

Interim Procedures for Resolution of Complaints Alleging Discrimination¹

Approved by the President on February 26, 2024.

I. Policy Statement

The University of Maryland Center for Environmental Science (“UMCES” or the “University”) is committed to creating an environment that is free from discrimination and harassment. As a university under the jurisdiction of the Board of Regents (“BOR”) of the University System of Maryland (“USM”), UMCES prohibits discrimination on grounds protected under Federal and Maryland law and the policies of the BOR. These Procedures implement BOR USM VI-1.00 Policy on Non-Discrimination and Equal Opportunity (the “Policy”), which prohibits discrimination on the basis of race, color, religion, age, national origin, sex² (including pregnancy), disability, sexual orientation, gender identity, gender expression, marital status, genetic information, protected veteran status, and any other legally-protected characteristic. UMCES will take prompt action to prevent the occurrence of Discrimination or Retaliation (as those terms are defined below) and remedy their effects.

II. Applicability

These Procedures pertain to members of the UMCES community, including students, employees (faculty and staff), applicants, and certain third parties (e.g. visitors, volunteers, applicants for admission or employment, vendors and contractors who carry out or are subject to discrimination) while on UMCES’s property or while participating in UMCES-sponsored activities.

III. Definitions

“**Advisor**” means a person chosen by a Party to provide advice and consultation to that Party, in accordance with the Policy and Procedures. An Advisor may be an attorney or another individual. An Advisor cannot be a witness or provide evidence in a case. Advisors may not speak for a Party during the resolution process.

¹ Effective February 16, 2024.

² Complaints of discrimination based on sex, gender identity or expression, and sexual orientation that do not involve misconduct of a sexual nature will be addressed under this Policy and these Procedures. Complaints based on sexual misconduct will be addressed under VI-1.60 UMCES Policy and Procedure on Sexual Misconduct, as appropriate.

“Complainant” means an individual who experienced the reported Discrimination or Retaliation, regardless of whether that individual made the report, participated in the University’s review and investigation, or filed a formal complaint.

“Day” means a business weekday when UMCES is not closed.

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

“Harassment” is a form of Discrimination that occurs when someone engages in unwelcome conduct based on an individual’s protected status. With the exception of the circumstances listed below, Harassment is severe or pervasive conduct that negatively affects the particular individual and also would negatively affect a reasonable person under the same circumstances.

Harassment in violation of this Policy depends on the totality of the circumstances, including the nature, frequency, and duration of the conduct in question, the location and context in which it occurs, and the status of the individuals involved.

When one of the following three circumstances is present, Harassment based on a person’s protected status is not required to be severe or pervasive and may be established by showing that the conduct was unwelcome and offensive:

1. when submission to the conduct is made either explicitly or implicitly a term or condition of employment of an individual;
2. when submission to or rejection of the conduct is used as a basis for employment decisions affecting the individual; or
3. based on the totality of the circumstances, the conduct unreasonably creates a working environment that a reasonable person would perceive to be abusive or hostile.³

“Party” means the Complainant or the Respondent (collectively, the “Parties”).

“Supportive Measures” are non-disciplinary services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent to restore or preserve equal access to the University’s education programs or activities without unreasonably burdening the other Party, including measures designed to protect the safety of all parties or the University’s educational environment, or to deter prohibited conduct under the Policy. For example, the University may issue the Parties mutual “no contact orders,” which notify the Parties that they must not have verbal, electronic, written, or third-party communications with the other Party.

“Respondent” means an individual, group, or organization accused of Discrimination or Retaliation.

³ See Md. Code Ann., State Gov’t § 20-601(h), which applies to discrimination in employment.

“Responsible Employee” is an employee who has a duty to promptly (within 48 hours) report allegations of discrimination to the EEO Officer. Responsible Employees include all administrators, supervisors, and faculty members. Responsible Employees cannot guarantee confidentiality.

“Retaliation” is adverse action taken against an individual because the individual reported Discrimination, filed a complaint of Discrimination, or participated in an investigation or proceeding concerning a Discrimination complaint.

IV. Procedures

A. Reporting

Individuals who have questions or wish to file a complaint of discrimination should contact the Assistant Vice President of Human Resources, Equal Opportunity Officer (“EEO Officer”), and Title IX Coordinator to report the complaint:

Asst. Vice President of HR

410-221-2017

Fax: 410-221-2029

eeo@umces.edu

Individuals may also report discrimination to Responsible Employees, as defined above, who are obligated to report such allegations to the EEO Officer.

B. Timeliness

Complaints must be made within 90 days of the last occurrence of the behavior. The EEO Officer or designee may waive this time limit upon a showing of good cause.

The EEO Officer or designee seeks to complete formal investigations within 60 days and may extend the time frames in these Procedures for good cause.

C. Initial Assessment

After receiving a report of Discrimination or Retaliation, the EEO Officer or designee will promptly complete an initial assessment. The assessment generally involves an initial meeting between the EEO Officer or designee. Following this meeting, the EEO Officer or designee will notify the Complainant whether the EEO Officer or designee has jurisdiction to investigate the complaint and whether the allegations, if true, would violate the Policy. If the EEO Officer or designee decides not to investigate the complaint, the EEO Officer or designee will notify the Complainant of the decision and the reasons for the decision. The EEO Officer or designee may refer the Complainant to other possible avenues of redress or may report the allegations to another University department or unit. The EEO Officer or designee will offer the Complainant Supportive Measures.

D. Informal Resolution

UMCES may attempt to resolve complaints informally if both Parties agree to do so. Informal resolution includes a broad range of conflict resolution strategies, including

negotiated interventions and remedies. If the matter is resolved through an informal resolution process, the EEO Officer or designee will document the resolution in writing and have it signed by the parties. Following the resolution, the EEO Officer or designee will monitor the implementation of the resolution agreement. At any time prior to agreeing to an informal resolution, either Party has the right to withdraw from the informal resolution process and resume the formal resolution process.

E. Formal Resolution

A formal investigation does not begin until the EEO Officer or designee issues a Notice of Investigation to the Parties. The EEO Officer or designee will offer the Parties Supportive Measures.

The investigation will be conducted in a timely, thorough, and impartial manner. The Parties have the right to produce relevant documents, witnesses, and other material they would like included in the investigation.

The Parties may have an Advisor to provide them with advice. Advisors may not speak or act on behalf of a Party.

The EEO Officer or designee will serve as the investigator.

The EEO Officer or designee intends to interview the Complainant, relevant witnesses, and the Respondent. Disclosure of facts and allegations by the EEO Officer or designee to persons interviewed will be limited to what is reasonably necessary to complete a fair and thorough investigation.

The EEO Officer or designee will draft a report summarizing the allegations, the investigation and the evidence and make findings based on a preponderance of the evidence (more likely than not). The Complainant and Respondent will have an opportunity to meet with the EEO Officer or designee, provide evidence, and suggest witnesses who should be interviewed by the EEO Officer or designee.

The EEO Officer or designee will review the evidence and assess the relevance, weight, and credibility of the information provided. At the conclusion of the investigation, the EEO Officer or designee will produce a confidential report that (1) summarizes the allegations, (2) describes the relevant evidence, (3) makes findings of fact and credibility determinations, and (4) concludes, based on a preponderance of the evidence, whether the Respondent violated the Policy. The EEO Officer or designee will share the report with the Parties, subject to redactions to comply with applicable laws and regulations and to protect privacy.

F. Appeals

The Parties may appeal the decision on one of the following limited grounds:

- A. Substantial errors in the interpretation of the Policy or application of these Procedures that had the effect of denying a Party notice or a fair opportunity to be heard; or

- B. Availability of new, relevant, and material evidence that could not reasonably have been provided to the EEO Officer or designee during the investigation.

The appealing party has the burden of proof, and the standard of proof is the preponderance of the evidence.

Appeals must be submitted in writing to the Vice President of Administration and Finance within five (5) Days of when the Parties are sent the report. A copy of any appeal will be sent to the other Party, who will have five (5) Days to submit any response.

The Vice President of Administration and Finance will issue a decision on any appeal within five (5) Days of the deadline for the non-appealing party to submit a response. The decision of the Vice President of Administration and Finance will be final.

G. Sanctions and Disciplinary Action

If the Respondent is found responsible for violations of this Policy, the EEO Officer or designee will include recommendations for disciplinary action based on the nature and severity of the conduct. The EEO Officer or designee will provide the appropriate Vice President or unit director such recommendations. The EEO Officer or designee may also refer information about the investigation to another University department or process if the conduct may violate other University policies. The final decision regarding discipline shall remain the responsibility of the appropriate Vice President or unit director.

Sanctions for students include, but are not limited to: mandatory training, reprimand, loss of privileges, restitution, probation, suspension, and dismissal or expulsion.

Sanctions for faculty and staff include, but are not limited to: reassignment of duties, mandatory training, letters of reprimand, suspension with or without pay; and termination of employment.

V. Confidentiality and Privacy

The University will use its best efforts to protect the privacy of individuals who participate in the investigation and will only share information about the matter with those individuals who need to know in order to assist in the assessment, investigation, or resolution of the complaint. UMCES cannot guarantee confidentiality or anonymity to Parties or witnesses.

The Parties are not restricted from discussing the allegations or from gathering and presenting relevant evidence needed to support their case.

VI. Prohibitions on False Statements and Tampering with Witnesses or Evidence

UMCES prohibits the Parties and any witnesses from knowingly making false statements or knowingly submitting false information during the resolution process.

UMCES also prohibits any Party from tampering with any evidence or witnesses.

VII. Alternative Internal Grievance Mechanisms for Employees

In addition to this Policy and these Procedures, alternative internal procedures exist. Individuals must select one internal complaint procedure and the outcome from that procedure is generally final. The University may, however, need to take actions under this Policy even when the Complainant chooses an alternative complaint procedure where the University has obligations to do so pursuant to law, rule, regulation, or policy. The following are alternative grievance procedures available to employees:

- A. Certain non-exempt employees can utilize the USM BOR VII-8.00 Policy on Grievances to pursue a complaint of discrimination, which can be found at: <https://www.usmd.edu/regents/bylaws/SectionVII/VII800.pdf>, and which are also referenced in the MOU for bargaining unit employees at <https://www.umces.edu/sites/default/files/MCEA%20MOU%202023%20-%202025%20Executed.pdf>.
- B. All applicants and employees are covered by the state Equal Employment Opportunity Program (“EEO Program”), which includes complaint procedures found at Md. Code, State Personnel and Pensions, §§ 5-201 – § 5-215, available at <https://dbm.maryland.gov/eo/documents/title5.pdf>. The EEO Program provides that a Complainant must file a complaint within 30 days after the Complainant first knew or reasonably should have known of the alleged violation that is the basis of the complaint. The EEO Officer shall investigate the complaint and provide a proposed decision to the head of the principal unit within 30 days. Within ten days of receiving the written decision, a Complainant appeal to the Department of Budget and Management.

VIII. External Government Agencies that Address Complaints of Discrimination

Filing an employment Discrimination complaint under this Policy or an alternative campus procedure does not preclude an individual from filing a complaint with other state and federal agencies, including the following:

A. Department of Justice Federal Coordination and Compliance Section

Civil Rights Division

U.S. Department of Justice

950 Pennsylvania Avenue, N.W.

Washington, D.C. 20530

(888) 848-5306 - English and Spanish (ingles y español)

(202) 307-2222 (voice)

(202) 307-2678 (TDD)

Website: <https://www.justice.gov/crt/fcs/complaint-process>

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

Philadelphia Office (Regional Office for Maryland)

The Wanamaker Building

100 Penn Square East, Suite 515

Philadelphia, PA 19107-3323

Phone: 215-656-8541

FAX: 215-656-8605
TDD: 800-877-8339
Email: OCR.Philadelphia@ed.gov
Website: <http://www2.ed.gov/about/offices/list/ocr/index.html>

C. Maryland Commission on Civil Rights

Phone: 410-767-8600
Website: <http://mccr.maryland.gov/>

D. Equal Employment Opportunity Commission

GH Fallon Federal Building
31 Hopkins Plaza, Suite 1432
Baltimore, MD 21201
Phone: 800-669-4000
TTY: 800-669-6820
Website: <https://egov.eeoc.gov/eas/>

Affected persons should contact the relevant agencies listed above to verify time limits for filing. Failure to meet required deadlines may result in a loss of rights to seek a legal remedy.