in a manner that is not deliberately indifferent. A response is "deliberately indifferent" if it is clearly unreasonable in light of the known circumstances.

B. Title IX Compliance Oversight

1. Title IX Coordinator

Frostburg State University shall designate a Title IX Coordinator responsible for coordinating the University's efforts to comply with and carry out its responsibilities under Title IX and this Policy.

The Title IX Coordinator must have adequate training on the requirements of Title IX and this Policy, including the definition of Sexual Harassment, the scope of the University's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias, what constitutes Sexual Misconduct, Consent, credibility assessments, and counter-intuitive behaviors resulting from Sexual Misconduct.

The Title IX Coordinator must understand how relevant University policies and procedures operate and must receive notice of all reports raising Title IX issues at the University.

The contact information for the Title IX Coordinator and the University's nondiscrimination policy must be prominently be displayed on its website and in each handbook or catalog that are made available to persons entitled to a notification. The University must notify applicants for admission and employment, students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the University, of the name or title, office address, electronic mail address, and telephone number of the Title IX Coordinator.

The Title IX Coordinator is responsible for coordinating the effective implementation of remedies, including Supportive Measures.

The Title IX Coordinator for Frostburg State University works in the Office of Federal Regulatory Compliance, located in 126 of the Hitchins Administration Building, 101 Braddock Road, Frostburg, MD 21532. The Title IX Coordinator may be reached by calling 3016873035, or via email at titleix@frostburg.edu.

2. Title IX Team

The University shall have a Title IX Team, which may include the Title IX Coordinator, Title IX investigators, and representatives from campus safety, Student Affairs, the Provost's Office, and Human Resources. The Title IX Coordinator shall be responsible for coordinating the activities of the Title IX Team. Any member of the Title IX Team may be reached by contacting the Office of Federal Regulatory Compliance, located in 126 of the Hitchins Administration Building, 101 Braddock Road, Frostburg, MD 21532, by phone at 3016873035, or via email at titleix@frostburg.edu.

C. Notice of Nondiscrimination

1. **Content.** The University must publish The University's notice of nondiscrimination that contains the following content:

    a. Title IX prohibits the University from discriminating on the basis of sex in its education program and activities and the requirement not to discriminate extends to admission and employment;

    b. Inquiries concerning the application of Title IX may be referred to the University's Title IX Coordinator or to the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both; and

    c. The Title IX Coordinator and any Title IX Team Member's title, office address, telephone number and email address. The University's web site must be kept up to date with the name of the University's current Title IX Coordinator.

2. **Dissemination of Notice.** The notice must be widely distributed to all students, employees, applicants for admission and employment, and other relevant persons (including all unions or professional organizations holding collective bargaining or professional agreements with the University). The notice must be prominently displayed on the University's web site and at various locations throughout the campus, and must be included in publications of general distribution that provide information to students and employees about the University's services and policies. The notice should be available and easily accessible on an ongoing basis.

D. **Clery Act Compliance**

In handling Sexual Misconduct reports, the University remains responsible for complying with the requirements of the Crime Awareness and Campus Security Act of 1990 ("Clery Act") and its amendments. Frostburg State University must comply with Clery Act requirements, including crime recording and reporting requirements, where compliance is not otherwise reached by actions under this policy.

E. **Agreements with Local Law Enforcement and Rape Crisis Programs**

The University must, at a minimum, pursue formalized agreements with (1) local law enforcement agencies and (2) The Family Crisis Resource Center (FCRC), as the State designated rape crisis program and/or federally recognized sexual assault coalition. Agreements with law enforcement agencies must comply with Title IX and will clearly state when the University will refer a matter to a local law enforcement agency. Agreements with FCRC must formalize a commitment to provide trauma-informed services to victims of sexual assault and to improve the University's overall response to sexual assault.

TRAINING

A. Prevention and Awareness Education

The University must develop and implement preventive education, directed toward both employees and students, to help reduce the occurrence of Sexual Misconduct. At a minimum, these educational initiatives must contain information regarding what constitutes Sexual Misconduct, definitions of consent and prohibited conduct, the University's procedures, bystander intervention, risk reduction, and the consequences of engaging in Sexual Misconduct. These educational initiatives shall be for all incoming students and new employees. The University also must develop ongoing prevention and awareness campaigns for all students and employees addressing, at a minimum, the same information. Educational initiatives for employees shall comply with Md. Code Ann., State Pers. & Pens. § 2-203.1.

B. Training for Persons Involved in Title IX Sexual Harassment Cases

The University must ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the definition of Sexual Harassment, the scope of the University's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

The University must ensure that decision-makers receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant.

The University also must ensure that investigators receive training on issues of relevance to create investigative reports that fairly summarize relevant evidence.

Training materials must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

CAMPUS SEXUAL ASSAULT CLIMATE SURVEY

On or before March 1, 2016, and at least every two (2) years thereafter, the University shall: (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 MHEC. On or before June 1, 2016, and at least every two (2) years thereafter, the University shall submit to MHEC a report in accordance with the requirements set forth in Md. Code Ann., Educ. § 11-601(g).

RECORDKEEPING FOR TITLE IX SEXUAL HARASSMENT CASES

The University must maintain, for seven years, records of:

1. Each Sexual Harassment investigation, including any determination regarding responsibility and any audio or audiovisual recording or transcript required, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to the education program or activity;
2. Any appeal and the result therefrom;
3. Any informal resolution and the result therefrom; and
4. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

The University must make these training materials publicly available on its website.

The University must create and maintain for seven years records of any actions, including any Supportive Measures, taken in response to a report or Formal Complaint of Sexual Harassment. In each instance, the University must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access

to its education program or activity. If the University does not provide a Complainant with Supportive Measures, then it must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the University in the future from providing additional explanations or detailing additional measures taken.

Procedures for Investigating and Resolving Reports of Prohibited Conduct

Individuals who experience Prohibited Conduct are encouraged to explore all available options for resolution, including resolution under these Procedures and with law enforcement. The University and criminal justice processes are not mutually exclusive; and an individual can choose to pursue both a report under these Procedures and criminal investigation at the same time.
These Procedures should be read in conjunction with the Policy. These Procedures replace all procedures previously in effect pertaining to reports and complaints of Prohibited Conduct.

NO CONFLICT OR BIAS

These procedures require that any individual designated as a Title IX Coordinator, investigator, decisionmaker, or any person designated to facilitate an informal resolution process, not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

RIGHTS OF THE PARTIES

These Procedures are designed to provide for the prompt, equitable, and impartial investigation and resolution of incidents of Prohibited Conduct reported to the University. All procedural rights will be afforded equally to the parties. Throughout this process the Complainant and the Respondent have the following rights:

Complainant's Rights

- The right to be treated with dignity and respect by University officials.
- The right to experience a safe living, educational, and work environment.
- The right to be informed in writing `of available on and off campus counseling and support services.
- The right to working, housing, and academic accommodations as necessary.
- The right to have an advisor of one's choice present at any meeting or proceeding held as part of the process to resolve a complaint of Prohibited Conduct.
- The right not to face disciplinary action for consumption of alcohol or drugs at or near the time of the reported incident of Prohibited Conduct.
- The right to be free from retaliation.

- The right to be notified in writing, of the availability of interim measures.
- The right, where possible, to not be negatively impacted by the interim measures employed by the University.
- The right to have complaints investigated and/or resolved in substantial accordance with these Procedures.
- The right to refuse to have a complaint resolved through Voluntary Resolution.
- The right to challenge an individual designated by the University to investigate and/or resolve the complaint based upon a conflict of interest.
- The right to have a complaint investigated by individuals who receive annual training on sexual misconduct, relationship violence, and stalking.
- The right to be promptly notified in writing of the outcome of a complaint.
- The right to be provided regular updates about the status of a complaint or reported incident.
- The right not to be discouraged by University officials from reporting an incident to law enforcement.
- The right to request a "no contact" order/directive be put in place and enforced.
- The right to review all evidence and witness statements collected as part of the investigation of a complaint.
- The right to be free from direct questioning by the Respondent during any part of the resolution process.
- The right not to have irrelevant prior sexual history discussed during the investigation and resolution process.
- The right to submit an impact statement and have that statement considered in determining sanction(s).
- The right to appeal an investigator's determination and/or sanctions imposed upon the Respondent.
- The right to meet with the University's Title IX Coordinator at any point in the process.

Respondent's Rights

- The right to be treated with dignity and respect by University officials.
- The right to be presumed not responsible for violating the Policy and for an outcome

based solely on the evidence presented during the investigation and resolution of a complaint.

- The right to be informed, in writing, of available on and off campus counseling and support services.
- The right to a written summary of the allegations, the range of potential Policy violations, and the range of potential disciplinary sanctions.
- The right to have an advisor of one's choice present at any meeting or proceeding as part of the process to resolve a complaint of Prohibited Conduct.
- The right to have complaints investigated and/or resolved in substantial accordance with these Procedures.
- The right to refuse to have a complaint resolved through Voluntary Resolution.
- The right to be free from retaliation.
- The right to a prompt, fair, and impartial investigation and resolution of all complaints of Prohibited Conduct.
- The right to be free from direct questioning by the Complainant during any part of the resolution process.
- The right to review all the evidence and witness statements collected as part of the investigation of a complaint.
- The right not to have irrelevant prior sexual history discussed during the investigation and resolution process.
- The right to submit a mitigation statement and to have that statement considered in determining sanction(s).
- The right to challenge an individual designated by the University to investigate and/or resolve the complaint based on conflict of interest.
- The right to be promptly notified in writing of the outcome of the complaint.
- The right to be provided regular updates about the status of a complaint.
- The right to have the complaint investigated by individuals who receive annual training on sexual misconduct, relationship violence, and stalking.
- The right to appeal an investigator's determination and/or sanctions imposed.
- The right to meet with the University's Title IX Coordinator at any point during the process.

INITIATING THE RESOLUTION PROCESS

Individuals who believe that they have experienced Prohibited Conduct by a member of the University community may report the incident and seek redress under these Procedures by:

- Contacting the Office of Federal Regulatory Compliance by telephone, email, mail, or in person during regular office hours: 301.687.3035 ● titleix@frostburg.edu ● 126 Hitchins Administration Building
- Filing a report online at www.frostburg.edu/report

Complainants are entitled to receive information, assistance, and a broad range of support and remedial measures regardless of whether they choose to file a formal complaint under these Procedures.

NOTICE TO THE PARTIES AND ATTENDANCE AT MEETINGS OR PROCEEDINGS

Upon receipt of a Formal Complaint, the University must provide written notice to known parties which includes an explanation of:

a. the grievance process, including any informal process;
b. the allegations of Sexual Harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview.
    i. **"Sufficient details"** include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Sexual Harassment, and the date and location of the alleged incident, if known;
c. the fact that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
d. the fact that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence;
e. the provision in the University's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
f. the right of the University to investigate additional allegations not included in the original notice, but the obligation of the University to provide notice of the additional allegations to the parties whose identities are known.

During the resolution process, both parties will be provided timely notice of any meetings at which their presence is requested or required. Notices provided to students and employees under the Policy will be sent to the individual's official frostburg.edu email account. For registered student organizations, notice shall be mailed to the organization's representative,

typically the president. Failure to read and comply with any notice is not suitable grounds for an appeal.

RESCHEDULING OF MEETINGS OR PROCEEDINGS

The dates and times for meetings and proceedings held under these Procedures are determined by the parties' class or work schedules and the availability of the Title IX Coordinator, the investigator, the Hearing Panel, Appeal Board, and/or other University officials. A meeting or proceeding will only be rescheduled for good cause. If a party fails to attend a meeting or proceeding such meeting or proceeding may be held in the party's absence. If a Respondent leaves or withdraws from the University prior to the conclusion of an investigation and determination of responsibility, the University will move forward with the investigation and determination of responsibility, and may impose sanctions(s), in absentia. For the purposes of this section, "good cause" means circumstances outside a party's control, such as illness, a death in the family, or an academic conflict.

ADVISORS

Each party may choose, at their own initiative, an individual to provide support and advice during the investigation and resolution process. Free legal counsel is available to the parties by contacting the Maryland Higher Education Commission. A party may be accompanied by one advisor at any meeting or proceeding held as part of these Procedures. The advisor can assist a party by taking notes, providing emotional support and reassurance, organizing documentation, or consulting directly with the party in a way that does not disrupt or delay the process. While the advisor may provide support and advice to a party, the advisor may not speak on behalf of a party or otherwise participate in, or in any manner, disrupt the meeting and/or proceeding. The advisor may not submit documents, either directly or indirectly, on a party's behalf at any stage of the process, nor speak for the party during an interview with the investigator. An advisor whose presence is deemed at the sole discretion of the University official conducting the proceeding or meeting to be improperly interfering with the proceeding or meeting will be required to leave and may be prohibited from participating in further meetings or proceedings under these Procedures.

The advisor may be an attorney, parent, counselor, advocate, or any other person a party chooses except that the advisor cannot be a participating witness. A party must provide his or her advisor's name and contact information to the Title IX Coordinator or designee at least twenty-four (24) hours prior to attending any meeting(s) as part of these Procedures. A party must also inform the Title IX Coordinator or designee if they change advisors during the process. While the University will make reasonable efforts to accommodate the schedule of a party's advisor in scheduling meetings and proceedings, an advisor's inability to attend a meeting does not constitute good cause that would necessitate rescheduling a meeting or proceeding.

If a party is unable to secure an advisor, the University will offer and can provide a trained advisor, which will be free of cost to the party.

INTAKE MEETING

Within three (3) business days of an incident of Prohibited Conduct being reported to the Office of Federal Regulatory Compliance, the Title IX Coordinator or designee will make every reasonable effort to schedule an Intake Meeting with the Complainant in order to discuss options for resolution and the resources available. Based on the nature of the incident reported, the Intake Meeting may include:

- Assessing the Complainant's immediate safety and well-being
- Informing the Complainant of available confidential support and other services
- Determining whether the appropriate child protective service agency should be notified pursuant to mandatory child abuse and neglect reporting laws
- Determining whether non-identifying information about the report needs to be entered into the University's daily crime log
- Encouraging the Complainant to seek medical treatment and explaining the importance of preserving forensic evidence
- Assessing whether Interim Measures may be appropriate
- Informing the Complainant of their right to contact and pursue a complaint with law enforcement
- Explaining the Complainant's right to seek a protective order with the court as well as the option for a No Contact Order/Directive issued by the University
- Informing the Complainant of their right to seek resolution under these Procedures
- Determining whether the Complainant wishes to remain confidential
- Explaining the University's policy against retaliation
- Collecting preliminary information on the nature and circumstances of the incident
- Ascertaining the Complainant's wishes for resolution and if they want to file a formal complaint under these Procedures

INITIAL REVIEW AND DECISION TO INVESTIGATE

Upon receiving notification of actual knowledge of an allegation of prohibited conduct and/or following the Intake Meeting, or upon receiving notice from the Complainant that they do not wish to participate in the Intake Meeting, the Title IX Coordinator or designee will review the reported information in order to: (i) evaluate the risk of harm to the Complainant and to the University community; and (ii) determine whether the report falls under Section III and Section

V of the Policy to warrant further action (the "Initial Review").
Factors considered during the Initial Review include:

- The nature and circumstances of the allegation;
- Potential pattern evidence or similar conduct;
- The safety of the Complainant and others in the University community; and
- The Complainant's expressed preference regarding resolution.

The University supports a trauma-informed, survivor-centered approach to the investigation and resolution of incidents of Prohibited Conduct. Accordingly, the University strives to resolve incidents of Prohibited Conduct consistent with the Complainant's expressed preference while at the same time maintaining its commitment to provide due process to the Respondent(s) and promote a safe campus environment. If the Complainant is willing to cooperate with the Initial Review, the University will proceed to *Voluntary Resolution* or an *Investigation & Determination of Responsibility* as detailed in these Procedures. If the Complainant chooses not to cooperate in the Initial Review, the University will still investigate the incident of Prohibited Conduct if there is a threat to an individual or to the University community. However, the University's ability to fully investigate and resolve the reported incident may be limited when the Complainant declines to participate in the investigation.
At the conclusion of the Initial Review, the Title IX Coordinator or designee will determine:

- No further action should be taken based on the information available and/or the Complainant's request that no investigation be pursued or that no disciplinary action be taken;
- The alleged conduct falls outside of the jurisdiction of the Policy and the matter should be referred to the Office of Student Affairs, Office of Human Resources, or other appropriate University official for further consideration and disciplinary action; or
- The alleged conduct falls within the jurisdiction of the Policy and the reported incident should proceed to Voluntary Resolution or an Investigation & Determination of Responsibility in accordance with these Procedures.

The Complainant will be notified of the Title IX Coordinator or designee's determination within two (2) business days following the conclusion of the Initial Review.

CONSOLIDATION OF REPORTS

At the discretion of the Title IX Coordinator or designee, multiple incidents of Prohibited Conduct may be consolidated into one investigation or proceeding if the information related to each incident would be relevant and probative in reaching a determination on the other incident(s). This includes matters where the determination has been made that there is relevant pattern evidence or where the evidence of the other conduct is inextricably intertwined with the Prohibited Conduct. Matters may be consolidated where they involve

multiple complainants, multiple respondents, or related conduct involving the same parties, provided that it does not delay the prompt resolution of complaints under the Policy.

INTERIM SUSPENSION

A. When the Respondent is a Student or Student Organization

The Title IX Coordinator or designee may request that an interim suspension and/or loss of privileges be imposed upon a student or student organization pending the outcome of an investigation and determination of responsibility under these Procedures. An interim suspension and/or loss of privileges may be requested in order to: (i) ensure the safety and wellbeing of members of the University community or preservation of University property, (ii) ensure the Respondent's own physical or emotional safety and wellbeing, or (iii) ensure the stability and continuance of normal University functions.
The Title IX Coordinator or designee shall make a request for interim suspension to the Office of Student Affairs. Upon receipt of the request, the Student Conduct Administrator shall hold a show cause hearing to provide the Respondent with the opportunity to demonstrate why the interim suspension should not be imposed.

B. When the Respondent is an Employee

The Title IX Coordinator or designee may request that an employee be suspended or assigned other duties pending the outcome of an investigation and determination of responsibility under these Procedures. An interim suspension or assignment of other duties may be requested in order to: (i) ensure the safety and wellbeing of the University community or preservation of University property, (ii) ensure the Respondent's own physical and emotional safety and wellbeing, or (iii) ensure the stability and continuance of normal University functions. Such request shall be made to the Provost (for faculty Respondents) or the Chief Human Resources Officer (for non- faculty staff Respondents) and proceed in accordance with the appropriate faculty handbook, collective bargaining agreement, and/or applicable employee policies and procedures.

VOLUNTARY RESOLUTION

Purpose

The University recognizes that in some limited circumstances voluntary resolution may be an appropriate means of addressing some behaviors reported under the Policy. Voluntary Resolution utilizes mediation, facilitated dialogue, and/or restorative justice principles and is an alternative to an Investigation & Determination of Responsibility as a means of resolving incidents of Prohibited Conduct. Voluntary Resolution is designed to eliminate the conduct at issue, prevents its recurrence, and remedy its effects in a manner that meets the expressed preference of the Complainant and the safety and welfare of the University community. Voluntary Resolution may be appropriate when the parties desire to resolve a situation cooperatively, a Complainant requests anonymity, or the alleged misconduct, even if it does

not rise to the level of a Policy violation, suggests the need for remedial, educational, or preventive action. Voluntary Resolution may include an inquiry into the facts, but does not include an investigation and determination of whether a Policy violation occurred.

Eligibility

A Complainant must request Voluntary Resolution and the Title IX Coordinator or designee will determine if Voluntary Resolution is appropriate, based on:

- the willingness of both parties to participate in the process;
- the nature and scope of the conduct at issue; and
- the University's ability to meet its obligations to maintain a safe and non-discriminatory learning and working environment.

A Complainant may request Voluntary Resolution at any time, including requesting to end an investigation in order to pursue Voluntary Resolution. Voluntary Resolution is not appropriate for all forms of Prohibited Conduct and is not available for complaints involving sexual assault or in cases where the Respondent is an employee and the Complainant is a student.

Authority of the Title IX Coordinator

The Title IX Coordinator or designee has the discretion to determine the particular form of Voluntary Resolution that may be appropriate to address the conduct at issue and may refer the matter to an Investigation & Determination of Responsibility at any time during the Voluntary Resolution process.

Participation by the Parties

Participation in Voluntary Resolution (including any particular form of Voluntary Resolution) is voluntary. The University is committed to protecting participants from experiencing secondary victimization or other harm during the Voluntary Resolution process. Accordingly, the University will not require the parties to engage in Voluntary Resolution and will never compel the parties to directly confront each other.

Some forms of Voluntary Resolution may focus solely on supporting the Complainant with no participation or involvement from the Respondent. Depending on the type of remedy implemented, it may be possible for the Complainant to maintain anonymity with Voluntary Resolution. If Voluntary Resolution involves either notification to or participation by the Respondent, it is the Respondent's decision whether to accept and/or participate in Voluntary Resolution.

It is not necessary to pursue Voluntary Resolution prior to pursuing an Investigation & Determination of Responsibility and either party can stop Voluntary Resolution at any time and request that the matter be referred to the Investigation & Determination process.

Disclosure of Information

Information shared or obtained during Voluntary Resolution will be treated as private and will not result in subsequent disciplinary action by the University, unless additional action is

deemed necessary to fulfill the University's legal obligations. To assess pattern or systematic behavior fairly, the Title IX Coordinator will maintain records of all incidents of Prohibited Conduct referred for Voluntary Resolution.

Outcome

Any agreements reached during Voluntary Resolution must be approved by the Title IX Coordinator or designee. If both parties reach an agreement that is approved by the Title IX Coordinator or designee, the reported incident is considered resolved and the matter is closed. If no agreement is reached, the reported incident may be referred back to the Title IX Coordinator or designee for further action. Both parties shall receive, in writing and at the same time, notification of the Voluntary Resolution outcome.
Potential outcomes of Voluntary Resolution may include, but are not limited to:

- Establishing remedial and/or protective measures
- Conducting targeted or broad-based educational programming or training for relevant individuals or groups
- Providing increased monitoring, supervision, or security at locations or activities where the incident occurred
- Facilitating a meeting between the parties (not available in cases of sexual assault or when the Respondent is an employee and the Complainant is a student)
- Restorative justice principles designed to allow the Respondent to accept responsibility for the misconduct and acknowledge the harm to the Complainant and/or the University community
- Referral to counseling
- Warning, reprimand, or other disciplinary action agreed to by the Respondent
- Other remedial and protective measures that can be tailored to achieve the goals of the Policy

Time Frame

The time frame for completing Voluntary Resolution may vary, but the University will seek to complete the process within thirty (30) business days of the Complainant's request for Voluntary Resolution. Any extension of the thirty (30) business day time frame, and the reasons for the extension will be shared with the parties in writing.

INVESTIGATION

When investigating a Formal Complaint and throughout the grievance process, the University must:

a. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the Univeristy and not on the parties,
b. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
c. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the Complainant or Respondent in any meeting or grievance proceeding; however, the University may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties;
d. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;
e. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to
conclusion of the investigation.
    i. Prior to completion of the investigative report, the University must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report.
    ii. The University must make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination; and
f. Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to the hearing, send to each

party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

An Investigation is commenced when:

- The Complainant files a written formal complaint alleging a member of the University community engaged in Prohibited Conduct;
- An incident of Prohibited Conduct is not resolved through Voluntary Resolution and it is determined that an investigation is required; or
- The University initiates a complaint on behalf or in absence of the Complainant at the conclusion of the Initial Review.

Following any of the circumstances above, the Title IX Coordinator or designee will appoint an investigator (or team of investigators) to conduct the investigation of the reported incident of Prohibited Conduct. The investigator(s) undertake an investigation for the purposes of collecting all relevant information necessary for the hearing and adjudication process to determine whether the Respondent is responsible for the alleged violation(s) of the Policy.

INITIATING A COMPLAINT

Complaint Initiated by the Individual Who Experienced Prohibited Conduct

Individuals who experience Prohibited Conduct by a member of the University community may file a formal complaint with the Office of Federal Regulatory Compliance. A complaint of Prohibited Conduct must be submitted in writing using the Complaint Form found at www.frostburg.edu/titlix/policy. The complaint must contain sufficient information to permit the Respondent to understand the allegations against them and to allow them to adequately respond.

University-Initiated Complaint

At the conclusion of the Initial Review, the Title IX Coordinator or designee may determine that the reported incident of Prohibited Conduct requires an investigation even though the affected individual requested anonymity, that no investigation occur, and/or that no disciplinary action be taken against the accused. When the University initiates a complaint, the individual who experienced the alleged Prohibited Conduct will receive notice of the University's intent to move forward with an investigation, but they will not be required to participate in any actions undertaken by the University as part of the investigation and determination of responsibility.

NOTICE OF INVESTIGATION

The Title IX Coordinator or designee will issue a Notice of Investigation to the parties advising them of the commencement of the University's investigation. The Notice of Investigation will contain: (i) a summary of the allegations or conduct being investigated, (ii) the potential Policy

violations for this misconduct, (iii) the range of potential sanctions, and (iv) the name of the individual(s) appointed to conduct the investigation.
Within three (3) business days from the date of the Notice of Investigation, the Respondent must meet with the Title IX Coordinator or designee. During this meeting, the Title IX Coordinator or designee will:

- Discuss the nature of the complaint and provide the Respondent with a copy of the complaint;
- Inform the Respondent of their rights and responsibilities;
- Advise the Respondent of any interim measures that have been imposed;
- Instruct the Respondent not to destroy any potentially relevant evidence;
- Explain the University's prohibition against retaliation; and
- Provide the Respondent with a copy of the Policy and these Procedures.

Failure to meet with the Title IX Coordinator or designee will not stop or delay the investigation of the complaint.

PRESERVATION OF EVIDENCE

Individuals should preserve evidence, to the extent possible, which may assist in determining if the alleged misconduct occurred. Specific suggestions for preservation of evidence after a sexual assault can be found on the Office of Federal Regulatory Compliance's webpage at www.frostburg.edu/titleix/sources-of-support/what-to-do-after-a-sexual-assault/ or by calling the Family Crisis Resource Center's 24-hour helpline at 301.759.9244 and speaking with an advocate. Complainants are strongly encouraged to report incidents of Prohibited Conduct to law enforcement because they can assist with the preservation of evidence.

INVESTIGATIVE PROCESS

The University's investigation is designed to provide a fair and reliable gathering of facts for the investigator to consider for the purpose of adjudicating whether the Respondent is responsible for the alleged misconduct. The Title IX Coordinator or designee will oversee the investigation and assign a fair and impartial investigator who has training and experience investigating allegations of Prohibited Conduct. The parties will be asked to identify all information they would like the investigator to review, including any witnesses they would like to be interviewed. Decisions about interviews and collection and evaluation of information are at the discretion of the investigator. The investigator may need to interview the parties multiple times during the investigation. The investigator will also gather any available physical or documentary evidence, including prior statements by the parties or witnesses, any communications between the parties, email messages, social media, text messages, and other records as appropriate and available. The investigator will determine whether a Policy violation occurred based solely on the information gathered during the investigation and applying a preponderance of the evidence standard.

CONCURRENT CRIMINAL PROCEEDINGS

Where the University is made aware that there is a concurrent criminal investigation, the Title IX Coordinator or designee will coordinate with law enforcement so that the University's investigation does not interfere with the integrity or the timing of the criminal investigation. At the request of law enforcement, the University may agree to defer the fact-finding portion of its investigation until after the initial stages of the criminal investigation. The Title IX Coordinator or designee may still communicate with the parties regarding their Title IX rights, procedural options and implementation of interim measures to assure safety and well-being. The University will promptly resume its fact gathering as soon as law enforcement has completed its initial investigation.

COOPERATION WITH INVESTIGATION

All members of the University community (including students, faculty, staff, and third parties) are expected to cooperate with the University's investigation of an incident of Prohibited Conduct. Failing to cooperate with the University's investigation may result in disciplinary action being taken against that individual, up to, and including, expulsion, termination of employment, or termination of other contract or relationship with the University.
Nothing in this section shall preclude either party from declining to participate in the University's investigation of a reported incident of Prohibited Conduct. The investigation, however, may proceed, and a determination of responsibility and imposition of sanction(s) may occur without the participation of one or both parties.

PRESUMPTION OF NON-RESPONSIBILITY

The investigation is a neutral fact-gathering process. The Respondent is presumed not responsible and this presumption may only be overcome where the investigator concludes (by a preponderance of the evidence) that the Respondent engaged in the Prohibited Conduct. The Respondent's decision to not participate in the University's investigation when there are criminal charges pending will not be given an adverse inference by the investigator.

OBJECTIVITY

The investigation and subsequent hearing process will be an objective collection and evaluation of all relevant evidence—including both inculpatory and exculpatory evidence—and provide that credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness.

ACCEPTANCE OF RESPONSIBILITY

The Respondent may choose to accept responsibility for the Prohibited Conduct prior to, or during the course of, an investigation by submitting a written statement accepting responsibility to the Title IX Coordinator or designee. If the Respondent is a student and accepts responsibility for the Prohibited Conduct, the matter will be referred to the Student Conduct Administrator for the determination of the appropriate sanction(s) in accordance with these Procedures. If a Respondent is an employee and accepts responsibility, the Title IX Coordinator or designee will refer the matter to the Provost (for faculty Respondents) or Chief Human

Resources Officer (for non- faculty staff Respondents) to determine the appropriate sanction(s). A Respondent who accepts responsibility for the Prohibited Conduct shall waive all rights to an investigation, determination of responsibility by the investigator, and any appeal except that the Respondent may appeal the sanction(s) imposed.

WITHDRAWAL OF COMPLAINT

The Complainant may withdraw their complaint any time prior to the investigator issuing the Final Investigation Report. Withdrawing the complaint, will in most circumstances, end the University's investigation. The University, however, reserves the right to move forward with the complaint, even after the Complainant withdraws it, when circumstances require such action in order to protect the interests and safety of the University community.

DISMISSAL OF FORMAL COMPLAINTS

Mandatory Dismissal. If the conduct alleged in the Formal Complaint would not constitute Sexual Harassment, even if proved, did not occur in the University's education program or activity, or did not occur against a person in the United States, then the University must dismiss the Formal Complaint with regard to that conduct for the purposes of Sexual Harassment under Title IX; such a dismissal does not preclude action under another provision of the University's code of conduct.

Permissive Dismissal. The University may dismiss the Formal Complaint or any allegations therein, if at any time during the investigation or hearing, a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein. The Formal Complaint may also be dismissed if the Respondent is no longer enrolled or employed by the University; or specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

Upon dismissal, the University must promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.

PRIOR AND SUBSEQUENT CONDUCT

Prior and subsequent conduct may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. For example, evidence of a pattern of Prohibited Conduct, either before or after the incident in question, regardless of whether there has been a prior finding of a Policy violation, may be deemed relevant to the determination of responsibility for the Prohibited Conduct under investigation. The determination of relevance of pattern evidence will be based on an assessment of whether the prior or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar Prohibited Conduct. Such prior or subsequent conduct may also constitute a violation of other University policies, in which case the Respondent may be subject to additional sanctions. The investigator will determine the relevance of this information and both parties will be informed

if evidence of prior or subsequent conduct is deemed relevant.

PRIOR SEXUAL HISTORY

The sexual history of either party will never be used to prove character or reputation. However, prior sexual history may be considered under the following limited circumstances:

- Where there was a prior or ongoing relationship between the parties and the Respondent asserts that consent was sought and given during the incident under investigation. Prior sexual history between the parties may be relevant under these circumstances to assess the manner and nature of communication between the parties. However, even in the context of a relationship, consent to one sexual act does not, by itself, constitute consent to another sexual act; and consent on one occasion, does not, by itself, constitute consent on a subsequent occasion.
- To establish a pattern or practice of conduct similar in nature by the Respondent.

When the investigator intends to consider evidence of prior sexual history as part of the investigation, such evidence will be included in the preliminary investigation report and the parties will have an opportunity to challenge its relevance and whether it should be considered in the investigator's determination of responsibility.

RELEVANCE

The investigator has the discretion to determine the relevance of any proffered evidence and to include or exclude certain types of evidence. In general, the investigator will not consider statements that are personal opinion rather than direct observations or reasonable inferences from the facts or statements as to a party's general reputation for any character trait.

PRELIMINARY INVESTIGATION REPORT

At the conclusion of the investigation, the investigator will prepare a preliminary investigation report, which details the relevant content from the interviews conducted and evidence gathered, but does not include a determination of whether a Policy violation occurred. The parties will have equal opportunity to review the preliminary investigation report, to meet with the investigator, to submit additional comments and information to the investigator, to identify any additional witnesses or evidence for the investigator to pursue, and submit any further questions that they believe should be directed by the investigator to the other party or any witness. The investigator or designee will arrange for the parties to separately review the preliminary investigation report. At any point in the process, the party may receive a copy of the report.

The parties will have ten (10) business days from the date of the notice to review the preliminary investigation report to submit their written response to the investigator. This is the final opportunity for the parties to identify any additional information or witnesses and to review their statements for accuracy. In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the investigator at this juncture

will not be considered in the determination of responsibility.

FINAL INVESTIGATIVE REPORT

Unless there are significant additional investigative steps requested by the parties or identified by the investigator, within ten (10) business days after receipt and consideration of additional comments, questions, and/or information from the parties, the investigator will issue a final investigation report to the parties, and to the Title IX Coordinator. The Title IX Coordinator will then work with the Student Conduct Administrator to facilitate the scheduling of the subsequent hearing in which a determination of responsibility will be issued and corrective measures will be applied.

DETERMINATION OF RESPONSIBILITY

The following procedures will be used in the determination of responsibility and the issuance of any corrective measures necessary. The determination of responsibility will be made using the preponderance of the evidence standard.

The University has the discretion to use either a Sole Decision-Maker or Board of Review comprised of trained personnel to hold a Title IX Hearing or Review Meeting.

The University will ensure that the single decision-maker or Board of Review have had the requisite training and confirm that there is no actual conflict of interest, bias, or lack of impartiality. A student may not serve as a Board of Review member under the Procedures.

The role of the Board of Review or Sole Decision-Maker is to independently determine whether a Policy violation did or did not occur, based upon the preponderance of the evidence standard, and if warranted, determine the appropriate sanctions.

The role of the Board of Review and the Sole External Reviewer, is not to re-investigate the matter. The Board of Review or Sole External Reviewer shall make the final determination(s) regarding credibility of all the information/evidence presented. However, no negative inferences related to final credibility determinations, shall be made, because a party does not appear or does not participate at the scheduled meeting.

Live Title IX Hearing with Cross-Examination Required for Complaints of Sexual Misconduct.

A live hearing with cross-examination of witnesses is required to adjudicate Formal Complaints of Sexual Misconduct, including Sexual Assault, Domestic Violence, Dating Violence and Stalking.

1. At the live hearing, the decision-maker(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.

2. Cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.
3. Only relevant cross-examination and other questions may be asked of a party or witness.
4. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
5. If a party does not have an advisor present at the live hearing to conduct cross-examination on behalf of that party, the institution must provide without fee or charge to that party, an advisor of the institution's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party. Advisors provided by the University will have the requisite training necessary to perform the function of an advisor. The advisor cannot be an individual who otherwise has been involved in any part of the complaint, investigation or resolution process.
6. The Reporting Party has an opportunity to give a closing and/or impact statement no longer than fifteen (15) minutes; the Board of Review or Sole Decision-Maker may, but is not required to, ask questions.
7. The Responding Party has an opportunity to give a closing and/or impact statement.no longer than fifteen (15) minutes; the Board of Review or Sole Decision-Maker may, but is not required to, ask questions.
8. Live hearings may be conducted with all parties physically present in the same geographic location or, at the institution's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.
9. The University will create a single audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review. The recording will be the property of the University.

Determination Regarding Responsibility.

After any Title IX Hearing, the decision-maker(s), who cannot be the same as the Title IX Coordinator or the investigator(s), must issue, a written determination regarding responsibility, which must include:

1. Identification of the allegations potentially constituting Prohibited Conduct;
2. A description of the procedural steps taken from receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of the policy to the facts;

5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility,
6. A determination of sanctions the institution will impose on the Respondent,
7. Whether remedies designed to restore or preserve equal access to the Education Program or Activity will be provided to the Complainant; and
8. Procedures and permissible bases for parties to appeal.

Appeals.

The appeal process is equally available to the parties.

The University has the discretion to use either a Sole Decision-Maker or Board of Review comprised of trained personnel to determine an appeal. The Decision-Maker or Board may not be the same as those who presided over the Title IX Hearing or Review Meeting.

1. **Grounds for Appeal**

Any party may appeal a determination regarding responsibility, or dismissal of a Formal Complaint or any allegations therein, on the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility was made, that could affect the outcome of the matter; and
- The Title IX Coordinator, investigator(s), or decision- maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter;
- Excessiveness or insufficiency of the sanctioning decision.

Mere dissatisfaction or mere deviations from procedures that were not so substantial as to deny a party notice or a fair opportunity to be heard, are not valid bases for an Appeal.

2. **Appeal**

As to all appeals, the University will:

- Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;

- Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome, and provide an opportunity for them to respond to the other party's appeal submission;
- Issue a written decision describing the result of the appeal and the rationale for the result; and
- Provide the written decision simultaneously to both parties.

Final Decision.

The determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

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 and/or conditions tailored to the facts and circumstances of each report, the impact of the Prohibited Conduct on the Reporting Party and surrounding FSU 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 University community, or so deleterious to the educational or working environment, that it requires severe disciplinary action, up to and including termination from or 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, 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. Further, the University reserves the right to delay or

refuse the conferring of an academic degree—undergraduate or graduate—during the pendency of an investigation.

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

Conditions

In certain circumstances, even when there are no disciplinary actions or sanctions imposed, the University reserves the right to impose certain conditions upon any party who is subject to this Policy. Conditions may be imposed as Supportive Measures, as part of an Informal Resolution, or as part of a final Sanction after a Hearing or Review Meeting.

Conditions are designed to prevent any Prohibited Conduct under the Policy, cultivate a safe academic and employment environment, and maintain public order on campus, while supporting the University's mission and federal obligations. Conditions are not disciplinary actions or sanctions.

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 external agencies. Individuals seeking to file with these agencies should make contact as soon as possible, to verify any applicable filing time limits and deadlines.

U.S. Department of Education
Office for Civil Rights
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**

U.S. Equal Employment Opportunity Commission (EEOC)- Baltimore Field Office
GH Fallon Federal Building
31 Hopkins, Plaza, Suite 1432
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**