



## **Procedure on Sexual Harassment**

*(Approved by the President in January 18, 2005)*

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### **I. PURPOSE AND APPLICABILITY**

The purpose of this document is to establish a UMBI Procedure on Sexual Harassment. This policy applies to all individuals employed by UMBI in any capacity, as well as to volunteers, students and vendors.

### **II. BACKGROUND**

Each USM institution is required to establish a procedure to implement BOR VI – 1.20 University of Maryland System Policy on Sexual Harassment. Employees have been covered by the BOR policy since it was approved by the Board of Regents on June 5, 1992.

### **III. DEFINITION**

For the purposes of this policy, sexual harassment is defined as 1) unwelcome sexual advances or 2) unwelcome requests for sexual favors and 3) other behavior of a sexual nature where:

- A. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or participation in a UMBI sponsored program or activity; or
- B. submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting that individual; or
- C. such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance, or of creating a hostile educational or working environment.

### **IV. GENERAL POLICY**

- A. The UMBI is committed to creating and maintaining an environment in which every individual can work and learn without being harassed. Sexual harassment represents a failure in ethical behavior, and sexual exploitation of professional relationships will not be tolerated.
- B. Sexual harassment is a form of discrimination prohibited by federal and state law. Sexual harassment by UMBI faculty, staff and students is prohibited.
- C. Sexual harassment may also constitute violations of criminal laws of the State of Maryland and the United States.
- D. Preventing sexual harassment is a responsibility of the entire UMBI community. The UMBI has made this a priority, but ultimately, no satisfactory investigation or resolution of a complaint can occur without the initiative and continuous cooperation of the person who feels injured. Similarly, allegations of sexual harassment are extremely serious, with potential for great harm to all persons if ill-conceived or without foundation. Procedures that implement UMBI policy recognize the potential harm of an ill-conceived charge. The

## UMBI Policies and Procedures

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UMBI is committed to protecting the rights of the alleged offender as well as the offended.

- E. In assessing whether a particular act constitutes sexual harassment forbidden under this policy, the standard shall be the perspective of a reasonable person within the UMBI community. The rules of common sense and reason shall prevail. Allegations of sexual harassment shall be judged with attention to the facts particular to the case and the context in which the alleged incident(s) occurred.
  
- F. Conduct prohibited under this policy may manifest itself in many different ways. Sexual harassment may, for example, be as undisguised as a direct solicitation of sexual favors, or solicitation accompanied by overt threats. Harassment may also arise from behavior that has the effect of creating a hostile educational or working environment. In this regard, the following types of acts, if pervasive and continuous, are more likely-than-not to result in allegations of sexual harassment:
  - 1. Harassment through sexually suggestive comment concerning a person's body or behavior, and sexual demands.
  - 2. Subtle or overt pressure to comply with sexual demands.
  - 3. Unwelcome remarks about another person's clothing, body, sexual activities, sexual preferences, or sexual orientation; unwelcome flirting, teasing, jokes, or gestures that are sexual in nature.
  - 4. Unnecessary touching, pinching, patting, or indecent exposure of one's own private body parts.
  - 5. Unwarranted staring at another person's body.
  - 6. Unwanted communications of a sexual nature in writing, by telephone, or by other means.
  - 7. Requests or demands for sexual favors accompanied by implied or overt threats about the workplace, including assignments, promotions, discipline, references, etc.
  - 8. Repetition of unwanted invitations for dates.
  - 9. Physical assault of a sexual nature, up to and including attempted or actual rape.
  
- G. Sexual harassment may occur within a variety of relationships. It may occur among peers. It may occur where no relationship exists between the parties other than being co-employees or co-students. Especially injurious, on the other hand, is harassment in relationships characterized by inequality of power, where one party has institutional authority over the other. Inherent in these relationships is the power and fear of reprisal. Typically, such relationships are found between employer and employee; senior faculty and junior faculty; graduate teaching assistant and undergraduate; and faculty and student, when the student is enrolled in a faculty member's class or when the student is in a continuing position to require evaluation of work or letters of recommendation from the faculty member. Such relationships can be immediate, here and now, or based upon future expectations, e.g., the need for further evaluations and references. Sexual harassment may occur between persons of the same or different sexes.

## UMBI Policies and Procedures

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- H. Education and awareness are the best tools for the elimination of sexual harassment. The UMBI is committed to taking appropriate action against those who violate the provisions of the policy. The UMBI is also committed to protecting targets of harassment from retaliation.

### V. PROCEDURES

Individuals who believe themselves subjected to an incident of sexual harassment should be aware that there are many ways to bring it to the attention of the UMBI, and where proper, to obtain redress or protection. Both an informal and a formal procedure are available within UMBI. Complaints may also be processed externally by the U.S. Equal Employment Opportunity Commission, the U.S. Department of Education (Office of Civil Rights), and the Maryland Commission on Human Relations.

#### A. Informal Complaint Procedures

An incident of sexual harassment may be reported to:

1. a Center Director or Assistant Director (or equivalent), a Vice-President, including an individual's supervisor or the next-level supervisor;
2. the Assistant Vice President for Human Resources.

When an individual receives a report of sexual harassment, he or she should promptly notify the Assistant Vice President for Human Resources prior to taking any action to investigate or resolve the matter informally. The Assistant Vice President for Human Resources will normally manage and coordinate all matters relating to complaints with the advice and assistance of UMBI's assigned Assistant Attorney General. Complainants will be advised of relevant UMBI policies and procedures, and the informal and formal means of resolving the matter will be explained.

While a written complaint is not required to initiate an informal investigation, the Assistant Vice President must either receive a signed complaint from the offended person or have reliable evidence that the alleged sexual harassment occurred before any sanctions or other action can be undertaken against an individual for sexual harassment. In any sexual harassment investigation, reasonable consideration shall be given to the situation and the wishes of the complainant. The investigation of a complaint will include discussing the matter with the person accused of sexual harassment. The findings of the investigation shall be confidentially reported as required to the President and to the relevant Vice President, Center Director, or supervisor for any necessary action. Sanctions for sexual harassment may range from reprimand to termination, depending upon the circumstances of the case.

#### B. Formal Complaints

1. Formal grievance procedures for resolving sexual harassment complaints are available based on the employment category of the aggrieved person.
  - a. Faculty members may file a complaint with the Vice President for Academic Affairs under a Faculty Grievance Procedure.
  - b. Nonexempt and Exempt employees may file with the Assistant Vice President for Human Resources under the BOR VII - 8.00 USM Policy on Grievances for Exempt and Nonexempt Staff Employees.

## UMBI Policies and Procedures

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- c. Students may file an official written complaint with the Assistant Vice President for Human Resources.
2. To protect the legal rights and remedies available to a complainant through the UMBI grievance procedures, the federal courts and/or the State courts, a complainant must comply with certain time limits and deadlines. Affected persons should contact the relevant agencies listed below to verify the time limits. Failure to meet the required deadlines may result in a loss of all rights to seek a legal remedy for a complaint of sexual harassment.
  - a. The grievance procedures contained in the BOR VII - 8.00 USM Policy on Grievances for Exempt and Nonexempt Staff Employees -- Complaints must be filed within 30 calendar days of the action involved, or within 30 calendar days of the employee having had reasonable knowledge of the act;
  - b. Equal Employment Opportunity Commission.
  - c. Maryland Commission on Human Relations.
  - d. U.S. Department of Education (Office of Civil Rights).

**APPROVED:** Jennie C. Hunter-Cevera