Board of Regents Special Meeting

July 2020

July 30, 2020

9:30 a.m.

Videoconference
1. Resolution Related to Amendments to University Sexual Misconduct Policies - Action
   Docket Item Summary - Page 3
   Resolution - Page 6
   Board Policy: Sexual Harassment, Sexual Assault, Stalking and Relationship Violence - Page 7
   Board Policy: Faculty Tenure - Page 11
   Civil Service Employment Rules - Page 39
   Administrative Policy: Sexual Harassment, Sexual Assault, Stalking and Relationship Violence
     Administrative Policy - Page 41
     Administrative Procedure: Post-Investigation Procedures for Formal Complaints of Violations - Page 72
     Appendix to Policy: University Authorities and Appellate Officers - Page 80
   Administrative Policy: Conflict Resolution for Faculty, P&A, Civil Service, and Student Workers - Page 82
     Presentation - Page 92

2. Resolution Related to FY 2021 Temporary Clarification of Board of Regents Policy: Student Services Fee - Review/Action
   Docket Item Summary - Page 105
   Resolution - Page 107
   Board Policy: Student Services Fee - Page 108
   Systemwide Student Services Fees - Page 111
   UMTC Student Services Fees - Page 112
   Presentation - Page 113

3. Update on the University's COVID-19 Testing Plan
   Docket Item Summary - Page 121
   Measures of Effective COVID-19 Testing - Page 122
   Presentation - Page 123
AGENDA ITEM: Resolution Related to Amendments to University Sexual Misconduct Policies

☐ Review  ☐ Review + Action  ☒ Action  ☐ Discussion

☐ This is a report required by Board policy.

PRESENTERS: Tina Marisam, Director, Office of Equal Opportunity and Affirmative Action  
Brian Slovut, Deputy General Counsel, Office of the General Counsel  
Ned Patterson, Professor, College of Veterinary Medicine and Vice Chair, Faculty Consultative Committee

PURPOSE & KEY POINTS

The purpose of item is to act on the resolution related to amendments to University sexual misconduct policies to ensure compliance with the U.S. Department of Education’s new Title IX regulations. The resolution amends the following policies, procedures, and rules:

Board of Regents policies:

- *Faculty Tenure*
- *Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence*

*Civil Service Employment Rules*

Administrative policies and related Administrative procedures:

- *Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence*
- *Conflict Resolution for Faculty, P&A, Civil Service, and Student Workers*

**Key Changes Since Board Review**

Key changes to the policy drafts that have been made since the Board reviewed them earlier this month include:

All Policies

- All policies will become effective on August 14, 2020 and apply to reports received on or after that date.
Board of Regents Policy: Faculty Tenure

- Clarified that the Administrative policy will provide for a faculty member on the hearing panel for any case in which a faculty member is a party.

Administrative Policy: Sexual Harassment, Sexual Assault, Stalking and Relationship Violence and included administrative procedures and appendix

- The hearing panel will be composed of five panel members selected by the hearing secretary and include a least one panelist from the same classification (staff, student, faculty) as each party.
- If the hearing panel is not unanimous in its recommendation on disciplinary sanctions, one or more of the dissenting panel members may write a dissent for the University Authority that articulates alternative recommended disciplinary sanctions.
- The University Authority will be offered an opportunity to meet with the hearing panel to discuss the hearing panel’s recommendation on disciplinary sanctions.
- Updated the timeline to provide 10 days in which to notice an appeal, and an additional 10 days in which to file an appeal.
- The University Authority will strive to make a decision on disciplinary sanctions with 21 days of receiving the hearing panel’s decision on responsibility.
- Created a voluntary administrative resolution option where the hearing chair would make a decision on responsibility based on the investigative report, the parties’ written responses to the investigative report, and the evidence gathered during the investigation. Sanctioning and appeal processes would remain the same under this option.
- Within the Appendix to Policy: University Authorities and Appellate Officers – the previous version had the Board and the President acting as both the University Authority and the appellate officer for positions reporting directly to them. The appendix has been changed to reflect the following:
  - For positions reporting to the President - the President will act as the University Authority and the Board or a special committee of the Board will act as the appellate officer.
  - For positions reporting directly to the Board - the Board will appoint an appellate officer if there is an appeal. Those positions include the President, chief auditor, and corporate secretary.
  - Since the general counsel reports to the president but can only be removed with the approval of the Board, the President will act as the University Authority with the approval of the Board and the Board will appoint an appellate officer.

Additional developments since the Board reviewed this item in July are outlined in the presentation materials.

BACKGROUND INFORMATION

On May 6, 2020, the U.S. Department of Education issued final Title IX regulations that will take effect on August 14, 2020. The regulations specify how institutions must address reports of sexual misconduct that are covered by Title IX. The final regulations follow the Department of Education’s release of proposed regulations in November 2018 and a public comment period in which over 124,000 comments were submitted.
The following University stakeholders have been consulted regarding implementation of the new Title IX regulations:

<table>
<thead>
<tr>
<th>University Senate</th>
<th>Academic Freedom &amp; Tenure Committee</th>
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<tr>
<td>Minnesota Student Association</td>
<td>Civil Service Consultative Committee</td>
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<tr>
<td>Council of Graduate Students</td>
<td>P&amp;A Consultative Committee</td>
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<td>Senate Consultative Committee</td>
<td>Senate Judicial Committee</td>
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<td>System-wide Title IX personnel</td>
<td>Senate Committee on Faculty Affairs</td>
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<td>System-wide student affairs personnel</td>
<td>Equity, Access, and Diversity Committee</td>
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<td>Workgroup consisting of undergraduate, graduate, and professional student leaders</td>
<td>Workgroup to discuss Faculty Tenure, consisting of faculty, staff and students</td>
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<td>University representatives of the American Association of University Professors</td>
<td>President’s Initiative to Prevent Sexual Misconduct Advisory Committee, Steering Committee &amp; Student Education Committee</td>
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<td>Student Sexual Misconduct Subcommittee</td>
<td>Office of Human Resources</td>
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<td>UEA-D Executive Board</td>
<td>Office of the General Counsel</td>
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<td>Student Senate Consultative Committee</td>
<td>Office for Equity and Diversity</td>
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<td>Human Resources Director’s Group</td>
<td>Policy Advisory Committee</td>
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<td>AFSCME representatives</td>
<td>Teamsters representatives</td>
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<td>University of Minnesota Trades Council representatives</td>
<td>Law Enforcement Labor Services representatives</td>
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**PRESIDENT’S RECOMMENDATION**

The President recommends approval of the resolution related to amendments to University sexual misconduct policies.
REGENTS OF THE UNIVERSITY OF MINNESOTA

RESOLUTION RELATED TO

Amendments to University Sexual Misconduct Policies

BE IT RESOLVED that the Board of Regents hereby approves the following actions as presented:

A. Amend Board of Regents Policy: Faculty Tenure.
B. Amend Board of Regents Policy: Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence.
C. Amend the Civil Service Employment Rules.
D. Ratification of Administrative Policy: Conflict Resolution for Faculty, P&A, Civil Service, and Student Workers.
E. Ratification of Administrative Policy: Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence.

BE IT FURTHER RESOLVED that the amended policies and rules are effective on August 14, 2020, and only apply to reports of prohibited conduct that are received by the campus Title IX office on or after August 14, 2020.
SECTION I. SCOPE.

This policy governs the University of Minnesota's (University) commitment to preventing and addressing sexual harassment, sexual assault, stalking, relationship violence and related retaliation (“prohibited conduct”).

SECTION II. DEFINITIONS.

Subd. 1. Prohibited Conduct.

Prohibited conduct shall mean sexual harassment, sexual assault, stalking, relationship violence and related retaliation.

Subd. 2. Sexual Harassment.

Sexual harassment shall mean unwelcome conduct on the basis of a sexual nature under either of the following conditions:

(a) When it is stated or implied that an individual needs to submit to, or participate in, conduct of a sexual nature in order to maintain their employment or educational standing or advance in their employment or education (quid pro quo sexual harassment).

(a) Quid pro quo sexual harassment: When a University member conditions the provision of a University aid, benefit, or service on an individual’s participation in sexual conduct.

(b) Hostile environment sexual harassment: When the conduct: (1) is severe, persistent or pervasive; and (2):

1. unreasonably interferes with an individual's employment or educational performance or,
2. creates a work or educational environment that the individual finds, and a reasonable person would find, to be intimidating, hostile or offensive (hostile environment sexual harassment), or

3. effectively denies an individual equal access to a University program or activity.

(c) Sexual exploitation: When an individual intentionally engages in the following conduct and should reasonably have known that the conduct would be unwelcome to any individual involved:

1. exposure of one's own or another individual's breasts, buttocks, or genitals to one or more other individuals;
2. distribution of sexual or nude images or recordings of another individual;
3. observation or recording of sexual activity or nudity;
(4) demanding financial compensation, sexual contact, or some other benefit under the threat of disseminating or posting images, video, or other recording of the nudity or sexual activity of one or more individuals; and/or
(5) engaging in sexual conduct that carries a significant risk of transmitting known sexual infections or diseases without another individual’s knowledge.

(d) Title IX sexual harassment is a subset of sexual harassment that occurs in the United States and: (1) on campus; (2) as part of the University’s operations; (3) in locations, events or circumstances over which the University exercised substantial control over both the respondent and the context in which the prohibited conduct occurred; and/or (4) in buildings owned or controlled by a student organization that is officially recognized by the University. Title IX sexual harassment occurs when:
- a University employee conditions the provision of a University aid, benefit, or service on an individual’s participation in unwelcome sexual conduct; or
- unwelcome conduct is determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s education program or activity.

Subd. 3. Sexual Assault.
Sexual assault shall mean: (1) actual or attempted sexual contact without affirmative consent; or (2) a threat to engage in contact that would be, if the threat were carried out, sexual contact without affirmative consent.

(a) Sexual contact is intentional sexual touching with an object or body part. Depending on the context, it may include, but is not limited to: (1) intentionally touching the breasts, buttocks, groin or genitals of another individual; (2) intentionally touching another individual with any of these body parts; and (3) making an individual touch another individual or themselves with, or on, any of these body parts. Sexual contact can occur whether or not an individual’s body parts are covered by clothing.

(b) Affirmative consent is freely and affirmatively communicated words or actions given by an informed individual that a sober reasonable person under the circumstances would believe communicate a willingness to participate in the sexual contact.

(c) Title IX sexual assault is a subset of sexual assault that occurs in the United States and: (1) on campus; (2) as part of the University’s operations; (3) in locations, events or circumstances over which the University exercised substantial control over both the respondent and the context in which the prohibited conduct occurred; and/or (4) in buildings owned or controlled by a student organization that is officially recognized by the University. Title IX sexual assault occurs when there is actual or attempted:
- penetration, no matter how slight, of the vagina or anus with any body part or object without affirmative consent;
- oral penetration by a sex organ of another person without affirmative consent; or
- the touching of the private body parts of another person without affirmative consent and for the purpose of sexual gratification.

Subd. 4. Relationship Violence.
Relationship violence shall mean: (1) actual, attempted or threatened violence by an individual who is against another individual with whom they are, or have been, in a spousal, sexual, or romantic relationship with, or of a romantic or intimate nature; or (2) conduct that would constitute a felony or misdemeanor crime of violence by an individual against: (i) a current or former spouse or intimate partner; (ii) an individual with whom they share a child; (iii) an individual similarly situated to a spouse under the individual receiving Minnesota state domestic or family violence laws; or (iv) any adult or youth who is
 protected from the actual, attempted, individual's acts under the Minnesota state domestic or threatened family violence laws.

(a) Title IX relationship violence is a subset of relationship violence that occurs in the United States and: (1) on campus; (2) as part of the University's operations; (3) in locations, events or circumstances over which the University exercised substantial control over both the respondent and the context in which the prohibited conduct occurred; and/or (4) in buildings owned or controlled by a student organization that is officially recognized by the University.

Subd. 5. Stalking.
Stalking shall mean a course of conduct directed at a specific individual that is unwelcome and that would cause a reasonable person to: (1) feel fear for their safety or the safety of others; or (2) experience substantial emotional distress. A course of conduct is multiple acts including, but not limited to, acts in which an individual directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another individual, or interferes with another individual's property.

(a) Title IX stalking is a subset of stalking that occurs in the United States and: (1) on campus; (2) as part of the University's operations; (3) in locations, events or circumstances over which the University exercised substantial control over both the respondent and the context in which the prohibited conduct occurred; and/or (4) in buildings owned or controlled by a student organization that is officially recognized by the University.

Subd. 6. Retaliation.
Retaliation shall mean taking an adverse action against an individual: (1) for the purpose of interfering with any right or privilege secured by this policy; (2) for refusing to participate in any manner in an informal problem-solving or grievance process relating to a prohibited conduct allegation; or (3) because of the individual's good faith participation in:

(a) reporting suspected or alleged prohibited conduct;
(b) expressing opposition to suspected or alleged prohibited conduct;
(c) testifying, assisting, or participating in an informal problem-solving, investigation, or grievance process related to a prohibited conduct allegation; or
(d) accessing the Office for Conflict Resolution (OCR) to resolve a conflict related to prohibited conduct.

To demonstrate that retaliation has occurred, an individual must show that a causal relationship exists between the individual's actions in (a) through (d) above and the adverse action.

Subd. 7. Member of the University Community.
Member of the University community shall mean any:

(a) University student;
(b) University employee; or
(c) third party who is engaged in any University activity or program, or who is otherwise interacting with the University, including, but not limited to, volunteers, contractors, vendors, visitors and guests.

SECTION III. GUIDING PRINCIPLES.
The following principles shall guide the University's commitment to preventing and addressing prohibited conduct:

(a) Consistent with its academic mission and standards, the University is committed to achieving excellence by working to create an educational, employment and residential living environment that is free from prohibited conduct.
(b) The University is committed to preventing and addressing prohibited conduct through education and prompt, thorough and procedurally fair investigative procedures.
(c) As a community of faculty, staff and students engaged in research, scholarship, artistic activity, teaching and learning, and activities that support them, the University seeks to foster an environment that is equitable, humane and responsible and where all are treated with dignity and respect.

SECTION IV. IMPLEMENTATION.

The University shall:

(a) prohibit members of the University community from engaging in, or assisting or abetting another's engagement in, prohibited conduct;
(b) require employees to take timely and appropriate action when they know or should know that prohibited conduct is occurring or has occurred;
(c) adopt procedures on each campus for investigating and resolving complaints of prohibited conduct in coordination with either the director of the Office of Equal Opportunity and Affirmative Action or, with regard to stalking of a non-sexual nature, the director of the office for investigation of non-sexual Board of Regents Policy: Student Conduct Code complaints or the campus human resources department;
(d) adopt procedures on each campus for providing training on prohibited conduct available to all members of the University community; students, employees, and volunteers; and
(e) address violations of this policy through disciplinary or other responsive action up to and including termination of employment or academic dismissal.

SECTION V. MONITORING.

The president or delegate shall address complaints of prohibited conduct consistent with this policy and law and remedy any practice that deviates from this policy.

REVISION HISTORY

Adopted: October 13, 2017
Supersedes: Sexual Harassment dated May 11, 2012; Sexual Harassment dated September 11, 1998
BOARD OF REGENTS POLICY:

Faculty Tenure

PREAMBLE

The Board of Regents adopts these regulations with the conviction that a well-defined statement of rules is essential to the protection of academic freedom and to the promotion of excellence at the University of Minnesota. A well-designed promotion and tenure system ensures that considerations of academic quality will be the basis for academic personnel decisions, and thus provides the foundation for academic excellence.

Tenure is the keystone for academic freedom; it is essential for safeguarding the right of free expression and for encouraging risk-taking inquiry at the frontiers of knowledge. Both tenure and academic freedom are part of an implicit social compact which recognizes that tenure serves important public purposes and benefits society. The people of Minnesota are best served when faculty are free to teach, conduct research, and provide service without fear of reprisal and to pursue those activities with regard for long term benefits to society rather than short term rewards. In return, faculty have the responsibility of furthering the institution’s programs of research, teaching, and service, and are accountable for their performance of these responsibilities. Additionally, a well-designed tenure system attracts capable and highly qualified individuals as faculty members, strengthens institutional stability by enhancing faculty members’ institutional loyalty, and encourages academic excellence by retaining and rewarding the most able people. Tenure and promotion imply selectivity and choice; they are awarded for academic and professional merit, not for seniority. The length and intensity of the review leading to the grant of tenure ensures the retention only of well-qualified faculty committed to the University’s mission.

The ideal attributes of the collective faculty of any unit are scholarly creativity, professional competence and leadership, intellectual diversity, the ability and desire to teach effectively and the willingness to cooperate with other units in promoting the work and welfare of the University as a whole. The administration and faculty should ensure, within each unit, not only a proper balance among these

Board of Regents Policy: Faculty Tenure contains both footnotes and interpretations. Footnotes are numbered and are indicated in the text with the abbreviation [FN#]. Footnotes are shown at the bottom of each page on which footnote markers appear in the text; these add information about specific terms or phrases in the regulations. Interpretations are numbered and are indicated in the text with the abbreviation [INTERP#]. Interpretations appear at the end of the regulations; these are added to clarify or modify the meaning of a section or subsection.
activities but also the maintenance of each at the highest level, together with accountability and suitable recognition of individual achievement and service.

The tenure regulations provide a comprehensive set of policies dealing with the relationship between the University and its faculty. The regulations classify the faculty as tenured, probationary and term. They provide for annual performance reviews of all faculty, as well as especially thorough reviews before the granting of tenure, on promotion in rank, and when the performance of a tenured faculty member is alleged to be substandard. They provide for the reassignment of faculty in case of the reorganization of the University or changes in its scholarly direction, and for discipline when a faculty member fails to meet prescribed standards of conduct.

**DEFINITIONS**

For the purposes of this policy, the terms defined in this section have the meanings given them.

(a) **Academic Unit.** An academic unit is a department or similar unit. A school, college or division that is not further subdivided is also an academic unit.

(b) **Faculty Member.** Faculty member means every faculty member employed by the University of Minnesota System.

(c) **Head.** The head of an academic unit is the academic administrator immediately responsible for it, such as a chair, head or director.

(d) **Collegiate Unit or College.** A collegiate unit or college is a major academic entity of the University. It may be a college, school, or campus.

(e) **Dean.** The dean of a collegiate unit is the academic administrator immediately responsible for it, such as a dean or director or (on a campus that is not subdivided into colleges) a vice-chancellor.

(f) **Senior Academic Administrator.** A senior academic administrator is an officer who has final administrative review authority on academic personnel decisions, and who reports directly to the president and regents, such as a vice president, chancellor, or provost. The president will designate one or more senior academic administrators and define their respective jurisdictions.

(g) **Executive Vice President and Provost.** The executive vice president and provost is the officer (of whatever title) holding primary responsibility for the development of University-wide academic policy. This officer may also serve as senior academic administrator for some or all of the University, if so designated by the president.

(h) **Tenured Faculty.** Tenured faculty are those faculty who hold indefinite tenure.

**SECTION 1. ACADEMIC FREEDOM**

1.1. **Principles.** Every member of the faculty is entitled to due process and academic freedom as established by academic tradition and the constitutions and laws of the United States and the state of Minnesota and as amplified by resolutions of the Board of Regents. The Board of Regents hereby reaffirms its commitment to academic freedom and tenure as reflected in its resolution of January 28, 1938, in these Faculty Tenure regulations, and in its policy on Academic Freedom and Responsibility:
The Regents of the University of Minnesota reaffirm the principles of academic freedom and responsibility. These are rooted in the belief that the mind is ennobled by the pursuit of understanding and the search for truth and the state well served when instruction is available to all at an institution dedicated to the advancement of learning. These principles are also refreshed by the recollection that there is *commune vinculum omnibus artibus* - a common bond through all the arts.

Academic freedom is the freedom, without institutional discipline or restraint, to discuss all relevant matters in the classroom, to explore all avenues of scholarship, research and creative expression and to speak or write on matters of public concern as well as on matters related to professional duties and the functioning of the University.

Academic responsibility implies the faithful performance of professional duties and obligations, the recognition of the demands of the scholarly enterprise, and the candor to make it clear that, when one is speaking on matters of public interest, one is not speaking for the institution.

### 1.2. Protection of Faculty

Denial of faculty appointment or reappointment or removal or suspension from office or censure or other penalty must not be based upon any belief, expression or conduct protected by law or by the principles of academic freedom. Cases of alleged violation of academic freedom may be brought directly to the Judicial Committee in accordance with section 15.

### SECTION 2. APPLICABILITY OF REGULATIONS TO EMPLOYMENT CONTRACTS

These regulations govern the relationship between the Board of Regents and faculty members, except as inconsistent with the provisions of collective bargaining agreements. These regulations are part of the contract between the Board of Regents and faculty members.

### SECTION 3. FACULTY RANKS AND TYPES OF APPOINTMENTS

#### 3.1. In General

The faculty ranks are professor, associate professor, assistant professor, and instructor. Faculty appointment is appropriate only if the person is engaged in teaching or research as defined in subsection 7.11. Appointments at these ranks are either regular tenured or tenure-track appointments or term appointments. An appointment must be designated as a regular or a term appointment when it is made.

#### 3.2. Regular Appointments

A regular appointment either is with indefinite tenure or is probationary, leading to a decision concerning indefinite tenure within a specified period of time. A regular appointment may be held only in an academic unit of a degree-granting college or similar unit. A regular appointment must be for at least two-thirds time of the faculty member’s contract year [i.e. either an academic year or twelve months].

A faculty member on probationary appointment is entitled to consideration for indefinite tenure in accordance with section 7 and to timely notice of termination in accordance with section 6.

A faculty member with indefinite tenure is entitled to retain that position until retirement in accordance with University regulations or until the appointment is terminated pursuant to the provisions of sections 10 or 11.
3.3. Term Appointments. A term appointment is date-specific; that is, the appointment terminates at the end of a period specified in the appointment without further notice to the appointee. The senior academic administrator for the campus or area must give every person appointed to a term faculty position a statement in writing setting forth the conditions of the appointment, including the fact that it terminates without further notice.

No number of renewals of a term appointment creates a right to further renewals or to a decision concerning tenure. Every renewal of a term appointment for the seventh or succeeding year must be reported to the Tenure Committee with a justification of the reasons for the continuation of term status.

3.4. Appropriate uses of term appointments. Term appointments are appropriate and may be used provided one or more of the following conditions is met:

(a) the duration, the percentage of time, or both require less than service for two-thirds time for the academic year;
(b) the appointment is designated a visiting appointment because the faculty member is from another educational institution or is a qualified professional from a government or private agency on a leave of absence to accept a temporary appointment at this University;
(c) the appointment is designated a clinical appointment because the faculty member is a clinician in the community who gives service to the University part-time;
(d) the appointment concerns a faculty member who principally is engaged in and primarily is supported by clinical activities or by discipline-related service. [FN1]
(e) the appointment is designated an adjunct appointment because the faculty member's primary employment is outside the University or is in another unit of the University;
(f) the appointment extends courtesy faculty rank without salary;
(g) the position is subject to the joint control of the University and another institution;
(h) the specific funding for the position is subject to the discretion of another agency;
(i) the funding for the position is for a limited time;
(j) the appointment is in a unit or program that is experimental or otherwise restricted in duration; and
(k) the person is enrolled in a University of Minnesota degree program. A regular faculty member on a probationary appointment may transfer to term status during enrollment in such a program if the faculty member and the senior academic administrator agree. This transfer suspends the running of the maximum period of probationary service, but the faculty member retains other rights of regular appointment, including annual review, the right to timely notice and a terminal appointment period as provided in section 6.

3.5. Administrators' Appointments. Academic administrators may hold regular or term faculty appointments. Administrative titles and duties are distinct and severable from such individuals’ faculty appointments. Removal from an administrative position does not impair any rights the individual holds as a faculty member. Upon leaving an administrative position, the individual returns to faculty status, with salary and term of appointment reduced by the amount of the administrative augmentation, if any.

3.6. Special Contracts. These regulations do not bar a faculty appointment pursuant to a special contract specifying terms or conditions of employment which are different from those prescribed in these regulations. All other provisions of these regulations apply to such appointments. Every special contract must be in writing and must state that it is a special contract entered into pursuant to this subsection. It

FN1 "Service" means performance within the faculty member’s expertise, other than teaching and research as defined in subsection 7.11.
must be signed by the faculty member concerned, by the dean of the collegiate unit in which the faculty member will be employed and by the senior academic administrator and must be authorized by the Board of Regents or its expressly authorized delegate. In addition, the senior academic administrator will annually report to the Tenure Committee the terms of all special contracts and the reasons for their use.

A special contract may be used to reduce the minimum time of a regular appointment to one-half time in order to permit a faculty member to devote more time to family responsibilities. Such a contract must provide for the mutual responsibilities of the faculty member and the academic unit, including the type and percent time of the appointment, if any, to which the faculty member is entitled at the expiration of the special contract. In the case of a probationary faculty member, the contract will regulate the length of the probationary period, but the total probationary period may be extended by no more than a total of three years pursuant to this subsection and subsection 5.5.

SECTION 4. TERMS OF FACULTY EMPLOYMENT

4.1. Written Notice of Appointment. Each faculty appointment or change of status is specified in a written notice of appointment issued by or on behalf of the Board of Regents. The notice must include the following:

(a) Whether the appointment is regular or term;
(b) Whether it is full or part-time and the percentage of time involved;
(c) If for a fixed term, its expiration date;
(d) If regular, whether it is probationary or with indefinite tenure;
(e) Whether it is on a twelve-month, academic year or other specified annual basis;
(f) The rank of appointment;
(g) The academic unit or units to which the individual is being appointed;
(h) The recurring salary; and
(i) Additional salary as described in subsection 4.4.

The notice is only evidence of the appointment; clerical or computer errors in a notice of appointment do not affect the terms of the appointment unless the faculty member reasonably relied upon the mistake and suffered an injustice because of that reliance. Notices required by this section should be delivered before the effective date of the appointment or change of status, or as soon thereafter as is administratively feasible. A probationary appointee must also be given notice of the applicable maximum probationary period.

4.2. Action by the Board of Regents. Faculty appointments and renewals or changes of status become effective when approved by the Board of Regents or its authorized delegate.

4.3. Changes in Terms of Appointment Other than Faculty Compensation. Except for raises in rank and except for action expressly authorized by these regulations, no changes of (a) through (g) items listed in subsection 4.1 may be made during the term of an appointment except with the agreement of the faculty member and the Board of Regents or its authorized delegate.

4.4. Faculty Salaries. [INTERP 1] Each faculty member shall receive a recurring salary, and may also receive an additional salary which may be for special awards or for activities in addition to regular faculty responsibilities such as clinical practice, administrative service, overload duties, summer school teaching and summer research support and similar activities.
Recurring salary will not be decreased except by action expressly authorized in this section or in sections 7a, 10, 11, or 14 of these regulations or with the agreement of the faculty member. If a faculty member's recurring salary is decreased, the amount of the decrease and the reason therefore shall be set forth in a written notice and provided to the faculty member. No decrease in recurring salary shall occur in violation of the academic freedom of the faculty member.

At the time an appointment is made, the offer and written notice of appointment shall separately state the recurring salary and any additional salary, as described above, that the faculty member will receive. In each subsequent year, the faculty member shall be provided with a written notice separately stating any changes in recurring salary and any changes in additional salary for the following academic year. A faculty member's recurring salary shall consist of the initial recurring salary adjusted by any subsequent increase or decrease in recurring salary provided for in a subsequent written notice. Increases will be presumed to be in recurring salary unless otherwise identified. For a faculty member employed when this section takes effect, the initial recurring salary will be the faculty member's recurring salary at the time this section takes effect, exclusive of any additional salary designated as special awards or designated as being for activities in addition to regular faculty responsibilities such as clinical practice, administrative service, overload duties, summer school teaching, summer research support and similar activities.

A faculty member whose recurring salary has been decreased may petition for review of that action under section 15 of these regulations.

4.5. Reduction or Postponement of Compensation. If the University or a collegiate unit is faced with financial stringency that does not amount to a fiscal emergency, the president may propose a temporary reduction or postponement in compensation to be allocated to faculty in accordance with a mathematical formula or similar device. If approved by the Faculty Senate or the appropriate collegiate assembly, respectively, and the Board of Regents, the recurring salary of all faculty members in the University or in the designated collegiate units shall be reduced temporarily in accordance with the formula or device. The reduction may not continue for longer than two years, unless renewed by the same procedure. [INTERP 2]

SECTION 5. MAXIMUM PERIOD OF PROBATIONARY SERVICE

5.1. General Rule. To give the University ample opportunity to determine the qualifications of those faculty members whom it is considering for regular appointments with indefinite tenure, the maximum period of probationary service of a faculty member is normally six academic years, whether consecutive or not. The faculty assembly of a collegiate unit may propose to alter the maximum probationary period for all of that college, or for certain units within it, to no more than nine years. The tenured faculty of a college, by simple majority vote taken by secret ballot, may adopt such a change, with the approval of the dean and of the senior academic administrator. Any such change in the maximum probationary period applies to all probationary faculty hired in that college (or those units) after the decision, but any incumbent probationary faculty member may choose to be considered under the new rule. At the end of this probationary period, the faculty member must either be given a regular appointment with indefinite tenure or a one-year terminal appointment.

5.2. Early Decisions Permitted. These regulations do not prevent the granting of indefinite tenure prior to the expiration of the maximum period of probationary service and do not prevent a decision to terminate an appointee’s probation prior to the end of the appointee’s maximum probationary service, if timely notice is given.
5.3. Crediting of Academic Year. A faculty member is considered to have served an academic year if the faculty member serves at least two-thirds time during the faculty member's contract year [i.e. either an academic year or twelve months].

Unless otherwise agreed in writing, periods during which a faculty member is on a single-semester or other paid professional-development leave or is on leave to teach or conduct research at another academic institution, count as probationary service. Periods in which the faculty member is on sick or disability leave, or is on leave in some non-faculty capacity, do not count as probationary service.

If a faculty member transfers to a position outside of the regular faculty, the time spent in the other position does not count as probationary service for the purpose of section 5.

5.4. Prior Service.

5.41. In This University. Every academic year during which a faculty member has previously served at least two-thirds time under a regular appointment at this University reduces the maximum period of probationary service by one year.

5.42. Elsewhere. If a faculty member has previously served in regular faculty positions, as defined in these regulations, in one or more accredited universities or colleges, every academic year of such service (not exceeding three) reduces the maximum period of probationary service by one year.

5.43. Exceptions Permitted. If the prior service was in a different discipline, was in an academic unit or institution with teaching or research goals not comparable to those of the present appointment, or was too long ago to provide good evidence of the appointee's current professional development, the Board of Regents or its expressly authorized delegate may make an exception in writing at or near the beginning of the probationary period.

5.5. Extension of Maximum Probationary Period for New Parent or Caregiver, or for Personal Medical Reasons. Upon the written request of a probationary faculty member, the maximum period of that faculty member's probationary service will be extended by one year at a time for each request:

(a) On the occasion of the birth of the faculty member’s child or placement of an adoptive/foster child with the faculty member. Such a request for extension will be granted automatically if the faculty member notifies the unit head, dean, and executive vice president and provost in writing that the faculty member is eligible for an extension under subsection 5.5 because of the birth or adoption/foster placement; or

(b) If the faculty member is a major caregiver for a family member with an extended serious illness, injury, or debilitating condition and the executive vice president and provost determines that the circumstances have had or are likely to have a substantial negative impact on the faculty member's ability to work over an extended period of time;

(c) If the faculty member has an extended serious illness, injury, or debilitating condition, and the executive vice president and provost determines that the circumstances have had or are likely to have a substantial negative impact on the faculty member’s ability to work over an extended period of time. If the faculty member's illness, injury, or debilitating condition reduces the faculty member's ability to work to less than two-thirds time during the faculty member’s contract year [i.e., the academic year or twelve months], the probationary period is automatically extended by one year in accordance with subsection 5.3.
“Family member” means a faculty member’s spouse or domestic partner, child, or other relative. “Child” includes a biological child, an adopted or foster child, and the child of a spouse or domestic partner.

The probationary period may be extended for no more than three years total, except that the extension may be for no more than one year total for (1) an instructor with a probationary appointment under subsection 6.22 or (2) an associate professor or professor with a three-year probationary appointment under subsection 6.21.

The notification of birth or adoption/foster placement for provision (a) and the request for extension for provisions (b) and (c) in this subsection must be made in writing within one year of the events giving rise to the claim and no later than June 30 preceding the year a final decision would otherwise be made on an appointment with indefinite tenure for that faculty member.

A request for an extension under provision (b) or (c) will not be denied without first providing the faculty member making the request with an opportunity to discuss the request in a meeting with an administrator designated by the executive vice president and provost. A claim that a request for an extension under provision (b) or (c) was improperly denied may be considered in any subsequent review by the Senate Judicial Committee of a termination under subsection 7.7.

SECTION 6. TENURE AND PROMOTION FOR PROBATIONARY FACULTY MEMBERS

6.1. In General. A regular probationary appointee is a candidate for indefinite tenure. A probationary appointment continues until it is superseded by an appointment with indefinite tenure or until terminated by timely notice or by resignation. Regular probationary appointments are normally made at the rank of assistant professor, but may be made at the rank of instructor, associate professor, or professor.

6.2. Requirements for Notice Requirements of Termination. Except as provided below, a probationary appointment may be terminated at the end of any academic year by giving the faculty member notice of termination (in the form provided in section 17) not later than May 15 of the preceding academic year. The notice must inform the faculty member of the right to request a hearing before the Judicial Committee and must advise the faculty member of the applicable time limit for making such a request.

6.21. Associate Professors and Professors on Probationary Appointments. An initial probationary appointment at the rank of associate professor or professor may specify in writing that it is for a minimum period of three years. In such a case, the probationary period is three years and the appointment may not be terminated before the end of the third year except as otherwise provided in these regulations; notice for such a termination must be given to the faculty member not later than May 15 of the second year of service, to take effect at the end of the third year of service.

6.22. Instructors on Probationary Appointments. An initial probationary appointment at the rank of instructor may be made only if the candidate has not yet received the terminal degree necessary for appointment as an assistant professor in the unit.

A probationary appointment at the rank of instructor may be for no more than two years. A one-year appointment may be terminated at the end of the first year by notice given not later than March 1 of that year. A two-year appointment may be terminated at the end of the second year by notice given not later than December 15 of that year. In all other respects such appointments are governed by the notice provisions specified in subsection 6.2.
The duration of the appointment as an instructor with probationary status counts toward the appointee’s maximum period of probationary service under subsection 5.1. At the end of the probationary period as an instructor, the faculty member must be promoted to the rank of assistant professor or receive notice of termination.

6.3. Relation Between Tenure and Promotions. Only regular faculty members at the ranks of associate professor and professor may hold indefinite tenure. [INTERP 7]

The granting of indefinite tenure to an assistant professor on a probationary appointment must be accompanied by promotion to associate professor. The promotion of an assistant professor on a probationary appointment to the rank of associate professor must be accompanied by an appointment with indefinite tenure. The choice whether to award tenure and to promote is presented as a single question for faculty vote.

An associate professor with a probationary appointment may be granted indefinite tenure without a promotion in rank.

The promotion of an associate professor on a probationary appointment to the rank of professor must be accompanied by an appointment with indefinite tenure.

Promotion of an instructor to the rank of assistant professor is not accompanied by an appointment with indefinite tenure.

6.4. Effect of Procedural Errors. A probationary faculty member is not entitled to an appointment with indefinite tenure merely because the University failed to give timely written notice of termination of an appointment or because the appointment was extended for any reason beyond the maximum probationary period. In such a case, the University may in its sole discretion:

(a) Grant an appointment with indefinite tenure;
(b) Grant a further probationary appointment, if this would not exceed the maximum probationary period; or
(c) Grant a terminal appointment ending at the end of the first full academic year which follows the May 15th after proper notice is given.

SECTION 7. PERSONNEL DECISIONS CONCERNING PROBATIONARY FACULTY


7.11. General Criteria. What the University of Minnesota seeks above all in its faculty members is intellectual distinction and academic integrity. The basis for awarding indefinite tenure to the candidates possessing these qualities is the determination that each has established and is likely to continue to develop a distinguished record of academic achievement that is the foundation for a national or international reputation or both [FN2]. This determination is reached through a qualitative evaluation of the candidate’s record of scholarly research or other creative work, teaching, and service [FN3].

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FN2 "Academic achievement" includes teaching as well as scholarly research and other creative work. The definition and relative weight of the factors may vary with the mission of the individual campus.

FN3 The persons responsible and the process for making this determination are described in subsections 7.3 through 7.6.
The relative importance of these criteria may vary in different academic units, but each of the criteria must be considered in every decision [FN4]. Demonstrated scholarly or other creative achievement and teaching effectiveness must be given primary emphasis; service alone cannot qualify the candidate for tenure.

Interdisciplinary work, public engagement, international activities and initiatives, attention to questions of diversity, technology transfer, and other special kinds of professional activity by the candidate should be considered when applicable. The awarding of indefinite tenure presupposes that the candidate’s record shows strong promise of his or her achieving promotion to professor.

7.12. Departmental Statement. [FN5] Each department or equivalent academic unit must have a document that specifies (1) the indices and standards that will be used to determine whether candidates meet the threshold criteria of subsection 7.11 ("General Criteria" for the awarding of indefinite tenure); (2) the indices and standards that will be used to determine whether candidates meet the threshold criteria of subsection 9.2 ("Criteria for Promotion to Professor”); and (3) the goals and expectations to be used in evaluating faculty members’ performance under subsection 7a ("Review of the Performance of Faculty Members”). The document must contain the text and footnotes of subsections 7.11 and 9.2, and must be consistent with the criteria given there but may exceed them. Each departmental statement must be approved by a faculty vote (including both tenured and probationary members), the dean, and other appropriate academic administrators, including the executive vice president and provost. The chair or head of each academic unit must provide each probationary faculty member with a copy of the Departmental Statement at the beginning of the probationary service. [INTERP 3]

7.2. Annual Review. The tenured faculty [FN6] of each academic unit annually reviews the progress of each probationary faculty member toward satisfaction of the criteria for receiving tenure. The head of the unit prepares a written summary of that review and discusses the candidate’s progress with the candidate, giving a copy of the report to the candidate.

7.3. Formal Action by the Faculty. The tenured faculty of the academic unit may recommend that a probationary faculty member be granted indefinite tenure or that the appointment be terminated. If it does neither, it is presumed to recommend a renewal of the appointment. In the final probationary year, if the

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*Scholarly research* must include significant publications and, as appropriate, the development and dissemination by other means of new knowledge, technology, or scientific procedures resulting in innovative products, practices, and ideas of significance and value to society.

*Other creative work* refers to all forms of creative production across a wide range of disciplines, including, but not limited to, visual and performing arts, design, architecture of structures and environments, writing, media, and other modes of expression.

*Teaching* is not limited to classroom instruction. It includes extension and outreach education, and other forms of communicating knowledge to both registered University students and persons in the extended community, as well as supervising, mentoring, and advising students.

*Service* may be professional or institutional. Professional service, based on one’s academic expertise, is that provided to the profession, to the University, or to the local, state, national, or international community. Institutional service may be administrative, committee, and related contributions to one’s department or college, or the University. All faculty members are expected to engage in service activities, but only modest institutional service should be expected of probationary faculty.

FN4 Indefinite tenure may be granted at any time the candidate has satisfied the requirements. A probationary appointment must be terminated when the appointee fails to satisfy the criteria in the last year of probationary service and may be terminated earlier if the appointee is not making satisfactory progress within that period toward meeting the criteria.

FN5 "Departmental" refers to an academic department or its equivalent, such as division, institute, or unit.

FN6 As used in this policy, “tenured faculty” means those members of the faculty who hold indefinite tenure.
tenured faculty does not recommend an appointment with indefinite tenure, it must recommend termination of the appointment. The recommendation is made by a vote of the regular faculty with indefinite tenure in the unit. The presiding officer is not disqualified from voting merely because of office.

7.4. Procedures for Taking Formal Action. The academic unit must observe University procedures established as provided in subsection 16.3. These procedures will provide the following:

(a) A good faith effort is made to gather all relevant information necessary to the decision. The academic units have the primary obligation to assemble the file, but the faculty member also has the right to add any material the faculty member considers relevant.

(b) The decision is made by vote, by written unsigned secret ballot, at a meeting of the regular faculty who have indefinite tenure in the academic unit. The rules may provide for absentee ballots by informed absent faculty members.

(c) Persons who have or have had a family or similar relationship to the candidate do not participate in the decision. The procedures may establish methods for raising and ruling on such questions in advance of the decision.

(d) Action is to be taken by majority vote. An academic unit may adopt a uniformly applicable rule that a motion to recommend tenure must achieve a specified exceptional majority in order to constitute an affirmative recommendation of that unit. In such case a motion which achieves a majority, but not the required exceptional majority, must be sent forward for review by the appropriate review process despite the absence of the unit’s affirmative recommendation.

(e) The unit shall report the vote of the faculty, together with the reasons for the action taken. This statement of reasons must take the form of a summary of both majority and minority views which have substantial support which were expressed in the course of formal consideration of the action. All statements must be made without personal attribution. A preliminary draft is open to members of the faculty eligible to vote so they may comment and suggest changes. The final draft is sent to the affected faculty member and is open to the faculty eligible to vote.

(f) Before submitting a formal recommendation for an appointment with indefinite tenure or for termination of a probationary appointment, the head of the academic unit informs the appointee of the recommendation and gives the appointee a copy of the final report. The appointee may submit any comments upon the report to the academic administrator who will review the report, with a copy to the head of the academic unit.

7.5. Nondisclosure of Grounds for Recommendation of Termination. The reasons for a recommendation to terminate a probationary appointment may not be disclosed, except as part of the review process, unless the faculty member requests such disclosure or makes a public statement concerning the reasons for termination.

7.6. Review of Recommendations. Recommendations of academic units to grant indefinite tenure or to terminate probationary appointments are reviewed at the collegiate and university levels.

7.61. Procedures. The review must be conducted according to University procedures, established as provided in subsection 16.3. These procedures must provide for review and recommendations by the head of the academic unit, by the dean of the collegiate unit, by faculty committees at the collegiate or University level, and, when appropriate, by other academic administrators. The review must be conducted on the basis of the standards and criteria established by subsections 7.11 and 7.12 and the applicable rules and procedures. The rules may permit an administrator to refer the matter back to the unit for reconsideration, but if the administrator and the unit do not agree after such reconsideration, both the recommendation and the administrator’s comments must be sent forward for final administrative action. A copy of each review
or recommendation must be supplied to the faculty member. The faculty member may comment thereon in writing to those who will review the matter further.

7.62. Conflict of Interest. No one may participate both in an initial recommendation by an academic unit and in a subsequent review of that recommendation, except that the head of the academic unit may make the initial administrative review. No one who has participated in a recommendation or review may thereafter serve as a member of the Judicial Committee in further consideration of that case.

Members of the Judicial Committee may not serve on collegiate or University review committees. Members of the Judicial Committee may participate in initial recommendations by their own academic units, but are disqualified from thereafter participating in Judicial Committee consideration of those decisions.

7.63. Final Administrative Action. The University may not act contrary to the recommendation of the academic unit which made the initial recommendation except for substantive reasons which must be stated in writing by the senior academic administrator to the faculty member, to the members of the academic unit which made the recommendation, and to the president. The fact that participants in the review process have recommended against the unit's initial recommendation is not, by itself, a substantive reason.

The senior academic administrator takes the steps necessary to make the necessary appointment or to give notice of termination.

7.7. Improper Termination of Probationary Appointments. A person holding a regular probationary appointment who has been given notice of termination may petition the Judicial Committee to review that action. The Judicial Committee will not base its ruling on the merits of the decision itself, but will review allegations that the decision was based in significant degree upon any of the following:

(a) Personal beliefs, expressions or conduct which fall within the liberties protected by law or by the principles of academic freedom as established by academic tradition and the constitutions and laws of the United States and the state of Minnesota;
(b) Factors proscribed by applicable federal or state law regarding fair employment practices;
(c) Substantial and prejudicial deviation from the procedures prescribed in subsections 7.4 and 7.6 and the procedural rules promulgated pursuant to those subsections;
(d) Failure to consider data available at the time of decision bearing materially on the faculty member's performance;
(e) Demonstrable material prejudicial mistakes of fact concerning the faculty member's work or conduct;
(f) Other immaterial or improper factors causing substantial prejudice; or
(g) Other violation of University policies or regulations.

Such proceedings are governed by section 15.

SECTION 7a. REVIEW OF FACULTY PERFORMANCE

7a.1. Goals and Expectations. The faculty of each academic unit must establish goals and expectations for all faculty members, including goals and expectations regarding teaching, scholarly productivity, and contributions to the service and outreach functions of the unit. The factors to be considered will parallel those used by the unit in the granting of tenure, but will take into account the different stages of professional development of faculty. The goals and expectations will be established in accordance with standards established by the University Senate. They can provide for flexibility, so that some faculty
members can contribute more heavily to the accomplishment of one mission of the unit and others to the accomplishment of other missions. The goals and expectations shall not violate the individual faculty member's academic freedom in instruction or in the selection of topics or methods for research. They shall include reasonable indices of acceptable performance in each of the areas (e.g., teaching contributions and evaluations, scholarly productivity, service, governance and outreach activities). The dean reviews the goals and expectations of each unit and may request changes to meet the standards of the University and of the collegiate unit.

7a.2. Annual Review. Each academic unit, through its merit review process (established in accordance with the standards adopted by the senate), annually reviews with each faculty member the performance of that faculty member in light of the goals and expectations of the academic unit established under subsection 7a.1. This review is used for salary adjustment and faculty development. The faculty member will be advised of the evaluation and, if appropriate, of any steps that should be taken to improve performance and will be provided assistance in that effort. If the head of the unit and a peer merit review committee elected for annual merit review within that unit both find a faculty member’s performance to be substantially below the goals and expectations adopted by that unit, they shall advise the faculty member in writing, including suggestions for improving performance, and establish a time period (of at least one year) within which improvement should be demonstrated.

7a.3. Special Peer Review in Cases of Alleged Substandard Performance by Tenured Faculty. If, at the end of the time period for improvement described in the previous paragraph, a tenured faculty member’s performance continues to be substantially below the goals and expectations of the unit and there has not been a sufficient improvement of performance, the head of the academic unit and the elected peer merit review committee may jointly request the dean to initiate a special peer review of that faculty member. Before doing so, the dean shall independently review the file to determine that special peer review is warranted. (In the case of an academic unit that is also a collegiate unit, the request shall be made to and the review conducted by the responsible senior academic administrator.) The special peer review shall be conducted by a panel of five tenured faculty members of equal or higher rank, selected to review that individual. The faculty member under review shall have the option to appoint one member. The remaining members shall be elected by secret ballot by the tenured faculty of the unit. The members of the special review panel need not be members of the academic unit. The special review panel shall provide adequate opportunity for the faculty member to participate in the review process and shall consider alternative measures that would assist the faculty member to improve performance. The tenure subcommittee may adopt rules and procedures regulating the conduct of such reviews. The special review panel shall prepare a report on the teaching, scholarship, service, governance, and (when appropriate) outreach performance of the faculty member. It will also identify any supporting service or accommodation that the University should provide to enable the faculty member to improve performance. Depending on its findings, the panel may recommend:

(a) that the performance is adequate to meet standards and that the review be concluded;
(b) that the allocation of the faculty member’s expected effort among the teaching, research, service and governance functions of the unit be altered in light of the faculty member’s strengths and interests so as to maximize the faculty member’s contribution to the mission of the University;
(c) that the faculty member undertake specified steps to improve performance, subject only to future regular annual reviews as provided in subsection 7a.2;
(d) that the faculty member undertake specified steps to improve performance subject to a subsequent special review under subsection 7a.3, to be conducted at a specified future time;
(e) that the faculty member's performance is so inadequate as to justify limited reductions of salary, as provided in subsection 7a.4;
(f) that the faculty member's performance is so inadequate that the dean should commence formal proceedings for termination or involuntary leave of absence as provided in sections 10 and 14; or

(g) some combination of these measures.

The panel will send its report to the dean, the head of the academic unit, and the faculty member. Within 30 work days of receiving the report, the faculty member may appeal to the Judicial Committee, which shall review the report in a manner analogous to the review of tenure decisions (see subsection 7.7).

7a.4. Salary Reductions. If the special review panel recommends that the faculty member's performance is so inadequate as to justify limited reductions of recurring salary, the head of the academic unit, with the approval of the dean, may reduce the faculty member's recurring pay, subject to the following limitations:

(a) the amount of the decrease will not exceed 10% of the faculty member's recurring salary on the basis of any one special review;
(b) recurring salary may not be reduced by more than 25% from the highest level of recurring pay ever held by the faculty member;
(c) at least six months' notice of the decrease must be given;
(d) any decrease in recurring salary may be restored by the annual review process provided in subsection 7a.2.

Within 30 work days of notice of the decrease, the faculty member may appeal this action to the Judicial Committee, which shall review the action and the recommendation leading to it in a manner analogous to the review of tenure decisions (see subsection 7.7). This review may not reconsider matters already decided by the Judicial Committee under subsection 7a.3. Any decrease in recurring pay beyond the limits specified in this subsection can only be imposed pursuant to sections 4.5, 10, 11, and 14.

7a.5. Peer Review Option. Upon application to it by the dean and faculty (or the elected faculty assembly) of a collegiate unit, the Faculty Senate may adopt a system of peer review of performance of faculty of that unit different from the system set forth in sections 7a.1 through 7a.4 if in the Faculty Senate's judgment so proceeding is in the University's interest.

SECTION 8. IMPROPER REFUSAL OF A NEW APPOINTMENT TO A TERM FACULTY MEMBER

A person holding a term faculty appointment who has been refused a renewal of that appointment or has applied for and been refused a regular or a different term faculty appointment within six months of the end of that appointment may petition the Judicial Committee to review the refusal, but only on the ground that the decision was based in significant degree upon one or more of the following:

(a) Personal beliefs, expressions or conduct which fall within the liberties protected by law or by the principles of academic freedom as established by academic tradition and the constitutions and laws of the United States and the state of Minnesota;
(b) Factors proscribed by applicable federal or state law regarding fair employment practices;
(c) Essential and substantial written misrepresentation of the nature of the original appointment; or
(d) Other violation of University policies or regulations.

Such proceedings are governed by section 15.

SECTION 9. PERSONNEL DECISIONS FOR ASSOCIATE PROFESSORS AND PROFESSORS
9.1. Appointment of Associate Professors and Professors with Indefinite Tenure. Initial appointments with indefinite tenure may only be made at the rank of associate professor or professor. Such appointments may be made only after receiving the recommendation of the regular faculty holding indefinite tenure in the academic unit concerned.

9.2. Criteria for Promotion to Professor. The basis for promotion to the rank of professor is the determination that each candidate has (1) demonstrated the intellectual distinction and academic integrity expected of all faculty members, (2) added substantially to an already distinguished record of academic achievement, and (3) established the national or international reputation (or both) ordinarily resulting from such distinction and achievement [FN7]. This determination is reached through a qualitative evaluation of the candidate’s record of scholarly research or other creative work, teaching, and service [FN8]. The relative importance of these criteria may vary in different academic units, but each of the criteria must be considered in every decision. Interdisciplinary work, public engagement, international activities and initiatives, attention to questions of diversity, technology transfer, and other special kinds of professional activity by the candidate should be considered when applicable. But the primary emphasis must be on demonstrated scholarly or other creative achievement and on teaching effectiveness, and service alone cannot qualify the candidate for promotion.

SECTION 10. UNREQUESTED LEAVE OF ABSENCE FOR DISABILITY AND DISCIPLINARY ACTION

10.1. Unrequested Leave of Absence for Disability. A faculty member who is physically or mentally unable to perform reasonably assigned duties may be placed on unrequested leave of absence. The faculty member is entitled to sick pay and disability insurance payments in accordance with University policy. The faculty member has a right to return to the faculty upon termination of the disability or upon cessation of disability payments.

10.2. Disciplinary Action. [INTERP 4]

10.21. Termination or Suspension of a Faculty Appointment Before its Expiration. A faculty appointment may be terminated or suspended before its ordinary expiration only for one or more of the following causes:

(a) sustained refusal or failure to perform reasonably assigned duties adequately;
(b) unprofessional conduct which severely impairs a faculty member’s fitness in a professional capacity;
(c) egregious or repeated misuse of the powers of a professional position to solicit personal benefits or favors;
(d) sexual harassment or any other egregious or repeated unreasonable conduct destructive of the human rights or academic freedom of other members of the academic community; or

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FN7 "Academic achievement" includes teaching as well as scholarly research and other creative work. The definition and relative weight of the factors may vary with the mission of the individual campus. Not being promoted to the rank of professor will not in itself result in special post-tenure review of a tenured associate professor.

FN8 The persons responsible for this determination are the full professors in the unit who are eligible to vote. The outcome of the vote is either promotion to the rank of professor or continuation in rank as an associate professor. The procedures for voting are identical to those outlined in subsection 7.4 for the granting of indefinite tenure, the nondisclosure of grounds for the decision (subsection 7.5), and the review of recommendations (subsection 7.6). In addition, a petition to the Judicial Committee for review of a recommendation of continuation in rank as an associate professor follows the procedures specified in subsection 7.7 for decisions about promotion to associate professor and conferment of indefinite tenure. See the definitions of "scholarly research," "other creative work," "teaching," and "service" in footnote [3]. A greater contribution in the area of institutional service is expected of candidates for the rank of professor than was expected for the award of tenure.
(e) other grave misconduct manifestly inconsistent with continued faculty appointment.

10.22. Minor Disciplinary Actions. Minor sanctions, such as a letter of reprimand in the faculty member’s file, or the like, may be imposed for significant acts of unprofessional conduct. For minor sanctions, the dean may impose the sanction after providing the faculty member notice of the proposed action and of the reason that it has been proposed and giving the faculty member an opportunity to respond. If the faculty member files a grievance under the University grievance policy to challenge a minor disciplinary matter, the sanction shall be held in abeyance until the conclusion of the proceeding. The grievance panel shall have jurisdiction to consider all claims raised by the faculty member, and if the case goes to arbitration, the arbitrator shall be an individual with experience in academic matters.

10.3. Procedures. A faculty member may be placed on unrequested leave of absence or a faculty appointment may be terminated or suspended for these the reasons specified in subsection 10.21 only in accordance with the procedures set forth in section 14.

10.4. Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence. Notwithstanding other provisions in these regulations, the process for decisions and appeals regarding disciplinary action in response to complaints against faculty for alleged violation of Board of Regents Policy: Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence will be conducted under Administrative Policy: Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence and related Administrative procedures. The Administrative policy will provide that there will be a faculty member on the hearing panel for any case in which a faculty member is a party.

SECTION 11. FISCAL EMERGENCY

11.1. Faculty Rights. The Board of Regents, if faced with the necessity of drastic reduction in the University budget, has the power to suspend or abolish positions, or even entire departments, divisions, or other administrative units. If confronted with such adverse contingency, the board will consult with and secure the advice of faculty representatives, as provided in this section. Faculty members have the right to full access to information about the situation and the alternatives being considered. In effecting retrenchment because of financial necessity, the regents will make reductions in faculty positions only to the extent that, in their judgment, is necessary after exploring various alternative methods of achieving savings. The regents fully intend that the tenure system as a whole and the tenure rights of each individual faculty member be protected in every feasible manner during periods of such retrenchment.

11.2. General Principles of Priority. The following general principles of priority apply in any financial crisis.

(a) first, the University must fully utilize all means consistent with its continued existence as an institution of high academic quality to reduce expenses or to increase income which do not involve the termination of faculty positions or the impairment of faculty rights.
(b) second, the University may consider alternatives which involve only the temporary reduction or postponement of faculty compensation or the reduction of fringe benefits.
(c) only thereafter may the University suspend or terminate faculty positions in accordance with the section.

11.3. First Stage: Alternative Approaches. If there has been a serious reduction in the University’s income, the president will report the matter to the Senate Consultative Committee. The president will identify the magnitude of the shortfall, the measures which might be taken to alleviate it (which must not
involve impairment of faculty rights), and alternative measures which have been rejected. The president will give the committee full access to all available information and will respond specifically to additional proposals suggested by the committee. At this stage, the University will consider reductions in other expenses. It will also consider increases in tuition, sales of assets, and borrowing. These steps will be implemented by the president or the Board of Regents as is appropriate.

11.4. Second Stage: Reduction Or Postponement Of Compensation. If the University has implemented all of the measures which are required to be considered in the first stage, which are consistent with its continued operation as an institution of high academic quality, and they are inadequate to meet the shortfall, the president may, after consultation with the Faculty Consultative Committee, propose the temporary reduction or postponement of faculty compensation for a predetermined period not to exceed one year, according to a mathematic formula or similar device. The Faculty Consultative Committee will report on the adequacy of the steps taken in the first stage and make its recommendations on the proposal. If the Faculty Senate approves the proposed action (or any modification of it) by an absolute majority of its membership or by a two-thirds vote of the members present and voting (a quorum being present), the Board of Regents may take that action (or any less stringent action) and, to that extent, modify the terms of the appointments of all faculty members. The Board of Regents may rescind the action at any time thereafter. Such action may be repeated by the same procedures.

11.5. Third Stage: Fiscal Emergency. If there has been a reduction of the University's income which is so drastic as to threaten its survival, and this threat cannot be alleviated by the measures specified above, the Board of Regents may declare a fiscal emergency. During such an emergency, the Board of Regents may terminate or suspend faculty appointments as provided in this section.

11.51. Preliminary Procedures. Before recommending to the Board of Regents that it declare a fiscal emergency, the president must meet with the Senate Consultative Committee to examine alternatives to and consequences of such a declaration. The president must provide the committee access to all available information. The president must provide a written report identifying the dollar amount to be saved by reducing faculty positions. This report must also identify the dollar amount proposed to be saved by any other measures to be taken, including the level of any concurrent reductions in non-faculty staff during the emergency. The Faculty Consultative Committee will prepare a written report on the president’s proposal, to which the Senate Consultative Committee may add additional comments. The Faculty Senate will first consider and act on the proposal and reports. Thereafter, the University Senate may consider them. The president must attend both senate meetings to explain the proposal and to answer questions.

After receiving the president’s recommendation and the resolutions of the senates, the Board of Regents may declare a state of fiscal emergency. Before action contrary to the recommendation of the University Senate is subsequently taken, the president must report in writing and in person the reasons for this action to the Senate Consultative Committee. The Board of Regents' resolution states the maximum amount to be realized from termination or suspension of faculty appointments.

11.52. Duration. A fiscal emergency lasts no longer than 12 months unless renewed by the same procedure. A fiscal emergency may be rescinded at any time by the Board of Regents.

11.53. Allocation of Shortfall. After consultation with the Faculty Consultative Committee and the Senate Consultative Committee, the president proposes an initial allocation of the shortfall to the various collegiate units, which need not be prorated. The committee must obtain the views of the faculty in the affected units and must hold an open meeting at which anyone may comment upon the proposed action. It may also request the assistance of other University or Senate committees in studying all or particular aspects of the
educational policies and priorities involved in the action. The colleges and campuses then allocate the shortfall to the various academic units after similar consultation with the representative bodies and academic units in the colleges and similar open meetings. The plans must reflect the principles and priorities established in subsection 11.6. The colleges and campuses return their plans to the executive vice president and provost, who prepares a comprehensive plan for the University, including a list of the persons whose appointments will be suspended or terminated. This plan is submitted to the University Senate and the Faculty Senate for their recommendation. The recommendations of the senate and the executive vice president and provost’s plan will be presented to the president and the Board of Regents for action.

11.6. Principles Governing Termination or Suspension.

11.61. General Principles.

(a) Savings achieved through resignations, retirements, renegotiations of contracts, inloading or other measures must be credited to the assigned shortfall before terminating or suspending faculty appointments.

(b) A good faith effort should be made to use temporary suspensions or voluntary furloughs rather than terminations. In this third stage, the Board of Regents may impose the temporary or permanent reduction of faculty compensation or the reduction of fringe benefits, in excess of those approved in the second stage. Suspensions without pay for no more than one-third of the annual appointment in any year may be ordered in accordance with objective criteria, provided that faculty members are given at least six months notice.

(c) Terminus may not be used in case of a short-term financial crisis, but only if the circumstances are such that the shortfall is reasonably expected to continue for a substantial number of years.

(d) A good faith effort must be made to cover as much of the shortfall as possible by allowing non-regular appointments to lapse and by giving notice to probationary faculty in accordance with the terms of their appointments.

(e) A good faith effort must be made to cover as much of the shortfall as possible by transferring faculty members to other positions for which they are qualified or by offering them retraining for available positions.

(f) The selection of faculty members within an academic unit for termination must be made on objective criteria. It may not involve a comparative evaluation of the relative merits of individuals or a repetition of the tenure-granting process.


(a) Unless the unit can demonstrate that essential functions could not otherwise be performed:

1. all non-regular faculty within an academic unit must be suspended or terminated before any regular faculty may be suspended or terminated in that unit; and

2. all probationary faculty within an academic unit must be suspended or terminated before any tenured faculty may be suspended or terminated in that unit.

(b) Care must be taken to protect the employment of women and minorities entitled to affirmative action. The executive vice president and provost must insure that for the University as a whole the plan which is submitted does not reduce the proportion of appointments with indefinite tenure held by women or minorities entitled to affirmative action, and does not reduce the proportion of non-regular appointments held by women or minorities entitled to affirmative action.
11.63. Notice and Severance Pay. A faculty member whose appointment is to be terminated or suspended is entitled to a minimum of one full academic year’s notice or to one year’s salary as severance pay in lieu of notice, unless the appointments would otherwise expire earlier.

11.64. Reemployment Rights. The University will not fill any faculty position for which a faculty member with indefinite tenure who has been terminated is qualified for five years after notice of termination, unless it first offers the position to each such faculty member and gives a reasonable time for the faculty member to accept or reject it.

11.7. Judicial Committee Report. A faculty member whose appointment is terminated or suspended may make a written request for review by the Judicial Committee. The review will be conducted in accordance with section 15. The Judicial Committee will not reexamine the determination that a fiscal emergency exists, nor will it reexamine the educational policies and priorities pursued unless it finds a substantial failure to follow the procedures established in this section. It will only examine whether the action was taken in accordance with the procedures and standards set forth in this section, whether the action was based on a violation of academic freedom or constitutional or legal rights, or was substantially based on immaterial or improper factors. It may consolidate cases involving common issues for a single hearing.

SECTION 12. PROGRAMMATIC CHANGE

12.1. Programmatic Change. The University and faculty recognize that changes in academic programs are an essential part of the development and growth of the institution. These changes should be based on academic considerations and on long-term policy and planning, and may be undertaken only after consultation with the faculty, including the appropriate governance structure.

12.2. Faculty Rights and Duties. In the event that programmatic change leads to discontinuation of a program in which a member of the faculty is employed, the University recognizes its obligation to continue the employment of regular faculty in accordance with the terms of their employment, and to continue the employment of non-regular faculty for the term of appointment. In case of fiscal emergency, the provisions of section 11 apply.

Regular faculty members who are so retained have the responsibility to accept teaching or other assignments for which they are qualified, and to accept training to qualify them for assignment in other fields. The University has the responsibility to assign such faculty members to responsibilities as closely related to their original field of tenure as is practicable, to allow them time in which to continue scholarship in their original field if they wish, and to recognize scholarly contributions in that field as valuable in assessing their contribution to the University for pay, promotion and other purposes.

In addition to the steps mentioned above, the University has the right to offer inducements to faculty members voluntarily to change fields of study, to seek employment elsewhere, or to accept early retirement.

12.3. Reassignments. In cases of programmatic change, an officer designated by the president will make the reassignment or offer of training. The officer will consult with the faculty member and the receiving unit and will seek a mutually satisfactory assignment. If agreement cannot be reached, the University officer will assign new responsibilities after consultation with the individual.

The University may give the faculty member other assignments only if assignments to teaching in the faculty member’s discipline are not feasible. For example, faculty might be assigned
• to teach in another field in which the individual is qualified
• to perform professional or administrative duties, including professional practice in a field in which the individual is qualified.
• to transfer effort, by assignment in a suitable professional capacity, at another educational institution or similar entity, while retaining University tenure, compensation, and benefits.

A faculty member must accept any reasonable reassignment or offer of retraining. Following the assignment, any dispute about the reasonableness of reassignment may be taken to the Judicial Committee, as provided in section 15. The faculty member shall perform the reassignment pending resolution of the dispute, unless the president on the recommendation of the chair of the Judicial Committee determines that provisional measures are appropriate.

12.4. Termination of Appointment. A faculty member who chooses not to accept a reasonable reassignment or retraining opportunity shall receive:

(a) Assistance in locating other employment;
(b) A minimum of one full academic year’s notice or one year’s salary as severance pay in lieu of notice, unless the appointment would otherwise expire earlier.
(c) Continuation of the University’s contribution to health benefits for one year after the date of the termination of the appointment.

In place of the severance payment provided by this section, a faculty member may select another severance program for which the faculty member is otherwise eligible at the time the appointment is terminated.

SECTION 13. JUDICIAL COMMITTEE

13.1. Membership. The Judicial Committee is composed of at least nine members of the regular faculty. The number of members and manner of appointment is governed by the Faculty Senate bylaws.

13.2. Procedures. The Judicial Committee applies and interprets this tenure code in complaints that come before it. The Judicial Committee has its own Rules of Procedure and may adopt additional rules with the approval of the Tenure Committee, as provided in section 16.3.

In every case before the Judicial Committee the senior academic administrator may designate the academic administrator who will represent the University as respondent. If the case involves two or more campuses or areas, the president or the executive vice president and provost may designate the respondent.

13.3. Duty to Testify. Faculty members and administrators have an obligation to appear before the Judicial Committee if asked to give testimony in matters pending before it.

13.4. Panels. The Judicial Committee may sit in panels to hear individual cases. In cases under sections 10 and 14, the panel must consist of at least five members. In all other cases, the panel must consist of at least three members. The rules of the Judicial Committee will establish the respective functions of the committee as a whole and of the individual panels.

13.5. Legal Officer. The Judicial Committee shall have its own legal officer, appointed by the Judicial Committee with the approval of the president. The Judicial Committee also may, with the approval of the president, appoint a deputy legal officer, or a substitute legal officer for a particular case, as necessary. At
the direction of the committee, the legal officer may preside at hearings of Judicial Committee panels or regulate the procedure in Judicial Committee cases. The legal officer may be present and participate in the deliberation of a panel, but shall have no vote.

SECTION 14. PROCEDURES IN CASES OF UNREQUESTED LEAVE OF ABSENCE OR TERMINATION OR SUSPENSION OF A FACULTY APPOINTMENT FOR CAUSE

14.1. Preliminary Proceedings. Only a dean or an academic administrator specially designated by the executive vice president and provost or by the senior academic administrator may initiate preliminary proceedings under this section leading to unrequested leave of absence or to suspension or removal or to temporary or permanent reduction in rank. The dean [FN9] must first attempt to discuss and resolve the matter with the faculty member involved.

The dean must then submit the matter to the tenured faculty of the academic unit involved for their recommendation.

If the executive vice president and provost and the Faculty Senate have expressly approved the submission of allegations of the violation of a specified policy to another body for preliminary recommendation, in place of submission to the tenured faculty of the academic unit, the dean must submit the matter to that body for its recommendation.

Both the dean and the faculty member may submit their views, in person or in writing, to the body making the recommendation, but neither of them may participate in the deliberation or vote. The body making the recommendation does so by secret ballot and makes a written report to the dean within 40 work days of submission of the issue to it, indicating the number of votes for and against the proposed action and the reasons articulated. A copy of the report shall be sent to the senior academic administrator and to the faculty member.

14.2. Formal Action. Within 40 work days after receiving the recommendation of the tenured faculty or other body, the dean must decide whether to proceed with formal action. Before taking formal action, the dean must consult with the senior academic administrator. If the dean does not proceed within 40 work days, the charges are dropped and the faculty member and the academic unit are so notified in writing. If the dean decides to proceed with formal action, the dean must give written notice to the faculty member. The notice must specify the action proposed, identify the specific ground upon which it has been taken, and summarize the evidence in support. It must inform the faculty member of the right to request a hearing before the Judicial Committee and advise the faculty member of the applicable time limit for making such a request.

If the faculty member does not request a hearing within 30 work days, the president may take the action proposed in the dean’s notice, without further right to a hearing.

14.3. Judicial Committee Hearing. The faculty member may request a hearing before the Judicial Committee by written request to the chair of the committee, filed within 30 work days of the notice. The Judicial Committee may extend the 30 day period for good cause. The dean will be responsible for presenting the case. The dean has the burden of proving the case for the proposed action by clear and convincing evidence and also has the burden of demonstrating the appropriateness of the proposed action, rather than some lesser measure.

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FN9 Throughout this section the word “dean” means the dean of the collegiate unit or other equivalent officer or an academic administrator specifically designated for this purpose by the senior academic administrator or by the executive vice president and provost.
The Judicial Committee makes written findings of fact, conclusions, and a recommendation for the disposition of the case. If the committee finds that action is warranted, it may recommend action that is less severe than that requested in the written notice, including but not limited to, permanent or temporary reduction in salary or rank. It may not recommend more severe measures than those proposed in the dean’s notice.

The Judicial Committee sends its report to the president with copies to the faculty member, the dean and the senior administrator.

14.4. **Action by the President.** The president shall give the faculty member and the dean the opportunity to submit written comments on the report. In determining what action to take, the president may consult privately with any administrators, including attorneys, who have had no previous responsibility for the decision at issue in the case and have not participated in the presentation of the matter to the Judicial Committee. The president may not discuss the case with any administrator who was responsible for the decision at issue in the case or who participated in the presentation of the matter to the senate Judicial Committee. Such administrators may communicate with the president in writing, but only if the full text of the communication is given to the faculty member and the faculty member is given a reasonable opportunity to respond to it.

The president shall not take action materially different from that recommended by the panel unless, prior to the action, the president has consulted with the committee. Parties and their representatives shall not be present at any meeting between the president and the committee nor shall their consent be required for such meeting.

In addition, the president may request the Judicial Committee to make further findings of fact, to clarify its recommendation or to reconsider its recommendation. The reconsideration will be made by those who have heard of all of the evidence in the case, but the full Judicial Committee may consult with them on questions of general policy.

The president may impose the action recommended by the committee, or any action more favorable to the faculty member. The president may impose action less favorable to the faculty member only for important substantive reasons, which must be stated in writing, with specific detailed reference to the report of the Judicial Committee, the evidence presented, and the policies involved. The president’s written statement must be given to the parties and to the Judicial Committee. If the Judicial Committee decides that the president has imposed an action that is less favorable to the faculty member than it had recommended, it shall inform the faculty by publication of the president’s action in the docket of the Faculty Senate. If the faculty member waives rights to confidentiality, the full text of the statement will be published. Otherwise a summary of the statement will be published without identification of the faculty member or information that may indirectly identify the faculty member.

14.5. **Appeal to the Board of Regents.** If the action involves removal or if the action involves a sanction more severe than that recommended by the Judicial Committee, the faculty member may appeal to the Board of Regents. In cases in which the president imposes a sanction more severe than that recommended by the Judicial Committee, the faculty member and the president may present to the board evidence with respect to issues on which the president differs from the recommendation of the Judicial Committee. The request for a hearing must be made to the secretary of the board within ten work days of the president’s action.
14.6. Temporary Suspension During Proceedings. The dean may temporarily suspend a faculty member during the proceedings, but only if there is clear evidence that the faculty member is likely to cause serious harm or injury or is not available for work. The suspension will be with full pay, unless the faculty member is not available for work. Before ordering such suspension, the dean must present the evidence to a special panel of the Faculty Consultative Committee and receive their written report. The faculty member must be given the opportunity to contest the suspension before the panel.

If no final decision has been rendered one year after the commencement of formal proceedings, the faculty member shall be temporarily suspended without pay, unless the parties agree otherwise, or unless the hearing panel of the Judicial Committee extends the time period because of undue delays in the procedure attributable to the action of the University. This provision applies only in a case in which the majority of the tenured faculty of the academic unit concurred in the recommendation to terminate the appointment. If the faculty member is reinstated or if the president determines that the temporary suspension without pay was not warranted, then the president shall order the repayment of back pay to the faculty member with interest thereon from the date it would originally have been paid.

In case of any suspension under this section, the faculty member shall continue to receive full medical insurance and disability benefits without regard to the suspension.

14.7. Resignation During Proceedings. A faculty member may submit a written notice of resignation to the president at any time during Judicial Committee proceedings pursuant to this section. Upon the effective date of such resignation, the proceedings will be discontinued unless the faculty member concurrently files a written request with the Judicial Committee that they be carried to completion.

SECTION 15. APPEALS TO THE JUDICIAL COMMITTEE [INTERP 6]

15.1. Right to Review. Any faculty member who claims that the faculty member’s rights or status under these regulations have been adversely affected without the faculty member’s consent may seek review before the Judicial Committee. Cases arising under sections 1, 4, 7, 7a, 8, 10, 11 or 12 must be brought directly to the Judicial Committee. In these cases, that is, the Judicial Committee has original jurisdiction. In other cases, the faculty member must exhaust all other available University remedies before bringing the case to the Judicial Committee; the Judicial Committee will not proceed with such a case until the appropriate University body has either decided it or has refused to consider it. In such cases, the Judicial Committee has appellate jurisdiction.

15.2. Procedure for Securing Review. A written request for review must be filed with the chair of the Judicial Committee within 30 work days of written notice of the action challenged. The request must specify the action complained of and the remedial action the individual seeks. Within 30 work days of filing, the chair of the Judicial Committee must send copies of the request to the head of the academic unit concerned and to the senior academic administrator.

The Judicial Committee, however, may extend the time for filing for review for reasons that seem compelling to the committee, such as mental or physical illness, or serious personal or family problems, or doubt concerning when final action was taken.

15.3. Hearings Before the Judicial Committee. The person seeking review has the burden of proving by the preponderance of the evidence that the action complained of was improper unless the Judicial Committee, for good cause, otherwise directs.
The Judicial Committee does not itself decide whether the faculty member is professionally worthy of a faculty position, but only determines whether the action was based in significant degree upon any of the factors specified in subsection 7.7 or section 8.

In cases involving sections 7, 8, or 11, the Judicial Committee hears the merits of the case, as provided in those sections. In other cases, if there is an appropriate University body to review the matter, the Judicial Committee will only determine whether that body has given the faculty member due process and whether, on the basis of the facts found by that body, there has been a violation of these regulations or of the faculty member's academic freedom. If there is no appropriate University body to hear such a case, or if the Judicial Committee finds that the body which heard the case did not provide due process, the Judicial Committee may hear the merits or may appoint an ad hoc tribunal to hear them.

15.4. Action by the Judicial Committee. The Judicial Committee makes written findings of fact, conclusions, and a recommendation for the disposition of the case.

If the Judicial Committee finds that the action complained of was improper, it also specifies the respects in which it finds the action to have been improper and recommends appropriate remedial action.

If it recommends reconsideration, it may specify the manner in which reconsideration will be undertaken to avoid the influence of improper factors. If a probationary faculty member has reached the maximum probationary period, the committee may recommend a non-regular appointment for an additional academic year to provide for reconsideration.

The Judicial Committee sends its report to the president with copies to the faculty member and the administrator who appeared as respondent.

15.5. Action by the President. The president must give the faculty member and the administrator the opportunity to submit written comments on the report. In determining what action to take, the president may consult privately with any administrators, including attorneys, who have had no previous responsibility for the decision at issue in the case and have not participated in the presentation of the matter to the Judicial Committee. The president may not discuss the case with any administrator who was responsible for the decision at issue in the case or who participated in the presentation of the matter to the senate Judicial Committee. Such administrators may communicate with the president in writing, but only if the full text of the communications is given to the faculty member and the faculty member is given a reasonable opportunity to respond to it.

The president shall not take action materially different from that recommended by the panel unless, prior to the action, the president has consulted with the committee. The parties and their representatives shall not be present at any meeting between the president and the committee nor shall their consent be required for such meeting.

In addition, the president may request the Judicial Committee to make further findings of fact, to clarify its recommendation or to reconsider its recommendation. The reconsideration will be made by those who have heard all of the evidence in the case, but the full Judicial Committee may consult with them on questions of general policy.

The president may impose the action recommended by the committee or any action more favorable to the faculty member. The president may impose action less favorable to the faculty member only for important substantive reasons, which must be stated in writing, with specific detailed reference to the report of the
Judicial Committee, the evidence presented, and the policies involved. The president's written statement must be given to the parties and to the Judicial Committee. If the Judicial Committee decides that the president has imposed an action that is less favorable to the faculty member than it had recommended, it shall inform the faculty by publication of the president's action in the docket of the Faculty Senate. If the faculty member waives rights to confidentiality, the full text of the statement will be published. Otherwise a summary of the statement will be published without identification of the faculty member or information that may indirectly identify the faculty member. The president's written statement must be given to the parties and to the Judicial Committee.

15.6. Actions Requiring Reconsideration. If the Judicial Committee recommends reconsideration of an action, that reconsideration will be undertaken under the supervision of the senior academic administrator, unless otherwise specified. The Judicial Committee may retain provisional jurisdiction of the matter to review allegations that the reconsideration itself was improper, and may make supplementary findings, conclusions, and recommendations in this regard.

15.7. Recommendations for Changes in University Policies and Procedures. As a result of Judicial Committee proceedings, the Judicial Committee, the Tenure Committee or the executive vice president and provost may initiate steps to clarify or improve University rules or policies involved. The changes will not affect the outcome of the case before the committee.

SECTION 16. ACADEMIC FREEDOM AND TENURE COMMITTEE

16.1. Membership. The Academic Freedom and Tenure Committee (referred to elsewhere in these regulations as the Tenure Committee) is composed of at least seven members of the faculty and such other persons as the Faculty Senate bylaws shall provide. The manner of appointment is governed by the Faculty Senate bylaws.

16.2. Interpretations. The executive vice president and provost and the Tenure Committee may propose formal interpretations of these regulations, consistent with their terms. Such interpretations must be reported to the Faculty Senate and the Board of Regents. If adopted by the Board of Regents, such interpretations will be binding in all cases subsequently arising.

16.3. Procedures. The executive vice president and provost and the Tenure Committee may jointly adopt the procedures provided by subsections 7.4 and 7.61, and jointly approve the procedures proposed by the Judicial Committee under subsection 13.2. Such procedures must be reported to the Faculty Senate and the Board of Regents before they go into effect.

16.4. Additional Functions. The Tenure Committee also advises the University and makes recommendations concerning the interpretation and amendment of these regulations.

SECTION 17. WRITTEN NOTICE

Notices of termination of a probationary appointment, of suspension or termination of an appointment, or of placement on unrequested leave of absence for disability, must be sent by registered or certified mail to the last known residence address of the faculty member concerned and also by campus mail to the faculty member's campus address, if any. The written notice satisfies the applicable time requirement if it is postmarked at or before midnight of the applicable date.
Failure to comply fully with this section is immaterial if, in fact, the faculty member was not prejudiced by such failure.

**SECTION 18. PUBLICATION**

These regulations, and the interpretations referred to in section 16, will be published and made available to all faculty members. Every faculty member who holds a regular or non-regular appointment, except for courtesy faculty appointments without salary, must be given a copy of the current regulations and copies of subsequent amendments or published interpretations.

**SECTION 19. AMENDMENT**

These regulations are subject to amendment by the Board of Regents. Proposed amendments from any source will be submitted to the Faculty Senate for its advice and recommendation before final action by the Board of Regents. The Faculty Senate will solicit the recommendations of the Faculty Affairs Committee, the Judicial Committee, and the Tenure Committee, before giving its advice and recommendation.

**REVISION HISTORY**

Adopted: February 9, 1945
Technical Correction: March 31, 2016
Last Comprehensive Review: May 12, 2017
Supersedes: Regents' Policies Statement dated February 8, 1974; and Authority to Correct Policies dated July 8, 1983.

**INTERPRETATIONS**

Dated April 12, 1985; September 8, 1988; March 12, 1993 and October 13, 1985; June 9, 2000; June 10, 2011.

1. Interpretation of Subsection 4.4: Definition of Recurring Salaries.

It is expected that any salary increases normally will be added to recurring salary if recurring funds are available for that purpose. Subsection 4.4 does not give any specific faculty member a legal entitlement or right to an increase in recurring salary.

2. Interpretation of Subsection 4.5: Financial Stringency.

Financial stringency in subsection 4.5 is understood to mean financial difficulties that are unusual in extent and require extraordinary rather than ordinary responses. Section 11 may be invoked if the regents are “faced with the necessity of drastic reduction in the University budget,” reductions so severe that they may “threaten [the] survival” of the University. It is understood that the financial difficulty that would permit the president to propose temporary reductions or postponements in compensation under subsection 4.5 is less severe than the “fiscal emergency” outlined in section 11, but it is also understood that “financial
"stringency" should not be invoked to respond to foreseeable fluctuations in the University's budget and finances.


The faculty of an academic unit are expected to periodically review their criteria for awarding indefinite tenure and for promotion in rank and reflect any new criteria in a revision of their subsection 7.12 Statement. The new criteria and subsection 7.12 Statement must be adopted in accordance the established procedures of the University, after consultation as required by those procedures. Current probationary faculty in the unit may elect to be evaluated on the criteria for tenure and promotion in the previous subsection 7.12 Statement or on the new criteria. This option is also available to current tenured faculty in their evaluation for promotion to the next level. Probationary or tenured faculty must make this decision within one year of the date of administrative approval of the new criteria.

4. Interpretation of Amendment to Subsection 10.2: Faculty Assignments.

Faculty members are free to choose topics for research or outreach and to discuss all relevant matters in the classroom, in accordance with the principles of academic freedom and responsibility. The head of the academic unit will assign individual faculty members to teach specific courses in accordance with the academic workload statement and other policies adopted by the faculty of that unit. A faculty member may challenge an assignment by showing that it is unreasonable. An assignment is unreasonable if: (a) taken as a whole, it exceeds the workload expected in the workload statement of that unit, (b) the faculty member lacks the basic qualifications to teach the course, or (c) the assignment was made in violation of the faculty member's academic freedom or in violation of another specific university policy. The faculty member should carry out the teaching assignment pending resolution of any grievance, unless the responsible grievance or hearing officer or panel indicates that provisional measures are appropriate.

5. Interpretation of Amendments to Subsections 14.1 and 14.2: Timely Responses in Cases of Unrequested Leave of Absence, Termination, or Suspension.

The timelines for responses by either the involved faculty member or administrator may be extended by agreement of the parties to the proceeding or for extraordinary circumstances. An agreement of the parties to extend the time limit shall be in writing, signed by both parties or their representatives. If the parties do not agree, either party may apply to the chair of the Senate Judicial Committee for an extension of the time in which to take the steps required in this section. If the faculty member has failed to act within the time limits prescribed in these sections, the responsible administrator may request the chair of the Senate Judicial Committee to set a specific date by which the faculty member must take action; if the faculty member fails to do so, the petition for review will be dismissed without further proceedings and the requested disciplinary action (or any lesser sanction) may be taken. If the responsible administrator has failed to act within the time limits prescribed in these sections, the faculty member may request the chair of the Senate Judicial Committee to set a specific date by which the administrator must take action; if the administrator fails to do so, the proceedings shall be dismissed and further action can be taken only by reinitiating the entire proceedings.


As stated in the Preamble, the tenure regulations "provide a comprehensive set of policies dealing with the relationship between the University and its faculty," including decisions regarding promotions in rank that may or may not involve questions of tenure. When a faculty member's request for promotion is not...
approved, the Judicial Committee shall conduct a review in a manner analogous to the review of tenure decisions (see subsection 7.7). Such cases may be brought directly to the Judicial Committee without a requirement that the faculty member exhaust all other available University remedies before bringing the case to the Judicial Committee.

7. Interpretation of Subsection 6.3: Relation Between Tenure and Promotion.

Regular faculty with appointments as assistant professors with indefinite tenure at the time of the adoption of this interpretation in 2011 will continue to hold these appointments until they retire, subject to the review provisions of subsection 7a and as otherwise provided in these regulations.
Proposed Amendments to the *Civil Service Employment Rules*

The following amendments to the University’s *Civil Service Employment Rules* are proposed to bring the rules into compliance with the new Title IX regulations. The current rules can be viewed [HERE](#) and were last amended by the Board of Regents at the February 2020 meeting.

### Proposed Amendments

#### 1.2 Application of the Rules

The Civil Service Employment Rules cover all University employees in job classifications included in the Civil Service Employee group except that temporary no-post and non-public employees are specifically excluded from coverage. In addition, decisions and appeals regarding disciplinary action in response to complaints against employees for alleged violation of Board of Regents Policy: *Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence* and Administrative Policy: *Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence* are excluded from these Civil Service Employment Rules and shall be addressed under Administrative Policy: *Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence* and related administrative procedures.

#### 7.4 Probationary Rating

All probationary employees will have a minimum of one verbal performance appraisal and one written performance appraisal during their probationary period, except where immediate removal from the position is warranted, such as serious job misconduct -- for example, falsification of records or misappropriation of University resources -- or workplace actions that endanger the health or safety of the employee or others or when termination is a result of discipline imposed under the Administrative Policy: *Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence* and related administrative procedures. Supervisors must inform the probationary employee of any performance issues and develop a plan to remedy any performance issues which may be cause for not passing probation within 30 days of the expiration date of the probation period. Supervisors must use either the standardized University evaluation form or other Human Resources approved evaluation form, pursuant to Rule 9.1. The Vice President may, at any other time during the probationary period, ask the responsible administrator for additional oral and/or written statements regarding the employee’s work performance. If a written performance appraisal is not given before the actual expiration date of an employee’s probationary period, the employee will pass probation.

7.6.9 A probationary employee who is discharged from the University for disciplinary reasons, including as a result of discipline imposed through the Administrative Policy: *Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence* and related administrative procedures, shall forfeit all rights to return to any prior position or to the layoff list.

13.1.3 Disciplinary action, other than that imposed under Section 13.4.1, shall become effective when the supervisor communicates the action to the employee. An employee may appeal any disciplinary action in accordance with Rule 14, other than that imposed under Section 13.4.1.
13.2.3 The employee may appeal a dismissal during the six-week period in accordance with Rule 14 other than a dismissal under Section 13.4.1. The appeal shall not affect the effective date of the dismissal.

13.4 Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence
13.4.1 Notwithstanding other provisions in these Civil Service Employment Rules, decisions and appeals regarding disciplinary action in response to complaints against employees for alleged violation of Board of Regents Policy: Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence and Administrative Policy: Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence are excluded from these Civil Service Employment Rules and shall be addressed under Administrative Policy: Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence and related administrative procedures.
POLICY STATEMENT

The University of Minnesota (the “University”) is committed to taking prompt and effective steps intended to end sexual harassment, sexual assault, stalking, relationship violence, and related retaliation, prevent their recurrence and, as appropriate, remedy their effects. This policy outlines the University’s definitions and procedures related to these types of misconduct. This policy applies to University members, who include:

- University students, whether enrolled full time or part time, for credit or non-credit courses;
- University employees as defined in this policy; and
- third parties who are engaged in any University activity or program, or who are otherwise interacting with the University, including, but not limited to, volunteers, contractors, vendors, visitors, and guests.

This policy applies to acts of sexual harassment, sexual assault, stalking, relationship violence, and related retaliation committed by or against students, employees, and third parties when:

- the conduct occurs on University property;
- the conduct occurs in the context of a University employment or education program or activity, including, but not limited to, University-sponsored academic, athletic, extracurricular, study abroad, research, on-line or internship programs or activities;
- the conduct occurs off University property and outside the context of a University employment or education program or activity, but 1) has a continuing adverse effect on a University education program or activity; or 2) creates a hostile environment for one or more students, employees, or third parties while on University property or in any University employment or education program or activity; or
- the conduct indicates that the respondent may present a danger or threat to the health or safety of University members.

To the extent any provision of this policy conflicts with Board of Regents Policy: Sexual Harassment, Sexual Assault, Stalking and Relationship Violence, the Board policy controls. To the extent any provision of this policy conflicts with any other University policy, this policy controls. Further, this policy supersedes any provisions, or processes provided for, in a collective bargaining agreement that, taken alone or in conjunction with this policy, are contrary to federal law. Nothing in this policy should be interpreted to abridge academic freedom or principles of free speech.

I. PROHIBITION
All University members are prohibited from engaging in, or assisting or abetting another's engagement in, sexual assault, sexual harassment, relationship violence, stalking, and related retaliation (collectively "prohibited conduct").

II. RESOURCES AND RIGHTS FOR COMPLAINANTS AND RESPONDENTS

A. OPTIONS FOR COMPLAINANTS

There are a number of University resources and processes available to complainants, including:

1. Confidential personal support and advocacy resources for complainants, whether or not the grievance or informal problem-solving processes are initiated, as described in Resources for Complainants under the "Other Contacts" section of this policy.

2. Supportive measures, as described in Section II.B, whether or not the grievance or informal problem-solving processes are initiated.

3. The grievance process, as described in Section VI. A complainant may file a formal complaint to request the grievance process. A complainant files a formal complaint by submitting a document to the campus Title IX office that: 1) alleges that an individual engaged in prohibited conduct toward the complainant; and 2) requests that the University investigate the allegation of prohibited conduct. The document must contain the complainant's physical or digital signature or otherwise indicate that the complainant is the individual filing the formal complaint. The formal complaint may be filed with the campus Title IX office in person, by mail, by e-mail, or through an online portal provided for this purpose, where available.

4. Informal problem-solving processes, as described in Section V. A complainant may request informal problem-solving processes by contacting the campus Title IX office.

5. Consultations with the campus Title IX office. A complainant may contact the campus Title IX office to learn more about these options, with or without sharing information about their experience of prohibited conduct or making a formal complaint.

6. Anonymous reporting through the University's UReport reporting system. Reports of prohibited conduct that are submitted through UReport are forwarded to the campus Title IX office. The campus Title IX office will address anonymous reports to the extent possible given the information provided in the report.

B. SUPPORTIVE MEASURES FOR COMPLAINANTS AND RESPONDENTS

The University will provide supportive measures designed to restore or preserve equal access to the University’s programs and activities, protect the safety of all parties or the educational environment, and/or deter prohibited conduct. Supportive measures are non-disciplinary, non-punitive individualized services provided to a party that do not unreasonably burden another party. They are offered to individuals as appropriate and reasonably available. Supportive measures may include the following:

- counseling and support services;
- academic or course-related adjustments, such as extensions of deadlines;
- modifications of work or class schedules;
- campus escort services;
- restrictions on contact between the parties;
- changes in work or housing locations;
- leaves of absence;
- increased security and monitoring of certain areas of campus; and
- assistance in making a report to law enforcement or obtaining a protective order.
Supportive measures may be implemented because an individual has requested them, the campus Title IX office has recommended them, or a local unit or department has identified a need for them. Supportive measures are available regardless of whether a complainant files a formal complaint with the campus Title IX office or pursues any of the processes made available under this policy.

Complainants and respondents may seek these supportive measures by contacting the campus Title IX office, which is responsible for coordinating the effective implementation of supportive measures. Campus or local victim-survivor advocacy offices may also be able to assist complainants in requesting supportive measures. Alternatively, complainants and respondents may seek supportive measures directly from the departments or individuals with the ability to provide the requested supportive measures, such as the campus housing and residential life office or the appropriate faculty member, supervisor or human resources representative.

The departments or individuals with the ability to provide the requested supportive measures will determine which supportive measures to take depending on the circumstances of each case and can seek assistance from the campus Title IX office.

The University will maintain the confidentiality of any supportive measures to the extent possible. For more information about supportive measures, see FAQ: Investigations and Supportive Measures. The campus Title IX office staff are also available to meet with University members to address questions or concerns about the provision of supportive measures.

The campus Title IX office will maintain records of any supportive measures taken in response to a report made to the campus Title IX office, the President, or a Vice President, Chancellor, Vice Chancellor or Dean. Specifically, the campus Title IX office will document that it has taken reasonable measures designed to restore or preserve equal access to the University's education program or activity where appropriate.

C. PRIVACY AND CONFIDENTIALITY

The University is committed to protecting the privacy of all individuals involved in an informal problem-solving process or grievance process under this policy to the greatest extent legally permissible. In order to carry out an informal problem-solving or grievance process and/or to otherwise comply with legal obligations, it is often necessary for the University to share the identities of the parties and/or witnesses, as well as information provided by the parties and/or witnesses, with the parties and other participants in the process. The identities of these individuals and the information provided during these processes also may be included in an investigation report or other document relating to the case, which may be provided to the University Authority and others as appropriate.

The University will keep private the identity of complainants, respondents, witnesses, and third-party reporters in cases involving Title IX-based prohibited conduct except when necessary to: 1) carry out an informal problem-solving or grievance process; 2) disclose data as required by the Minnesota Government Data Practices Act (MGDPA); or 3) otherwise comply with legal obligations.

The University does not restrict the ability of complainants or respondents to discuss allegations that have been reported or to gather and present relevant evidence. At the same time, the University and the participants in the grievance process have a compelling interest in protecting the integrity of the grievance process, protecting the privacy of parties and witnesses, and protecting parties and witnesses from harassment, intimidation, or retaliation during a grievance process. To further these goals, witnesses and parties are encouraged to limit their sharing of information about a matter (including the allegations, the identities of the parties and witnesses, and the questions asked in interviews) while the grievance process is ongoing. Parties and witnesses are also cautioned not to discuss the allegations in a manner that constitutes retaliation (as defined in the Definitions section of this policy) or unlawful conduct. Further, parties and their advisors are not permitted to disseminate the evidence provided to them under Section VI.K.3.
D. AMNESTY

To facilitate reporting and thorough investigations of prohibited conduct, individuals who provide information about possible prohibited conduct violations to the University, and individuals who participate in an informal problem-solving or grievance process under this policy, will not be disciplined by the University for violations of the University's prohibition on the personal use of drugs or alcohol, when such a violation occurred in connection with a possible prohibited conduct violation and was discovered as a result of a prohibited conduct report.

Moreover, the University may offer leniency with respect to other violations by informal problem-solving or grievance process participants that emerge as a result of a prohibited conduct report, depending on the circumstances involved.

III. REPORTING AND OTHER OBLIGATIONS RELATED TO PROHIBITED CONDUCT

In order to foster an environment free of prohibited conduct, all University members are encouraged to take reasonable prudent actions to prevent, stop, and report all acts of prohibited conduct. In addition, University members have the following reporting and other obligations related to possible prohibited conduct.

A. REPORTING OF PROHIBITED CONDUCT DIRECTED AT STUDENTS

University employees must promptly contact the campus Title IX office when in the course of performing their employment duties they learn about any form of prohibited conduct directed at students that may have:

- occurred on University property;
- occurred during a University employment or education program or activity;
- been directed at a current student at the time they were a student; or
- been committed by a current University member at the time they were a University member.

B. REPORTING OF PROHIBITED CONDUCT DIRECTED AT EMPLOYEES OR THIRD PARTIES

University employees must promptly contact the campus Title IX office when in the course of performing their employment duties they learn about any sexual assault, stalking, or relationship violence directed at University employees or third parties that may have:

- occurred on University property;
- occurred during a University employment or education program or activity;
- been directed at a current University employee at the time they were a University employee;
- been directed at a third party at the time they were engaged in any University activity or program, or were otherwise interacting with the University, including, but not limited to, as volunteers, contractors, vendors, visitors, or guests; or
- been committed by a current University member at the time they were a University member.

In addition, supervisors and human resources representatives must report sexual harassment directed at University employees or third parties to the campus Title IX office.

Other University employees are encouraged to report sexual harassment directed at University employees or third parties to the campus Title IX office, or their supervisor or human resources representative. However, this reporting is not required under this policy.

C. INFORMATION THAT MUST BE REPORTED TO THE CAMPUS TITLE IX OFFICE
University employees who learn about possible prohibited conduct are not required to solicit additional information about the prohibited conduct or the individuals involved. However, to the extent known to them, University employees who learn about prohibited conduct as set forth in A and B above must report the following information to the campus Title IX office:

- the names of the complainant(s), respondent(s), and possible witnesses;
- the date, time, and location of the possible prohibited conduct; and
- other relevant details about the possible prohibited conduct.

D. EMPLOYEES WHO ARE EXEMPT FROM THESE REPORTING REQUIREMENTS

The following University employees are exempt from the requirement to report prohibited conduct to the campus Title IX office:

- counselors, psychologists, and others with a professional license requiring confidentiality, and their supervisees, when they learn about prohibited conduct in the course of their professional responsibilities;
- health center employees when they learn about prohibited conduct in the course of treating patients or facilitating the provision of medical services, and other employees who are prohibited by HIPAA from fulfilling this reporting requirement;
- employees of the Student Conflict Resolution Center, Office for Conflict Resolution, and University ombuds offices when they are providing conflict resolution or ombuds services;
- advisors (as defined in this policy) when they learn about prohibited conduct: 1) that is directly related to the case in which they are serving as an advisor; 2) from the party who they are serving as an advisor to; and 3) in the course of their advising;
- members of University of Minnesota police departments when they are restricted by law from disclosing this information;
- researchers when they learn about prohibited conduct from a research participant in the course of a research project;
- student employees when they learn about prohibited conduct that does not involve a University member whom the student employee formally or informally supervises, advises, and/or instructs as part of their job duties; and
- victim-survivor advocacy office employees and volunteers when they learn about prohibited conduct in the course of their advocacy office work.

E. ADDITIONAL OBLIGATIONS FOR SUPERVISORS AND HUMAN RESOURCES REPRESENTATIVES

Supervisors and human resources representatives may learn about possible prohibited conduct in a variety of ways, including when:

- they observe or overhear prohibited conduct;
- they receive a report of prohibited conduct, even when an individual does not identify the concerns as “prohibited conduct;” and
- they receive any other information that prohibited conduct may have occurred, regardless of where the information comes from and even if the supervisor or human resources representative is unsure that any prohibited conduct actually occurred.

Supervisors and human resources representatives who learn about possible prohibited conduct have additional obligations. First, supervisors and human resources representatives who learn about possible prohibited conduct, including sexual harassment directed at employees, must promptly contact the campus Title IX office to report information about the possible prohibited conduct and to report any responsive action that has been taken.

Second, supervisors and human resources representatives who learn about possible prohibited conduct must take prompt and effective responsive action. In some cases, a supervisor’s or human resources representative’s obligation to take prompt and responsive action will be satisfied by notifying the campus Title IX office. In other cases, it will be appropriate for
supervisors and human resources representatives to take additional responsive action after consulting with the campus Title IX office. The particular responsive actions that a supervisor or human resources representative should take will depend on the circumstances. Below is a list of examples of responsive actions that might be appropriate for a supervisor or human resources representative to take in certain cases:

- providing supportive measures to a complainant or respondent;
- making non-retaliatory employment changes that remove any continued impact on a complainant;
- conducting preliminary inquiries to determine whether others have reported possible prohibited conduct by a particular respondent;
- discussing the prohibited conduct concerns with the respondent and setting expectations for future conduct;
- providing coaching and training on acceptable workplace conduct; and
- monitoring to prevent the occurrence of future prohibited conduct.

In all cases, supervisors and human resources representatives must document the responsive actions taken and provide this information to the campus Title IX office.

For additional information about University employees’ obligation to report prohibited conduct, please see FAQ: Employees’ Obligation to Report Sexual Harassment, Sexual Assault, Stalking and Relationship Violence to the Campus Title IX Office.

IV. CAMPUS TITLE IX OFFICES’ RESPONSES TO ALLEGED PROHIBITED CONDUCT

A. Information Provided to Complainants

When a campus Title IX office learns about possible prohibited conduct, it will promptly contact the complainant to:

1. provide information about available supportive measures, including:
   a. information about supportive measures and resources within the institution and in the community that are available with or without the filing of a formal complaint,
   b. information about how to request supportive measures, including changes to academic, living, transportation and working situations,
   c. information about the University’s services related to no-contact orders, orders for protection, or other similar lawful orders,
   d. information about how the University will maintain the confidentiality of supportive measures provided to the complainant, and
   e. an invitation to the complainant to discuss supportive measures and share their wishes with respect to supportive measures with the campus Title IX office;

2. where applicable, provide information about the various processes offered by the University to address prohibited conduct;

3. where applicable, explain the process for filing a formal complaint or requesting an informal problem-solving process;

4. provide information about how the University will complete publicly available recordkeeping, including Clery Act reporting and disclosures, without the inclusion of personally identifying information about the complainant;

5. provide written notification about the importance of preserving evidence that may assist in a legal or campus disciplinary proceeding or may be helpful in obtaining a protective order;
6. provide information about the complainant’s right to seek medical treatment, as appropriate; and

7. provide written information to the complainant about their right to contact law enforcement, to decline to contact law enforcement, to be assisted by campus representatives in contacting law enforcement, and to seek a protective order, as appropriate.

When a complainant does not respond to the communication from the campus Title IX office providing the information described above, the campus Title IX office will generally presume that the complainant does not want to initiate a grievance process or an informal problem-solving process.

B. Campus Title IX Office Determination About Further Responsive Action

In addition to contacting a complainant as set forth in Section IV.A, upon learning about possible prohibited conduct, the campus Title IX office will take one of the following three actions.

1. Initiate a grievance process.

   The campus Title IX office will initiate a grievance process when the complainant has filed a formal complaint requesting that the University investigate alleged prohibited conduct or when the Title IX Coordinator has signed a formal complaint.

   a. In cases involving a student respondent, the Title IX Coordinator will sign a formal complaint when an investigation is needed to comply with legal anti-discrimination requirements or when campus safety is threatened. In determining whether campus safety is threatened, the Title IX Coordinator will consider the following factors, among others: whether the respondent is alleged to have used a weapon while committing prohibited conduct; whether the respondent is alleged to have used force while committing prohibited conduct; and whether the respondent has been alleged or found to have committed prohibited conduct against other complainants.

   b. In cases involving an employee or third-party respondent, the Title IX Coordinator will sign a formal complaint when: 1) an investigation is needed to comply with legal anti-discrimination requirements; 2) campus safety is threatened; or 3) an investigation is otherwise deemed to be the most appropriate and effective response.

2. Initiate an informal problem-solving process.

   The campus Title IX office may initiate an informal problem-solving process to address alleged concerns and prevent prohibited conduct in cases where no formal complaint is filed or signed. For example, an informal problem-solving process may be appropriate in cases: 1) with an anonymous complainant; 2) where the alleged conduct does not rise to the level of prohibited conduct; 3) where the complainant does not want to initiate a grievance process and an informal problem-solving process may effectively deter future prohibited conduct; or 4) where the alleged conduct is likely covered by academic freedom or free speech protections.

3. Take no further action beyond offering supportive measures.

   In certain cases where a complainant does not want an informal problem-solving or grievance process, or when the campus Title IX office does not have sufficient information to effectively initiate such a process, the campus Title IX office may decide not to take any action beyond offering supportive measures to the complainant.

V. INFORMAL PROBLEM-SOLVING PROCESS
The campus Title IX office may initiate an informal problem-solving process when a grievance process has not been initiated or has been dismissed as described in Section VI.H. In an informal problem-solving process, the campus Title IX office does not determine whether a respondent has violated University policy. However, the campus Title IX office may provide resources to help address the concerns raised and make recommendations for responsive action, including actions aimed at preventing misconduct from occurring. For example, informal problem-solving processes may include:

- gathering additional information about the alleged prohibited conduct to determine how to most effectively respond to the alleged prohibited conduct or to provide relevant information to the individuals involved;
- notifying a respondent about the concerns raised, and about any reported impact of the concerns on a complainant or community;
- providing education or coaching to a respondent or complainant;
- providing recommendations that are aimed at preventing further concerns from arising to an appropriate individual who oversees a respondent or complainant; and/or
- establishing a plan to monitor for future misconduct.

Even if the campus Title IX office originally initiates an informal problem-solving process, the Title IX Coordinator may decide, after the campus Title IX office has gathered additional information about the alleged prohibited conduct, that it is appropriate to sign a formal complaint and initiate a grievance process.

VI. THE GRIEVANCE PROCESS

The campus Title IX office will initiate the grievance process when a formal complaint alleging prohibited conduct in violation of this policy is filed by a complainant or signed by the Title IX Coordinator.

A. STANDARD OF PROOF

The University’s grievance process applies the preponderance of the evidence standard when determining whether this policy has been violated. "Preponderance of the evidence" means that it is more likely than not that a policy violation has occurred.

B. ELEMENTS OF THE GRIEVANCE PROCESS

The grievance process includes the following key elements:

1. Title IX Coordinators, campus Title IX office staff who conduct investigations, decision-makers and individuals designated to facilitate informal resolution processes (where available) who: 1) do not have a conflict of interest or bias for or against complainants or respondents generally or individual complainants or respondents specifically; and 2) are trained in accordance with this policy and applicable laws.

2. A burden of proof that rests on the University.

3. A burden of gathering evidence sufficient to reach a decision on responsibility and disciplinary sanctions, if any, that rests on the University.

4. Equal application to both parties of all procedures, rules, or practices involved in reaching a final decision on responsibility, a final decision on disciplinary sanctions, or other resolution.

5. An equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
6. A presumption that a respondent is not responsible for the alleged prohibited conduct until a decision on responsibility and disciplinary sanctions, if any, is made at the conclusion of the grievance process.

7. An objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence.
   a. Relevant evidence is information pertinent to proving whether facts material to the allegations are more or less likely to be true.
   b. Questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not considered relevant, unless such questions and evidence: 1) are offered to prove that someone other than the respondent committed the conduct alleged by the complainant; or 2) concern specific incidents of the complainant’s prior sexual behavior with respect to the respondent and are offered to prove consent.

8. No consideration of information protected under a legally recognized privilege, or questions seeking disclosure of this information, unless the person holding the privilege waives it.

9. No access to or consideration of a party’s records that were made or maintained by a physician, psychiatrist, psychologist, or other professional in connection with the provision of treatment to the party, unless that party provides voluntary, written consent.

10. Credibility determinations, where applicable, that are not based on an individual’s status as a complainant, respondent, or witness.

C. PARTY AND WITNESS PARTICIPATION IN THE GRIEVANCE PROCESS

Parties will be provided with written notice of the date, time, location, participants, and purpose of all meetings during the grievance process at which the party is expected or invited, with sufficient time for the party to prepare to participate.

Parties and witnesses are not required to participate in a grievance process (including an informal resolution process) under this policy. When a complainant, respondent, or witness refuses to provide relevant information during a grievance process, the grievance process may proceed. However, a decision on responsibility and disciplinary sanctions, if any, will be based only on the information available.

Individuals who knowingly or intentionally file a false formal complaint or provide false or misleading information during a grievance process may be subject to disciplinary action up to and including termination of employment or expulsion. Disciplinary action is not warranted where an individual provides information in good faith, even if the information is ultimately not substantiated. An individual provides information in good faith when that individual reasonably believes that the information they have provided is accurate.

Concerns that an individual has knowingly or intentionally provided false or misleading information will be addressed by the following offices: 1) for concerns that students allegedly engaged in this misconduct, the campus office responsible for investigating and adjudicating potential Student Conduct Code violations other than prohibited misconduct covered in this policy; 2) for concerns that employees allegedly engaged in this misconduct, the employee’s supervisor or human resources representative; and 3) for concerns that third parties allegedly engaged in this misconduct, the University official responsible for retaining or overseeing the third party.

D. ADVISOR PARTICIPATION IN THE GRIEVANCE PROCESS

Complainants and respondents may be accompanied to meetings and hearings in the grievance process by: 1) an advisor of their choice; and 2) a support person who cannot be a fact witness in
the case. Other individuals may be permitted to attend these meetings or hearings to support a party for good reason, such as to accommodate a disability or a language need. When a party does not have an advisor present at a live hearing, the University will provide an advisor to conduct cross-examination on behalf of that party. A party may choose to have this advisor fulfill any and all additional functions permitted for advisors. For more information about the responsibilities of advisors who attend meetings and hearings as allowed by this policy, please see Appendix A.

E. REMOVAL OF RESPONDENT FROM THEIR UNIVERSITY ROLE DURING A GRIEVANCE PROCESS

**Student respondents.** A student respondent may be removed from their University role as an interim measure during a grievance process in two circumstances. First, the University may undertake emergency removal of a student respondent for reasons arising from the alleged prohibited conduct when the University: 1) undertakes an individualized safety and risk analysis; 2) concludes that there is an immediate threat to the physical health or safety of any student or other individual arising from the alleged prohibited conduct; and 3) provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. Second, the University may impose an interim disciplinary suspension on a student respondent in accordance with Board of Regents Policy: *Student Conduct Code*, Section VI. Interim Suspension for reasons not arising from the alleged prohibited conduct.

**Employee respondents.** The University Authority identified in Appendix B, at their discretion, may take interim measures such as changing a respondent's work responsibilities or work location or placing them on paid leave during a grievance process. Such action may be appropriate when there is a legitimate concern that without interim measures: 1) the respondent will engage in prohibited conduct while the grievance process is ongoing, or 2) the respondent would be unduly disruptive to University members or University activities or programs.

**Non-student and non-employee respondents.** University members who are neither students nor employees may be removed from their University role or a University program as an interim measure during a grievance process at the discretion of the University Authority identified in Appendix B.

F. CONSOLIDATION OF FORMAL COMPLAINTS

Formal complaints may be consolidated when the allegations arise out of the same facts or circumstances and there are: 1) allegations by one complainant against more than one respondent; 2) allegations by more than one complainant against one or more respondents; or 3) cross-complaints.

G. DECISION ABOUT THE DESIGNATION OF PROHIBITED CONDUCT

Upon receipt of a formal complaint that alleges prohibited conduct in violation of this policy, the campus Title IX office will initiate a grievance process. Once the campus Title IX office initiates a grievance process, it will provide notice to the parties in writing of, among other things:

- its decision about whether to designate the alleged prohibited conduct as Title IX-based prohibited conduct;
- the reasons for this decision; and
- the parties’ right to appeal this decision, as described in Section VI.I.

More information about the notice that the campus Title IX office will provide to the parties can be found in Section VI.I.K.2.

The campus Title IX office will not initiate a grievance process when the alleged conduct, if substantiated, would not constitute prohibited conduct, except in limited circumstances. In such
cases, the campus Title IX office will notify the parties in writing of this decision and of the parties’ right to appeal this decision to an impartial appellate officer.

H. DISMISSAL OF A FORMAL COMPLAINT

The campus Title IX office has discretion to dismiss a formal complaint or any allegations therein during the grievance process when: 1) a complainant notifies the Title IX Coordinator in writing that they would like to withdraw the formal complaint or any allegations therein; 2) a respondent is no longer enrolled in, or employed by, the University; or 3) specific circumstances prevent the gathering of evidence sufficient to reach a decision on responsibility.

When dismissing a complaint, the campus Title IX office will notify the parties in writing of: 1) the decision to dismiss; 2) the reasons for the dismissal; and 3) the parties’ right to appeal the dismissal to an impartial appellate officer, as described in Section VI.I.

I. APPEALS OF DISMISSALS OF FORMAL COMPLAINTS AND OF DECISIONS ABOUT THE DESIGNATION OF PROHIBITED CONDUCT

Any party may appeal the campus Title IX office’s written decision to: 1) designate the alleged conduct as Title IX-based prohibited conduct or its decision to not make that designation; 2) not initiate a grievance process, despite a complainant’s request for a grievance process, because the alleged conduct, if substantiated, would not constitute prohibited conduct under the policy; or 3) dismiss a formal complaint as set forth in Section VI.H.

Appeals must be submitted to the Appellate Officer in writing within 10 calendar days of receipt of the campus Title IX office’s written decision. Appeals received after 10 calendar days will be denied. Decisions that are not appealed within 10 calendar days are final. When a timely appeal is received, the other party will be sent a copy of the appeal and provided an opportunity to respond. A response to an appeal must be submitted in writing within 10 calendar days from the party’s receipt of the appeal.

Appeals are not intended to allow for a second review of the same information provided to the campus Title IX office, and the Appellate Officer will not substitute their judgment for that of the campus Title IX office. Appeals are limited to the grounds set forth below:

- Procedural irregularity that affected the outcome.
- New evidence that was not reasonably available at the time the campus Title IX office’s decision was made that could have affected the outcome.
- A decision that is not based on substantial information. Substantial information means relevant information that a reasonable person might accept as adequate to support a conclusion.
- the Title IX Coordinator, investigator, hearing panel members, and/or University Authority had a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent that affected the outcome of the matter.

In most cases, the appellate review is limited to review of the written decision and the appeal and response documents submitted by the parties. However, the Appellate Officer may, at their discretion, request and review additional information from the campus Title IX office.

The Appellate Officer will issue a written decision that: 1) affirms, in whole or in part, the decision, 2) overturns, in whole or in part, the decision, or 3) remands the matter to remedy procedural errors or consider new evidence. The Appellate Officer will strive to issue a decision within 15 calendar days of receipt of all appeal and response documents.

J. INFORMAL RESOLUTION PROCESSES

The University may offer informal resolution processes to parties at any time after a formal complaint is filed and before a final decision on responsibility and on disciplinary sanctions is
made. Except, the University will not offer informal resolution processes to resolve allegations that an employee engaged in Title IX-based prohibited conduct toward a student.

Before initiating an informal resolution process, the University will provide the parties with a written notice disclosing:

- the allegations in the formal complaint;
- the requirements of the informal resolution process;
- the circumstances under which the informal resolution process precludes the parties from resuming the grievance process arising from the formal complaint;
- the parties’ right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and
- any privacy-related and recordkeeping-related consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

In addition, before initiating an informal resolution process, the University must obtain the parties' voluntary, written consent to the informal resolution process.

K. INVESTIGATION

1. General principles

Investigations into formal complaints will be conducted by the campus Title IX office, except that investigations into stalking and relationship violence of a non-sexual nature will be conducted: 1) for student respondents, by the campus office or official that investigates non-sexual Student Conduct Code complaints; 2) for employee respondents, by a human resources representative or a supervisor; and 3) for other University members, by the University official who retains or oversees their participation in University programs or activities. If a prohibited conduct investigation reveals possible misconduct other than prohibited conduct under this policy, the campus Title IX office will forward this information to the campus office, human resources representative, or supervisor responsible for investigating that possible misconduct. However, amnesty is provided for certain drug and alcohol related offenses that come to light during a prohibited conduct investigation, as discussed in Section II.D.

2. Written notice to the parties

Upon receipt of a formal complaint that alleges prohibited conduct in violation of this policy, the campus Title IX office will provide written notice to the parties who are known. The written notice will provide the parties with sufficient time to prepare a response before any initial interview, and will include:

- Notice that a grievance process is being initiated.
- Information about the grievance process set forth in this policy.
- Notice of the allegations of prohibited conduct, including the identities of the parties involved in the incident, if known, the alleged prohibited conduct, and the date and location of the alleged prohibited conduct, if known.
- Notice of the decision on whether the reported conduct will be designated as Title IX prohibited conduct, the reasons for this decision, and the parties’ right to appeal this decision;
- A statement that the respondent is presumed not responsible for the alleged prohibited conduct and that a decision on responsibility and on disciplinary sanctions, if any, is made at the conclusion of the grievance process.
- Notice that the parties may be accompanied to meetings and hearings in the grievance process by: 1) an advisor of their choice who may be, but is not required to
be, an attorney, and who may inspect and review evidence as described in Section
VI.K.3; and 2) a support person who cannot be a fact witness in the case.

- Information about applicable supportive measures and advisor resources, and an
  opportunity to discuss them with the campus Title IX office.
- Notice that this policy prohibits knowingly or intentionally filing a false formal
  complaint or providing false or misleading information during a grievance process.

If, during the course of an investigation, the campus Title IX office decides to investigate
additional allegations of prohibited conduct, the campus Title IX office will provide notice of
those additional allegations to the parties whose identities are known.

3. **Investigation process**

The nature and scope of an investigation will be determined based on the formal complaint
and any additional information gathered during the investigation, and will include the following
elements:

- Written notice to the parties as described in Section VI.K.2.
- One or more requested interviews of a complainant, where the complainant will have
  the opportunity to describe the allegations giving rise to the formal complaint, provide
  evidence, and identify witnesses.
- One or more requested interviews of a respondent, where the respondent will have
  the opportunity to respond to the allegations, provide evidence, and identify
  witnesses.
- Gathering of other evidence, such as through witness interviews, if other evidence
  exists.
- An equal opportunity for the parties and their advisors to inspect and review any
  evidence obtained as part of the investigation that is directly related to the allegations
  raised in the formal complaint as follows: Prior to completion of the investigation, the
  campus Title IX office will send to each party and the party’s advisor, if any, the
  evidence for inspection and review. The parties are not permitted to photograph the
  evidence or disseminate the evidence to the public. The parties will be provided 10
calendar days in which to submit a written response, which the campus Title IX office
will consider prior to completion of the investigation.
- Provision of a final investigation report to each party, the party’s advisor, if any, and
to the University Authority (identified in Appendix B) that fairly summarizes the
relevant evidence, provides an analysis of the evidence, and a recommended
decision on responsibility.

The campus Title IX office strives to complete investigations within 90 business days.
However, depending on the complexity of the investigation, the number of witnesses, the
availability of evidence and other factors, some investigations may take additional time.
When an investigation will not be completed within 90 business days, the campus Title IX
office will notify the parties and provide the reason for the extended timeline in writing.

L. **POST-INVESTIGATION INFORMAL RESOLUTION OPTION**

Based on the final investigation report, the University Authority (identified in Appendix B) may opt
to provide the parties with a proposed informal resolution. If both parties agree in writing to the
proposed informal resolution, the grievance process ends. If either party does not agree to the
proposed informal resolution, the matter will proceed to a hearing or administrative resolution,
both of which are types of informal resolution processes as described in Section VI.J.

M. **ADMINISTRATIVE RESOLUTION PROCESS**

In all cases except those that involve a student complainant and a non-student employee
respondent, the parties will be offered the opportunity to agree to resolve the case after the
investigation through an administrative resolution process. In an administrative resolution
process, a hearing chair will make the decision on responsibility based on the investigative report, the parties’ written responses to the investigative report (if any), and the evidence gathered by the campus Title IX office as part of its investigation of the formal complaint. In the case of an administrative resolution, disciplinary sanctions (if any) will be determined as set forth in Sections VI.N.2 and VI.O and both parties may appeal as set forth in VI.P. The administrative resolution process is a type of informal resolution process, as further described in Section VI.J.

N. HEARING

1. Hearing

If there is no post-investigation informal resolution or administrative resolution, the parties will be provided a live hearing. The parties will be permitted to submit a written response to the final investigation report to the hearing panel.

Hearing format. The University may conduct live hearings with all parties physically present in the same geographic location or with any or all parties, witnesses, and other participants appearing virtually, with technology enabling participants to simultaneously see and hear each other. At the request of any party, the parties will be located in separate rooms during the hearing with technology enabling the hearing panel members and parties to simultaneously see and hear the party or the witness answering questions.

Access to evidence at the hearing. The University will make all evidence directly related to the allegations available to the parties at any hearing.

Advisor and support person. Each party may be accompanied to the hearing by one advisor of their choice. Advisors are permitted to make opening and closing statements, and conduct direct and cross-examination during the hearing. If a party does not have an advisor present at the hearing, the University will provide that party, free of charge, with an advisor of the University’s choice, to conduct cross-examination on behalf of that party. A party’s advisor may appear and conduct cross-examination even when the party whom they are advising does not appear. Each party may also be accompanied at the hearing by a support person, who participates in the hearing in a non-speaking capacity. A support person cannot be a fact witness in the case.

Cross-examination. Cross-examination at the live hearing will be conducted directly, orally, and in real time by the party's advisor and never by a party personally. Each party’s advisor is permitted to ask the other party and any witnesses all relevant questions.

Failure to submit to cross-examination – applicable only to Title IX-based prohibited conduct formal complaints. If a party or witness does not submit to cross-examination at the live hearing, the hearing panel and Appellate Officer (where applicable) will not rely on any statement of that party or witness in reaching a decision on responsibility. The hearing panel and Appellate Officer (where applicable) will not draw an inference about the decision on responsibility, if any, based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Recording or transcript. The University will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.

2. Decision on responsibility and disciplinary sanctions, if any

Both parties will be simultaneously provided with the hearing panel’s (or in the case of an administrative resolution, the hearing chair’s) written decision on responsibility and the University Authority’s written decision on disciplinary sanctions, if any. The University Authority is identified in Appendix B. Together, these written decisions on responsibility and disciplinary sanctions will constitute the “Written Determination” described in VI.M.3 that may then be appealed by either party.
3. The Written Determination will include:

- the allegations of prohibited conduct;
- a description of the procedural steps taken by the University from its receipt of the formal complaint through the Written Determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather evidence, and hearings held;
- findings of fact supporting the decisions on responsibility and disciplinary sanctions;
- conclusions regarding the application of this policy to the facts;
- a statement of, and rationale for, the decisions on responsibility and disciplinary sanctions;
- a statement of the decision on whether the University will provide remedies to the complainant; and
- the University’s procedures and permissible bases for the parties to appeal the decisions on responsibility and disciplinary sanctions.

If an appeal is not filed, the Written Determination becomes final on the date on which an appeal would no longer be considered. See Section VI.P on appeals and Administrative Procedure: Post-Investigation Procedures for Formal Complaints of Violations of Administrative Policy: Sexual Harassment, Sexual Assault, Stalking and Relationship Violence.

O. DISCIPLINARY SANCTIONS, REMEDIES, AND OTHER RESPONSIVE ACTIONS

1. The role of the University Authority in determining, and monitoring compliance with, disciplinary sanctions and other responsive actions

The responsible University Authority (identified in Appendix B) will decide which disciplinary sanctions and other responsive actions will be implemented, if any.

Disciplinary sanctions will not be imposed on the respondent until: 1) the date on which an appeal would no longer be considered timely, if an appeal is not filed; or 2) the date that the parties are provided with the written decision of the result of the appeal, if an appeal is filed and disciplinary sanctions are imposed on the respondent as a result of the appeal.

The University Authority will monitor compliance with any disciplinary sanctions or other responsive actions and address any compliance failures by the respondent.

Where a student respondent is also a third party or employee, the campus Title IX office will determine the appropriate University Authority(ies) to determine disciplinary sanctions and other responsive actions in those non-student roles. In making this determination, the campus Title IX office will consider case-specific factors, including the context in which the alleged prohibited conduct occurred (e.g. whether it occurred in an employment or academic context) and the respondent’s primary affiliation with the University.

2. Disciplinary sanctions and other responsive actions – general information

Responsive action is intended to eliminate prohibited conduct, prevent its recurrence, and promote accountability while supporting the University’s educational mission and legal obligations. Responsive action may include disciplinary, rehabilitative (including educational), restorative, and monitoring components.

Possible disciplinary sanctions in cases with student respondents are detailed in the Board of Regents Policy: Student Conduct Code, and include the following:

- an oral or written warning;
- probation;
required compliance with work assignments, community service assignments, or other discretionary assignments;
restitution;
restriction of privileges;
University housing suspension or expulsion;
suspension or expulsion from the University;
withholding of a diploma or degree; and
revocation of admission or a degree.

Possible disciplinary sanctions and other responsive actions in cases with employee respondents (including student employees) may include any one or a combination of the following:

- coaching or education;
- mentoring;
- changes to work duties or locations;
- monitoring to ensure that prohibited conduct is not occurring;
- probation;
- progressive disciplinary action;
- transfer of position;
- removal of administrative appointment;
- demotion;
- salary reduction;
- suspension; and
- termination of employment.

Possible disciplinary sanctions or other responsive actions in cases with third-party respondents may include restrictions on a third-party respondent’s: 1) participation in University programs or activities; 2) attendance at University events; or 3) ability to enter campus spaces, among other things.

The following factors will be considered in determining the appropriate disciplinary sanctions or other responsive actions to address a decision of responsibility for prohibited conduct:

- the severity, persistence, or pervasiveness of the prohibited conduct;
- the nature of the prohibited conduct;
- whether the prohibited conduct threatened physical safety;
- any incidents of prior misconduct by a respondent, including the respondent’s disciplinary history, at the University or elsewhere;
- the impact of the prohibited conduct on other members of the University community;
- an assessment of a respondent’s potential for development, including whether the respondent has accepted responsibility for the prohibited conduct;
- the maintenance of a safe, nondiscriminatory, and respectful work and learning environment; and
- any other mitigating, aggravating, or compelling factors.

3. Remedies

Where a decision has been made that a respondent is responsible for prohibited conduct, the University will provide remedies to a complainant that are designed to restore or preserve the complainant’s equal access to the University’s education programs and activities. Such remedies may include supportive measures discussed in Section II.B, as well as other measures that prevent the respondent from having contact with the complainant, and other measures. For example, remedies may prevent the respondent from participation in student
organizations, teams, or classes in which the complainant participates. The campus Title IX office is responsible for effective implementation of any remedies.

P. APPEAL

Any party may initiate this appeal process by following the procedures set forth in Administrative Procedure: Post-Investigation Procedures for Formal Complaints of Violations of Administrative Policy: Sexual Harassment, Sexual Assault, Stalking and Relationship Violence.

Appeals are not intended to allow for a second review of the same information provided during the investigation, and the Appellate Officer will not substitute their judgment for that of the hearing panel, or that of the hearing chair in the case of an administrative resolution. Appeals are limited to the grounds set forth below.

- Procedural irregularity that affected the outcome.
- New evidence that was not reasonably available at the time of the Written Determination that could have affected the outcome.
- A sanction that is grossly disproportionate to the offense.
- A decision on responsibility that is not based on substantial information. Substantial information means relevant information that a reasonable person might accept as adequate to support a conclusion. The Appellate Officer must respect the credibility determinations of the hearing panel (or of the hearing chair in the case of an administrative resolution) and must not substitute the Appellate Officer’s judgment for that of the hearing panel or chair.
- The Title IX Coordinator, investigator, hearing panel members, and/or University Authority had a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent that affected the outcome.

The Appellate Officer will issue a written decision that 1) affirms, in whole or in part, the decision on responsibility, 2) overturns, in whole or in part, the decision on responsibility, 3) affirms, overturns, or adjusts the decision on disciplinary sanctions, or 4) remands the matter to remedy procedural errors or consider new evidence.

The decision of the Appellate Officer is the final University decision.

VII. RECORDKEEPING

The University will maintain the following for the longer of seven years or the retention period required by Administrative Policy: Managing University Records and Information:

1. Records of reports of prohibited conduct made to the campus Title IX office, the President, or a Chancellor, Vice President, Vice Chancellor, or Dean.
2. Records of any actions, including any supportive measures, taken in response to such a report.
3. Records of each prohibited conduct grievance process, including
   a. information that is obtained, gathered, or received during the grievance process;
   b. any Written Determination;
   c. any audio or audiovisual recording or transcript of a hearing;
   d. any disciplinary sanctions imposed on a respondent; and
   e. any remedies provided to the complainant designed to restore or preserve equal access to the University’s education program or activity.
4. Records of any appeal and the result therefrom.
5. Records of any informal resolution and the result therefrom.
   Records of all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.
The University will compile and maintain publicly available records, including Clery Act reporting and disclosures, without the inclusion of personally identifying information about the complainant. The University will provide complainants and respondents with access to their records related to any of the prohibited conduct processes set forth in this policy in accordance with the law.

VIII. POLICY REVIEW

The Office of Equal Opportunity and Affirmative Action (EOAA) will annually review this policy.

IX. TRAINING

Individuals who conduct the University’s grievance process will receive training on:

- the definitions of prohibited conduct, including the definitions of Title IX-based prohibited conduct;
- the scope of the University’s education programs and activities;
- how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, where applicable;
- how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
- technology to be used at a live hearing, where applicable;
- 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; and
- issues of relevance to create an investigative report that fairly summarizes relevant evidence, where applicable.

Individuals who conduct the University’s grievance process (including Title IX Coordinators, investigators, hearing panel members, University Authorities, Appellate Officers, and any person who facilitates an informal resolution process) will also be trained annually on issues related to prohibited conduct and on how to conduct a grievance process that protects the safety of victims and promotes accountability.

Materials used to train individuals who conduct the University’s grievance process will:

- not rely on sex stereotypes;
- promote impartial investigations and adjudications of formal complaints of sexual harassment;
- be maintained by the school for at least 7 years; and
- be publicly available on the school’s website.

To facilitate the goals of this policy, the University will make training on prohibited conduct available to students, employees, and volunteers.

REASON FOR POLICY

The University adopts this policy to implement Board of Regents Policy: Sexual Harassment, Sexual Assault, Stalking and Relationship Violence and to implement its commitment to: 1) taking prompt and equitable action to eliminate, prevent and address the effects of prohibited conduct; 2) fostering a trusting environment where prohibited conduct is not tolerated; 3) cultivating a climate where all persons are well-informed and supported with respect to reporting prohibited conduct; 4) providing a fair and impartial process that treats all participants with dignity; and 5) identifying the standards by which violations of this policy will be evaluated and disciplinary action may be imposed.

PROCEDURES

Administrative Procedure: Post-Investigation Procedures for Formal Complaints of Violations of Administrative Policy: Sexual Harassment, Sexual Assault, Stalking and Relationship Violence

FORMS/INSTRUCTIONS
There are no forms associated with this policy.

APPENDICES

- Appendix A: Roles and Responsibilities of Advisors
- Appendix B: University Authorities and Appellate Officers

FREQUENTLY ASKED QUESTIONS

- FAQ: Employees’ Obligation to Report Sexual Harassment, Sexual Assault, Stalking and Relationship Violence to the Campus Title IX Office
- FAQ: Investigations and Accommodations
- FAQ: Retaliation in Sexual Harassment, Sexual Assault, Stalking and Relationship Violence Cases

ADDITIONAL CONTACTS

<table>
<thead>
<tr>
<th>Subject</th>
<th>Contact</th>
<th>Phone</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary Contact</td>
<td>Tina Marisam</td>
<td>612-626-9357</td>
<td><a href="mailto:marisam@umn.edu">marisam@umn.edu</a></td>
</tr>
<tr>
<td>Policy or process questions</td>
<td>Campus Title IX Offices (see below)</td>
<td></td>
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</tbody>
</table>

Campus Title IX Offices

Prohibited conduct reports can be made to the University’s campus Title IX offices listed here. As described in this policy, upon learning of certain types of prohibited conduct, employees must contact their campus Title IX office to satisfy their prohibited conduct reporting obligations.

<table>
<thead>
<tr>
<th>Crookston Campus</th>
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<tbody>
<tr>
<td>Subject</td>
<td>Contact</td>
<td>Phone</td>
<td>Email</td>
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</tbody>
</table>
| Title IX Coordinator and campus Title IX office for students | Kamille Meyer
Assistant Athletic Director/SWA/Wellness Center Director
2900 University Ave.
Crookston, MN 56716 | 218-281-8423 | kmwahlin@crk.umn.edu |
| Title IX Coordinator and campus Title IX office for employees | Jonathon Fuller
UMC Human Resources
304 Selvig Hall
2900 University Ave
Crookston, MN 56716 | 218-281-8345 | fulle423@crk.umn.edu |
### Duluth Campus

<table>
<thead>
<tr>
<th>Subject</th>
<th>Contact</th>
<th>Phone</th>
<th>Email</th>
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</table>
| Title IX Coordinator and campus Title IX office | Jennifer Mencl  
Associate Vice Chancellor for Academic Affairs  
426 DAdB  
1049 University Drive Duluth, MN 55812 | (218) 726-7385 | jmencl@d.umn.edu       |

### Morris Campus

<table>
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<tr>
<th>Subject</th>
<th>Contact</th>
<th>Phone</th>
<th>Email</th>
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</table>
| Title IX Coordinator and campus Title IX office | Sarah Mattson  
Director of Human Resources  
201 Behmler Hall  
600 East 4th Street Morris, MN 56267 | 320-589-6021 | mattsosj@morris.umn.edu |

### Rochester Campus

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<tr>
<th>Subject</th>
<th>Contact</th>
<th>Phone</th>
<th>Email</th>
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| Title IX Coordinator and campus Title IX office for students | Andrew Williams  
Assistant Vice Chancellor  
111 S Broadway Apt 300 Rochester, MN 55904 | 507-258-8106 | will2036@r.umn.edu      |

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<tr>
<th>Subject</th>
<th>Contact</th>
<th>Phone</th>
<th>Email</th>
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</table>
| Title IX Coordinator and campus Title IX office for employees | Virginia Wright-Peterson  
Interim Director of Human Resources  
300 University Square R0869A  
111 S Broadway Rochester, MN 55904 | 507-258-8009 | wrig0070@r.umn.edu      |

### Twin Cities Campus

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<tr>
<th>Subject</th>
<th>Contact</th>
<th>Phone</th>
<th>Email</th>
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</table>
| Title IX Coordinator and campus Title IX office | Tina Marisam  
Director of the Office of Equal Opportunity and Affirmative Action  
McNamara Alumni Center, Room 274  
200 Oak Street SE Minneapolis, MN 55455 | 612-626-9357 | marisam@umn.edu        |

UReport
Reports of prohibited conduct, including anonymous reports, may be submitted 24 hours a day through the University’s UReport reporting system. Reports of prohibited conduct made through UReport will be forwarded to the campus Title IX office, which will address the concerns through the grievance or informal problem-solving processes. However, reporting about prohibited conduct through UReport does not satisfy the obligation of University employees as set forth above in Section III to report incidents of prohibited conduct to the campus Title IX office. Similarly, anonymous reporting in any other form also does not satisfy this reporting obligation.

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<tr>
<th>Subject</th>
<th>Contact</th>
<th>Phone</th>
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<tbody>
<tr>
<td>All Campuses</td>
<td>U Report</td>
<td>1-866-294-8680</td>
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</table>

**Law Enforcement**

Employees, students and third parties are encouraged to report crimes to the law enforcement agency for the jurisdiction in which the conduct at issue occurred. Complainants have the option to report a crime to the appropriate law enforcement agency, to report prohibited conduct to the appropriate campus Title IX office, or to report to both investigative bodies simultaneously. Even if a criminal investigation is ongoing, the University will conduct its own grievance process and will not wait for the conclusion of a criminal investigation or proceeding to begin its grievance process. However, the University may temporarily delay the fact-finding portion of a Title IX investigation while law enforcement is gathering evidence.

Victims of sexual misconduct are granted specific rights under Minnesota law. When a crime is reported to law enforcement, a victim has the right to:

- request that their identity be kept private in reports available to the public;
- be notified of crime victim rights and information on the nearest crime victim assistance resource;
- apply for financial assistance for non-property losses related to a crime;
- participate in prosecution of their case, including the right to be informed of a prosecutor’s decision to decline prosecution or dismiss their case;
- protection from harm and from employer retaliation for taking time off to attend protection or harassment restraining order proceedings;
- receive information about seeking a protective or harassment order at no cost; and
- receive assistance from the Crime Victims Reparations Board and the Commissioner of Public Safety.

Victims of sexual assault have the right to undergo a confidential sexual assault examination at no cost and make a confidential request for HIV testing of a convicted felon. Victims of sexual assault are not required to undergo a polygraph examination in order for an investigation or prosecution to proceed. Victims of domestic abuse also have the right to terminate a lease without penalty. In cases of domestic abuse and violent crime where an arrest has been made, victims also have the right to be provided notice of the release of the offender, including information on the release conditions and supervising agency. Complete information about crime victims’ rights is available.

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<th>Campus</th>
<th>Contact</th>
<th>Phone</th>
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<tbody>
<tr>
<td>Crookston Campus</td>
<td>The City of Crookston Police Department 321 West Robert Street Crookston, MN 56716</td>
<td>218-281-3111</td>
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<tr>
<td>Campus</td>
<td>Contact</td>
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<tr>
<td>Duluth Campus</td>
<td>University of Minnesota-Duluth Police Department</td>
<td>218-726-7000</td>
<td><a href="mailto:umdpd@d.umn.edu">umdpd@d.umn.edu</a></td>
</tr>
<tr>
<td></td>
<td>287 Darland Admin Bldg</td>
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<td></td>
<td>1049 University Drive</td>
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<td></td>
<td>Duluth, MN 55812</td>
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<tr>
<td></td>
<td>Duluth Police Department</td>
<td>218-730-5400</td>
<td><a href="mailto:police@duluthmn.gov">police@duluthmn.gov</a></td>
</tr>
<tr>
<td></td>
<td>2030 North Arlington Avenue</td>
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<td></td>
<td>Duluth, MN 55811</td>
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<tr>
<td>Morris Campus</td>
<td>University of Minnesota Morris Campus Police</td>
<td>320-589-6000</td>
<td><a href="mailto:ummpd@morris.umn.edu">ummpd@morris.umn.edu</a></td>
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<tr>
<td></td>
<td>Behmler Hall 6</td>
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<tr>
<td></td>
<td>600 East Fourth Street</td>
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<td></td>
<td>Morris, MN 56267</td>
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<tr>
<td></td>
<td>Morris Police Department</td>
<td>320-208-6500</td>
<td><a href="mailto:mpd@co.stevens.mn.us">mpd@co.stevens.mn.us</a></td>
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<tr>
<td></td>
<td>400 Colorado Avenue</td>
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<td>Morris, MN 56267</td>
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<tr>
<td>Rochester Campus</td>
<td>Rochester Law Enforcement Center</td>
<td>507-328-6810</td>
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<tr>
<td></td>
<td>101 Fourth Street Southeast</td>
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<td></td>
<td>Rochester, MN 55902</td>
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<tr>
<td>Twin Cities Campus</td>
<td>University of Minnesota Police Department</td>
<td>612-624-2677</td>
<td><a href="mailto:police@umn.edu">police@umn.edu</a></td>
</tr>
<tr>
<td></td>
<td>511 Washington Ave. SE</td>
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<tr>
<td></td>
<td>Minneapolis, MN 55455</td>
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<tr>
<td></td>
<td>St. Paul Police Department</td>
<td>651-291-1111</td>
<td><a href="mailto:policeinfo@ci.stpaul.mn.us">policeinfo@ci.stpaul.mn.us</a></td>
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<tr>
<td></td>
<td>367 Grove Street</td>
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<td></td>
<td>St. Paul, MN 55101</td>
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<tr>
<td></td>
<td>Minneapolis Police Department</td>
<td>612-673-2941 (Sex crimes unit)</td>
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<tr>
<td></td>
<td>350 South 5th Street, Room 130</td>
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<tr>
<td></td>
<td>Minneapolis, MN 55415-1389</td>
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<tr>
<td></td>
<td>Ramsey County Sheriff's Department</td>
<td>651-767-0640</td>
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### Confidential Resources

The following resources offer free and confidential services, including advocacy, counseling, and emotional support.

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<th>Campus</th>
<th>Contact</th>
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<tbody>
<tr>
<td><strong>Crookston Campus</strong></td>
<td>Polk County Coordinated Victim Services (complainant resource)</td>
<td>218-281-1554 800-524-1993</td>
<td><a href="mailto:rrotovic@umn.edu">rrotovic@umn.edu</a></td>
</tr>
<tr>
<td></td>
<td>UMC Counseling Center</td>
<td>218-281-8571 218-281-8348</td>
<td></td>
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<tr>
<td></td>
<td>Student Health</td>
<td>218-281-8512</td>
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<tr>
<td><strong>Duluth Campus</strong></td>
<td>Women's Resource and Action Center</td>
<td>218-726-6292</td>
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<tr>
<td></td>
<td>Program for Aid to Victims of Sexual Assault (complainant resource)</td>
<td>218-726-1931</td>
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<td></td>
<td>Counseling: Health Services</td>
<td>218-726-7913</td>
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<tr>
<td><strong>Morris Campus</strong></td>
<td>Someplace Safe (complainant resource)</td>
<td>800-974-3359</td>
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<tr>
<td></td>
<td>Student Counseling</td>
<td>320-589-6060</td>
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<tr>
<td><strong>Rochester Campus</strong></td>
<td>Crisis Hotline</td>
<td>507-269-4511</td>
<td><a href="mailto:rrotovic@r.umn.edu">rrotovic@r.umn.edu</a></td>
</tr>
<tr>
<td></td>
<td>Student Counseling</td>
<td>507-258-8017</td>
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<td>Student Health Services</td>
<td>507-292-7250</td>
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<tr>
<td><strong>Twin Cities Campus</strong></td>
<td>The Aurora Center (complainant resource)</td>
<td>24 Hour Helpline: 612-626-9111 Office Line: 612-626-2929</td>
<td><a href="mailto:aurora@umn.edu">aurora@umn.edu</a></td>
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<tr>
<td></td>
<td>Boynton Mental Health</td>
<td>Office line: 612-625-8400</td>
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The University’s Employee Assistance Program (EAP) is available to benefits-eligible employees on all system campuses. EAP provides confidential, professional consultation and referral services to address any personal or work concern that may be affecting one’s wellbeing. EAP can be reached at 612-625-2820, 1-888-243-5744 or eap@umn.edu.

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

Individuals with questions regarding this policy or the application of this policy may also contact the U.S. Department of Education, Office for Civil Rights, which is the federal agency that enforces Title IX of the Education Amendments of 1972.

<table>
<thead>
<tr>
<th>Subject</th>
<th>Contact</th>
<th>Phone</th>
<th>Email</th>
</tr>
</thead>
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<tr>
<td>Federal government</td>
<td>U.S. Department of Education</td>
<td>312-730-1700</td>
<td>312-730-1704</td>
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<tr>
<td>contact</td>
<td>500 W. Madison Street, Suite 1427, Chicago, IL 60661</td>
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DEFINITIONS

Advisor
An individual who conducts cross-examination on behalf of a party, and who may also accompany the party to meetings in the grievance process and otherwise participate in the live hearing, among other things.

Assists or Abets
An individual assists or abets prohibited conduct when the individual: 1) helps any other person to engage in prohibited conduct; and 2) intends the prohibited conduct to occur or knows that their actions are significantly likely to help the other person to engage in prohibited conduct.

Campus Title IX Office.
The phrase “campus Title IX office” refers to campus Title IX office staff members and others designated to carry out the responsibilities described in this policy.

Complainant
An individual is a “complainant” when the University learns that the individual may have experienced prohibited conduct. Complainants may be assisted under this policy even if they have not reported prohibited conduct to the University or pursued a prohibited conduct process under this policy.

Formal complaint
A formal complaint is a document filed by a complainant or signed by the Title IX Coordinator that: 1) alleges that an individual engaged in prohibited conduct toward a complainant; and 2) requests that the University investigate the allegation of prohibited conduct. A complainant files a formal complaint by submitting such a document to the campus Title IX office that contains the complainant's physical or
digital signature or otherwise indicates that the complainant is the individual filing the formal complaint. A formal complaint may be filed with the Title IX Coordinator in person, by mail, by e-mail, or through an online portal provided for this purpose, where available.

**Party**

Refers to a complainant or respondent.

**Prohibited conduct**

Prohibited conduct includes sexual assault, sexual harassment, stalking, relationship violence, and retaliation as defined by this policy.

**Relationship violence**

Relationship violence is: 1) actual, attempted or threatened violence by one individual against another individual with whom they are, or have been, in a social relationship of a romantic or intimate nature; or 2) conduct that would constitute a felony or misdemeanor crime of violence by an individual against: (i) a current or former spouse or intimate partner; (ii) an individual with whom they share a child; (iii) an individual similarly situated to a spouse under the Minnesota state domestic or family violence laws; or (iv) any adult or youth who is protected from the individual’s acts under the Minnesota state domestic or family violence laws.

While relationship abuse can include non-physical tactics – such as emotional, psychological and fiscal abuse and control – this policy addresses only physical acts of relationship violence. Individuals who experience any type of relationship abuse, including non-physical tactics not covered by this policy, are encouraged to seek help from campus or community resources.

(a) **Title IX relationship violence** is a subset of relationship violence that occurs in the United States and: 1) on campus; 2) as part of the University’s operations; 3) in locations, events or circumstances over which the University exercised substantial control over both the respondent and the context in which the prohibited conduct occurred; and/or 4) in buildings owned or controlled by a student organization that is officially recognized by the University.

Relationship violence will be designated Title IX relationship violence if it meets the above definition and the complainant is participating or attempting to participate in a University education program or activity at the time the complainant files a formal complaint, or if it meets the above definition and the Title IX Coordinator signs a formal complaint.

**Retaliation**

Retaliation means taking an adverse action against an individual: 1) for the purpose of interfering with any right or privilege secured by this policy; 2) for refusing to participate in any manner in an informal problem-solving or grievance process relating to a prohibited conduct allegation; or 3) because of the individual’s good faith participation in:

(a) reporting suspected or alleged prohibited conduct;
(b) expressing opposition to suspected or alleged prohibited conduct;
(c) testifying, assisting, or participating in an informal problem-solving, investigation, or grievance process related to a prohibited conduct allegation; or
(d) accessing the Office for Conflict Resolution (OCR) to resolve a conflict related to prohibited conduct.

Adverse actions are actions that might deter a reasonable person from reporting suspected or alleged prohibited conduct; expressing opposition to suspected or alleged prohibited conduct; testifying, assisting, participating (or not participating) in the grievance process related to a prohibited conduct allegation; or accessing the Office for Conflict Resolution. Examples of adverse action include, but are not limited to:

- impeding the individual’s academic advancement;
• departing from any customary academic or employment practice regarding the individual;
• firing, refusing to hire, or refusing to promote the individual; transferring or assigning the individual to a lesser position in terms of wages, hours, job classification, job security, employment or academic status;
• threatening, intimidating, coercing, marginalizing, or discriminating against an individual; and
• charging an individual for code of conduct violations that do not involve sex discrimination or prohibited conduct, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of prohibited conduct.

Good faith participation means: 1) reporting or expressing opposition to prohibited conduct based on a reasonable belief that prohibited conduct has occurred, or 2) honestly participating in an investigation of prohibited conduct or accessing conflict resolution services.

For more information on retaliation, see FAQ: Retaliation in Sexual Harassment, Sexual Assault, Stalking and Relationship Violence Cases.

Respondent
An individual is a “respondent” when the University learns that the individual is alleged to have engaged in conduct that could constitute prohibited conduct under this policy.

Sexual assault
Sexual assault is: 1) actual or attempted sexual contact without affirmative consent; or 2) a threat to engage in contact that would be, if the threat were carried out, sexual contact without affirmative consent.

Sexual contact is intentional sexual touching with an object or body part. Depending on the context, it may include, but is not limited to: (i) intentionally touching the breasts, buttocks, groin or genitals of another individual; (ii) intentionally touching another individual with any of these body parts; and (iii) making an individual touch another individual or themselves with, or on, any of these body parts. Sexual contact can occur whether or not an individual’s body parts are covered by clothing.

Affirmative consent is freely and affirmatively communicated words or actions given by an informed individual that a sober reasonable person under the circumstances would believe communicate a willingness to participate in the sexual contact. The following factors will be considered when determining whether affirmative consent was given.

• Each individual who wishes to engage in sexual contact is responsible for obtaining consent from the other individual or individuals who intend to be involved in the sexual contact.
• A lack of protest, the absence of resistance, and silence do not by themselves indicate consent.
• The existence of a present or past sexual, dating, or other romantic relationship between the individuals involved does not by itself imply consent to sexual contact.
• Consent must be present throughout the sexual contact and may be given and withdrawn at any time.
• When consent is withdrawn, all sexual contact must stop. Where there is confusion about the state of consent, sexual contact must stop until the individuals have verified the affirmative consent of all individuals involved.
• Consent to one form of sexual contact does not by itself constitute consent to another form of sexual contact.

Consent is not obtained where:

• An individual is compelled to engage in unwanted sexual contact through the use of coercion. Coercion may consist of physical force, intimidation, threats, or severe or persistent pressure that would reasonably cause an individual to fear significant consequences if they refuse to engage in sexual contact.
• An individual involved in sexual contact is incapacitated due to the influence of drugs or alcohol, and a reasonable person would know of this incapacitation. Incapacitation due to the influence of drugs or alcohol is a state beyond mere intoxication or impaired judgment. Some indicators of incapacitation due to the influence of drugs or alcohol may include:
  o A lack of control over one’s physical movement (for example, an inability to walk or stand without stumbling or assistance).
  o An inability to effectively communicate (for example, where one’s speech is heavily slurred, incomprehensible, or nonsensical).
  o A lack of awareness of one’s circumstances or surroundings (for example, a lack of awareness of where one is, how one got there, who one is with, and how or why one became engaged in sexual contact).
• An individual involved in sexual contact is unable to communicate or understand the nature or extent of the sexual situation because of a physical or mental condition.
• An individual involved in sexual contact is asleep, unconscious or involuntarily physically restrained.
• Sexual intercourse occurs with an individual who is not of legal age to give consent pursuant to Minnesota state law.
• Sexual intercourse occurs between parties who are related to each other within the degrees wherein marriage is prohibited by Minnesota state law.

(a) **Title IX sexual assault** is a subset of sexual assault that occurs in the United States and:
  1) on campus; 2) as part of the University’s operations; 3) in locations, events or circumstances over which the University exercised substantial control over both the respondent and the context in which the prohibited conduct occurred; and/or 4) in buildings owned or controlled by a student organization that is officially recognized by the University. Title IX sexual assault occurs when there is actual or attempted:
  • penetration, no matter how slight, of the vagina or anus with any body part or object without affirmative consent;
  • oral penetration by a sex organ of another person without affirmative consent; or
  • the touching of the private body parts of another person without affirmative consent and for the purpose of sexual gratification.

Sexual assault will be designated Title IX sexual assault by the campus Title IX office if it meets the above definition and the complainant is participating or attempting to participate in a University education program or activity at the time the complaint is filed or if it meets the above definition and the Title IX Coordinator signs a formal complaint.

**Sexual harassment**

Sexual harassment means unwelcome conduct on the basis of sex under the following conditions:

(a) **Quid pro quo sexual harassment**: When a University member conditions the provision of a University aid, benefit, or service on an individual’s participation in sexual conduct.

(b) **Hostile environment sexual harassment**: When conduct is severe, persistent or pervasive and:
  • unreasonably interferes with an individual's employment or educational performance,
  • creates a work or educational environment that an individual finds, and a reasonable person would find, to be intimidating, hostile or offensive, or
  • effectively denies an individual equal access to a University program or activity.
(c) **Sexual exploitation:** When an individual intentionally engages in the following conduct and should reasonably have known that the conduct would be unwelcome to any individual involved:

- exposure of one's own or another individual's breasts, buttocks, or genitals to one or more other individuals;
- distribution of sexual or nude images or recordings of another individual;
- observation or recording of sexual activity or nudity;
- demanding financial compensation, sexual contact, or some other benefit under threat of disseminating or posting images, video, or other recording of the nudity or sexual activity of one or more individuals; and/or
- engaging in sexual conduct that carries a significant risk of transmitting known sexual infections or diseases without another individual's knowledge.

(d) **Title IX sexual harassment** is a subset of sexual harassment that occurs in the United States and: 1) on campus; 2) as part of the University's operations; 3) in locations, events or circumstances over which the University exercised substantial control over both the respondent and the context in which the prohibited conduct occurred; and/or 4) in buildings owned or controlled by a student organization that is officially recognized by the University. Title IX sexual harassment occurs when:

- a University employee conditions the provision of a University aid, benefit, or service on an individual's participation in unwelcome sexual conduct; or
- unwelcome conduct is determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity.

Sexual harassment will be designated Title IX sexual harassment by the campus Title IX office if it meets the above definition and the complainant is participating or attempting to participate in a University education program or activity at the time the complainant files a formal complaint, or if it meets the above definition and the Title IX Coordinator signs a formal complaint.

The determination of whether conduct is unwelcome is made according to a subjective standard. In other words, the determination is made based on whether the complainant viewed the conduct as unwelcome. This subjective standard reflects understanding that an individual may submit to or participate in sexual conduct with an individual with greater power (e.g., an advisor, supervisor, instructor) because the subordinate individual fears potential negative repercussions if they refuse, and not because they welcome the conduct.

Sexual harassment may include conduct that is verbal, nonverbal, graphic, and/or physical. Individuals of all genders can be victims of sexual harassment, and the complainant and respondent can be of the same or different genders. The following conduct may lead to a decision that a respondent engaged in sexual harassment:

- Unwelcome sexual advances, including touching or sexual comments.
- Implicit or explicit requests for sexual favors in exchange for employment or academic benefits.
- Distributing ratings of individuals' attractiveness or sexual activity or performance.
- A pattern of sexually suggestive comments, jokes, or gestures.
- A pattern of disparaging comments or jokes about certain genders or based on gender stereotypes.

**Stalking**

Stalking is a course of conduct directed at a specific individual that would cause a reasonable person to: 1) fear for their safety or the safety of others; or 2) suffer substantial emotional distress. A course of conduct is multiple acts including, but not limited to, acts in which an individual directly, indirectly, or
through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another individual, or interferes with another individual’s property. In determining whether an individual has engaged in a course of conduct, consideration is given to the number of acts, their level of severity, and the time period in which they occur.

Stalking includes cyber-stalking, in which an individual uses electronic media, such as the internet, social networks, blogs, cell phones, texts, or other methods or forms of contact to engage in stalking.

(a) **Title IX stalking** is a subset of stalking that occurs in the United States and: 1) on campus; 2) as part of the University’s operations; 3) in locations, events or circumstances over which the University exercised substantial control over both the respondent and the context in which the prohibited conduct occurred; and/or 4) in buildings owned or controlled by a student organization that is officially recognized by the University.

Stalking will be designated Title IX stalking by the campus Title IX office if it meets the above definition and the complainant is participating or attempting to participate in a University education program or activity at the time the complainant files a formal complaint, or if it meets the above definition and the Title IX Coordinator signs a formal complaint.

**Title IX-based prohibited conduct**
Title IX-based prohibited conduct is a subset of prohibited conduct that includes Title IX sexual assault, Title IX sexual harassment, Title IX stalking, and Title IX relationship violence. Any prohibited conduct alleged in a formal complaint that can be designated as Title IX-based prohibited conduct, will be so designated by the campus Title IX office. In some cases, this policy calls for specific procedures that apply only to Title IX-based prohibited conduct. If conduct is designated as Title IX-based prohibited conduct, those specific procedures must apply.

**University Employees**
University employees include the following individuals:

a. all individuals defined as employees by Board of Regents Policy: [Employee Group Definitions](#), including:
   i. faculty,
   ii. academic professionals,
   iii. academic administrators,
   iv. professionals in training (including postdoctoral associates),
   v. civil service staff,
   vi. union-represented staff,
   vii. graduate assistants, and
   viii. student employees
b. fellows;
c. temporary employees; and
d. third parties serving in instructional roles at the University.

**University Property**
University property includes any building or property that is owned or controlled by the University and is used by the University in direct support of, or in a manner related to, the University’s educational purposes.

**RESPONSIBILITIES**

**Appellate Officer**
Decides appeals of: 1) decisions to designate the alleged conduct as Title IX-based prohibited conduct or to not make that designation; 2) decisions to not initiate a grievance process, despite a complainant’s request for a grievance process, because the alleged conduct, if substantiated, would not constitute
prohibited conduct under the policy; 3) decisions to dismiss a formal complaint as set forth in Section VI.H.; and 4) Written Determinations.

**Counseling Services Offices**
Provide counseling services and referrals.

**Campus Title IX Offices**
Respond to reports of prohibited conduct through informal problem-solving or grievance processes.

**Health Care Services**
Provide health care and counseling, and referrals.

**Human Resources**
Assist in responding to alleged prohibited conduct committed by employees.

**Police Departments**
- Investigate reports for possible criminal prosecution.
- Refer complainants to appropriate campus resources for personal support and investigation.
- Provide for campus safety and security.
- Provide timely warnings as appropriate.

**Student Conduct Offices**
- Offer informal resolutions, as appropriate, where the campus Title IX office has recommended a finding on responsibility in a prohibited conduct case involving a student respondent.
- Implement disciplinary sanctions in prohibited conduct cases involving student respondents.

**University Authority**
- Offers informal resolutions.
- Decides upon and implements responsive action.

**Victim/Survivor Services**
- Maintain all contacts and reports as strictly confidential.
- Provide crisis intervention and advocacy.
- Assist complainant in contacting police and/or reporting to other University offices, if the complainant consents (some can assist in obtaining restraining orders).
- Assist complainant in obtaining medical assistance and counseling, changing academic programs, or housing, etc.
- Campus-based programs will also provide awareness, prevention, and risk-reduction training, and educational programming for students and employees.

**RELATED INFORMATION**
- Board of Regents Policy: Student Conduct Code
- Board of Regents Policy: Code of Conduct
- Board of Regents Policy: Sexual Harassment, Sexual Assault, Stalking and Relationship Violence
- Board of Regents Policy: Employee Group Definitions
- Board of Regents Policy: Faculty Tenure
- Administrative Policy: Retaliation
- Administrative Policy: Graduate Assistant Employment
- Administrative Policy: Conflict Resolution for Faculty, P&A, Civil Service, and Student Workers
- Civil Service Employment Rules
- Academic Professional and Administrative employee policies and procedures
- All Collective Bargaining Contracts
- Previous policy version and associated documents for matters reported prior to January 1st 2018
HISTORY

Amended:
August 2020 – Revised to comply with new federal Title IX regulations. This revised policy applies to reports received by the campus Title IX office on or after August 14, 2020, except that definitions from the policy in place at the time the alleged prohibited conduct occurred will be used to make the decision on responsibility.

Effective:
January 2018 - New policy: 1. Consolidates information from two current administrative policies: Sexual Harassment, and Sexual Assault, Stalking and Relationship Violence. 2. Provides a detailed description as to how the University responds to sexual misconduct reports. 3. Incorporates the new standard language on retaliation. 4. Broadens employee’s obligation to report sexual misconduct.
Post-Investigation Procedures for Formal Complaints of Violations of Administrative Policy: Sexual Harassment, Sexual Assault, Stalking and Relationship Violence

Introduction and Purpose
This procedure describes post-investigation processes for the resolution of formal complaints of alleged violations of Administrative Policy: Sexual Harassment, Sexual Assault, Stalking and Relationship Violence. The goal of this procedure is to provide a fair process that facilitates the informal and formal resolution of formal complaints of sexual harassment, sexual assault, stalking, relationship violence, and related retaliation (collectively, "prohibited conduct").

Scope
This procedure applies to the adjudication of formal complaints of violations of Administrative Policy: Sexual Harassment, Sexual Assault, Stalking and Relationship Violence.

Parties
The parties to a formal complaint are the complainant and respondent, as defined in Administrative Policy: Sexual Harassment, Sexual Assault, Stalking and Relationship Violence. The complainant is the individual who may have experienced conduct prohibited by the policy, and the respondent is the individual alleged to have engaged in prohibited conduct. In certain cases, there may be more than one complainant and/or more than one respondent.

The parties may be accompanied by an advisor of their choice at the hearing described in this procedure. Advisors are permitted to make opening and closing statements and conduct direct and cross-examination at the hearing. If a party does not have an advisor at the hearing, the University will provide an advisor for the purpose of conducting cross-examination. The party to whom the advisor is provided may choose to allow the advisor to participate in other ways at the hearing, such as by make opening statements, making closing statements, or conducting direct examination.
The parties may also be accompanied at the hearing by a support person, who participates in the hearing in a non-speaking capacity. A support person cannot be a fact witness in the case.

**Standard of Proof, Burden of Proof, and Presumption**

The standard of proof in all hearings governed by this procedure is “preponderance of the evidence,” which means that it is more likely than not that the respondent violated Administrative Policy: *Sexual Harassment, Sexual Assault, Stalking and Relationship Violence*.

The burden of proof and the burden of gathering evidence sufficient to reach a decision on responsibility rest on the University.

The respondent is presumed to not be responsible for the alleged prohibited conduct.

**Sexual Misconduct Hearing Committee and Hearing Panels**

The Sexual Misconduct Hearing Committee (SMHC) is comprised of University members who serve as panelists for formal hearings. Faculty, staff (including civil service, bargaining unit, and professional and administrative employees), and students from all five University campuses serve on the SMHC. The SMHC Secretary provides administrative and scheduling support to the hearing process.

For each hearing, the SMHC Secretary appoints a hearing panel to decide whether it is more likely than not that the respondent violated Administrative Policy: *Sexual Harassment, Sexual Assault, Stalking and Relationship Violence*. Each hearing panel includes a hearing chair and four panel members. At least one panel member will be of the same University classification (i.e., faculty, staff, or student) as the complainant, and at least one panel member will be of the same University classification as the respondent.

All members of a hearing panel, including the hearing chair, are voting members.

**The Complaint**

The formal complaint and the campus Title IX office’s written notice to the parties of its decision to initiate an investigation identify the specific policy provisions the respondent is alleged to have violated and whether the alleged conduct has been designated as Title IX-based prohibited conduct. The hearing panel must determine whether it is more likely than not that the respondent violated each policy provision encompassed by the formal complaint.

**Informal Resolution**

Following an investigation of a formal complaint, the campus Title IX office will deliver its investigation report to the SMHC Secretary.

In cases involving a respondent who is a student, the SMHC Secretary will share the report with the campus office that addresses alleged violations of Board of Regents Policy: *Student Conduct Code* to determine whether that office will propose an informal resolution of the formal complaint. In cases involving a respondent who is an employee or other non-student University member, the SMHC Secretary will share the report with the appropriate University Authority, as identified in Appendix B of Administrative Policy: *Sexual Harassment, Sexual Assault, Stalking and Relationship Violence*, to determine whether the University Authority will propose an informal resolution. The SMHC Secretary will not seek a proposed informal resolution of allegations of Title IX-based prohibited conduct if the respondent is an employee and the complainant is a student.

If an informal resolution is not proposed, the matter will proceed to a hearing. If an informal resolution is proposed, the SMHC Secretary will simultaneously share the investigative report and proposal with the parties, who may accept the informal resolution by notifying the SMHC Secretary in writing within 7 calendar days. If both parties accept the informal resolution, the matter is considered fully and finally resolved. If either party does not accept the informal resolution, the matter will proceed to a hearing.
Scheduling

If the parties have not been offered or have not agreed to an informal resolution, the SMHC Secretary will schedule a hearing. At least 10 calendar days prior to the hearing, the SMHC Secretary will send the parties a written notice of hearing that includes the following:

- **Investigative Report.** If the parties did not receive a copy of the investigative report in connection with a proposed informal resolution, the SMHC Secretary will attach the investigative report to the written notice of hearing.

- **Details.** The written notice of hearing will include the date, time, and location of the hearing and the parties to the hearing. The notice will advise that the purpose of the hearing is to determine whether the respondent violated the specific policy provisions identified in the formal complaint. The notice will indicate whether the hearing is scheduled to take place virtually (via an electronic platform) or in person. If the hearing is scheduled to take place in person, each party must notify the SMHC Secretary no later than 5 calendar days prior to the hearing if the party objects to an in-person hearing. If either party objects to an in-person hearing, the hearing will instead be conducted virtually.

- **Hearing Panel.** The written notice will also identify the hearing chair and panel members. Each party has up to 5 calendar days to submit an objection to a panel member, along with a short statement of the basis for the objection. If an objection is lodged against a panel member, the hearing chair will decide if the panel member should be excluded from the panel and replaced. If the objection is to the hearing chair, the SMHC Secretary will decide if the hearing chair should be replaced and, if so, will arrange for the replacement. The SMHC Secretary will deliver, at a minimum, copies of all evidence relevant to the allegations in the complaint to each member of the hearing panel at least 5 calendar days before the hearing.

- **Witnesses.** Each party must submit to the SMHC Secretary at least 5 calendar days prior to the hearing a list of all witnesses the party intends to question at the hearing. If the witness was interviewed by the campus Title IX office during the investigation process, the SMHC Secretary will contact the witness and invite the witness to the hearing. If the witness is one who was not interviewed during the investigation process, the party is responsible for contacting that witness and arranging for the witness to attend the hearing. The SMHC Secretary may also invite witnesses to appear at the hearing who were not identified by either party, if such witnesses were interviewed or invited to be interviewed during the investigation process. Witnesses are not obligated to attend the hearing.

- **Response.** At least 5 calendar days prior to the hearing, each party may submit to the SMHC Secretary a written response to the investigation report for consideration by the hearing panel.

- **Evidence.** After learning that the parties have not been offered or have not agreed to an informal resolution of a formal complaint, the SMHC Secretary will obtain from the campus Title IX office all evidence the campus Title IX office gathered as part of its investigation of the formal complaint and will provide the evidence to the hearing chair. The hearing chair will then determine what evidence is relevant to the allegations in the formal complaint so that this information, at a minimum, can be provided to the parties and the hearing panel in advance of the hearing. Relevant information is evidence that is pertinent to proving whether facts material to the allegations in the formal complaint are more or less likely to be true. Despite its relevance, information subject to a legally protected privilege and medical treatment records offered without an individual’s voluntary, written consent will not be provided to the parties and hearing panel.

With the written notice of hearing, the parties will be provided, at a minimum, with copies of all evidence the hearing chair has determined is relevant to the allegations in the formal complaint. At least 5 calendar days prior to the hearing, each party must submit to the SMHC Secretary any new evidence the party plans to submit to the hearing panel that was not considered during the investigation process. The hearing chair will determine if the newly submitted evidence is relevant to the allegations in the formal complaint, and, if the evidence is determined to be relevant, the SMHC Secretary will make the newly submitted evidence available to the hearing panel and the other party prior to the hearing.
Opportunity for Administrative Resolution. In all cases except those that involve a student complainant and a non-student employee respondent, the written notice of hearing will also offer the parties the opportunity to agree to resolve the case through an administrative process whereby the investigative report, the parties’ written responses to the investigative report (if any), and all evidence gathered by the campus Title IX office as part of its investigation of the formal complaint is submitted to the hearing chair to make a decision on responsibility and, as appropriate, disciplinary sanctions, as described below in the section entitled, “Decision: Written Determination.” Either party may appeal the Written Determination.

Each party has up to 5 calendar days to agree to resolve the case through the administrative resolution process, which will be pursued only if all parties agree.

Hearing

Decorum

All hearings before the SMHC are governed by the following rules of decorum:

- All electronic devices, other than devices necessary for participation in a hearing conducted virtually, must be turned off or silenced during the hearing.
- When a hearing is conducted virtually, all participants must ensure that they are in a private, secure space for the duration of the hearing. Participants must mute their microphones unless they have an active speaking role (i.e., making opening or closing comments, conducting cross-examination, answering questions). Participants must not turn off their cameras during the hearing.
- All participants must conduct themselves in a respectful manner at all times during a hearing. For example, participants may not yell, invade the personal space of other participants, badger witnesses, use profanity, engage in ad hominem attacks, ask the same question repeatedly, or otherwise ask questions in a manner that is harassing, intimidating, or abusive.
- If a participant needs to leave the hearing for any reason, the participant must ask the hearing chair for a break in the proceedings.

The hearing chair has authority to ensure that the hearing is conducted in accordance with these rules of decorum. If a party’s advisor does not comply with these rules, the hearing chair will require the party to use a different advisor. If necessary, the University will provide the party with a new advisor to conduct cross-examination.

Accommodations

Any participant in this process who needs reasonable accommodations for a disability to participate in the process should request accommodations through the campus disability services office.

Record of Hearing

Hearings are closed to the public. In certain limited circumstances, a third party may be permitted to attend a hearing, such as to provide reasonable accommodations for a participant with a disability or with agreement of the parties and the hearing chair. The SMHC Secretary will record the hearing. No other participant is permitted to create an audio, visual, or other recording of the hearing.

The University will maintain the record of the hearing, the formal complaint, all evidence presented at the hearing, and all other related documentation for the longer of seven years or the retention period required by Administrative Policy: Managing University Records and Information.

Appearance

Complainants, respondents, and witnesses are not required to attend the hearing. If a party declines to attend the hearing, the party’s advisor may still attend the hearing and conduct cross-examination on behalf of the party, but may not otherwise participate in the hearing, other than in a non-speaking
capacity. If neither the party nor the party’s advisor attend the hearing, and the formal complaint includes a report of conduct that has been designated as Title IX-based prohibited conduct, the University will provide an advisor for the sole purpose of conducting cross-examination on behalf of the absent party.

**Evidence Review Prior to Hearing**

Prior to the hearing, the hearing panel will have reviewed, at a minimum, the formal complaint, the investigation report, all evidence gathered by the campus Title IX office during the investigation process that is relevant to the allegations in the formal complaint, and any written response to the investigation report submitted by a party.

**Case Presentation**

The parties should prepare for a clear, complete, and concise presentation of their cases. Except in exceptional cases as determined by the hearing chair, each party will be limited to three hours for the presentation the party’s case.

Each party, either personally or through the party’s advisor, may present brief opening comments. The hearing panel will then have the opportunity to ask any questions it has of the parties. The parties will be given the opportunity to present testimony and information relevant to the allegations in the formal complaint.

The parties can offer witnesses at the hearing, and they should arrange for witnesses to offer live testimony, if at all possible. If a witness chooses not to attend an in-person hearing, the witness can provide live testimony virtually. If the formal complaint does not allege that the respondent engaged in Title IX-based prohibited conduct, a witness can also provide testimony by written statement. After a party questions a witness, the other party and the hearing panel will have the opportunity to question that witness. Witnesses are only allowed to attend a hearing during their testimony.

Finally, the parties, either personally or through each party’s advisor, can close their presentations with closing comments.

**Direct examination and Cross-examination**

Relevant questions may be asked during the hearing, including questions that challenge credibility. Questions that are duplicative may not be considered relevant. Questions concerning the complainant’s prior sexual behavior are also not relevant, unless they 1) are intended to elicit information that proves that the respondent was misidentified or 2) concern specific incidents of the complainant’s prior sexual behavior with respect to the respondent and are offered to prove consent.

Before a party or witness answers any question, the hearing chair will state either that the question is relevant, in which case the party or witness can answer the question, or not relevant, in which case the question is excluded. If the hearing chair excludes the question as not relevant, the hearing chair must state the reason for the determination. A party cannot challenge the hearing chair’s determination on relevance during the hearing.

Cross-examination at the hearing will be conducted by the parties’ advisors. The parties are not permitted to conduct cross-examination. A party who declines to attend a hearing may have the party’s advisor attend the hearing for the purpose of conducting cross-examination. If neither a party nor the party’s advisor attends the hearing, and the formal complaint includes a report of conduct that has been designated as Title IX-based prohibited conduct, the University will provide the party an advisor for the purpose of conducting cross-examination.

In a case where the respondent is alleged to have engaged in Title IX-based prohibited conduct and a party or witness declines to submit to even one relevant cross-examination question at the hearing, the hearing panel cannot rely on any statement of that party or witness in determining responsibility. In the event that a party’s advisor states that the party does not have any cross-examination questions to ask the other party or witness, the hearing chair will ask the other party or witness if the other party or witness
was prepared to submit to cross examination. If the answer is “yes,” the hearing chair will afford the hearing panel an opportunity to ask any questions necessary for the hearing panel to test the credibility of the other party or witness.

**Decision**

At the close of the hearing, the hearing panel will deliberate in a session. Only the hearing panel and the SMHC Secretary attend this session.

**Decision-making**

The hearing panel is tasked with the objective evaluation of all relevant evidence. The hearing panel will assign little weight, if any, to character evidence concerning any party and to evidence of a party’s prior bad acts that are not substantially related to the conduct at issue. It will assign this evidence the same weight whether it concerns a complainant or a respondent. Similarly, the hearing panel will not make credibility determinations that turn on a participant’s status as a complainant, a respondent, or a witness.

In addition, the hearing panel will not draw any inferences based solely on a party’s or witness’s absence from the live hearing or refusal to answer questions.

The panel must make a decision on responsibility based on a preponderance of the evidence with respect to each policy provision the respondent is alleged to have violated. The hearing panel need not be unanimous in its decision, but a majority of the panel members must agree for the respondent to be found responsible for a policy violation.

**Written Determination**

Both parties and their advisors will be simultaneously provided with the hearing panel’s written decision on responsibility and the University Authority’s written decision on disciplinary sanctions, if any. Together, these written decisions on responsibility and disciplinary sanctions will constitute the “Written Determination” that may then be appealed by either party.

The Written Determination will include the following:

- the allegations of prohibited conduct;
- a description of the procedural steps taken by the University from its receipt of the formal complaint through the Written Determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather evidence, and hearings held;
- findings of fact supporting the decisions on responsibility and disciplinary sanctions;
- conclusions regarding the application of this policy to the facts;
- a statement of, and rationale for, the decisions on responsibility and disciplinary sanctions;
- a statement of the decision on whether the University will provide remedies to the complainant; and
- the University’s procedures and permissible bases for the parties to appeal the decisions on responsibility and disciplinary sanctions.

In cases with student respondents where the hearing panel finds a respondent responsible, the hearing panel is also the University Authority that will decide the appropriate disciplinary sanction, as provided in Board of Regents Policy: *Student Conduct Code*. The hearing panel will then draft the Written Determination that will be provided simultaneously to the parties and their advisors by the SMHC Secretary. In addition, the hearing panel may make a recommendation to the campus Title IX office about remedies to be offered to a complainant, such as barring a respondent from participating in activities or class in which a complainant participates. The hearing panel will strive to deliver its Written Determination to the SMHC Secretary so that the SMHC Secretary can provide the Written Determination simultaneously to the parties and their advisors within 10 calendar days of the hearing. This Written Determination may be appealed by the parties.
In cases with faculty, non-student staff, or third-party respondents, the hearing panel limits its decision to whether it is more likely than not that a respondent violated Administrative Policy: Sexual Harassment, Sexual Assault, Stalking and Relationship Violence. Where no finding of responsibility is made, the hearing panel’s decision on responsibility is the Written Determination that is sent simultaneously to the parties and their advisors. The hearing panel will strive to deliver its Written Determination to the SMHC Secretary so that the SMHC Secretary can provide the Written Determination simultaneously to the parties and their advisors within 10 calendar days of the hearing. This Written Determination may be appealed by the parties.

Where a finding of responsibility is made in a case with a faculty, non-student staff, or third-party respondent, the hearing panel may, at its discretion, make recommendations about disciplinary sanctions and other responsive actions, as well as a recommendation to the campus Title IX office about remedies to be offered to the complainant. If the hearing panel is not unanimous in its recommendation on disciplinary sanctions, one or more of the dissenting panel members may draft a dissent that articulates alternative recommended disciplinary sanctions. The hearing panel will strive to deliver its decision on responsibility and recommendation on disciplinary sanctions, along with any dissenting recommendations, to the SMHC Secretary within 10 calendar days of the hearing, and the SMHC Secretary will promptly deliver the hearing panel's decision to the University Authority. The University Authority will be offered an opportunity to meet with the hearing panel to discuss the hearing panel's recommendation on disciplinary sanctions. The University Authority will strive to make the decision on disciplinary sanctions within 21 calendar days of receipt of the hearing panel's decision. Disciplinary sanctions and responsive actions may include the following:

- coaching or education;
- mentoring;
- changes to work duties or locations;
- monitoring to ensure that prohibited conduct is not occurring;
- probation;
- progressive disciplinary action;
- transfer of position;
- removal of administrative appointment;
- demotion;
- salary reduction;
- suspension; and
- termination of employment.

Third-party respondents may be barred from participation in University programs or access to University facilities.

In cases with faculty, non-student staff, and third-party respondents where there is a finding of responsibility, the hearing panel's decision on responsibility and the University Authority's decision on disciplinary sanctions together form the Written Determination that will be delivered simultaneously to the parties and their advisors by the SMHC Secretary. This Written Determination may be appealed by the parties.

**Appeal**

Any party may file a notice that the party intends to appeal a Written Determination within 10 calendar days of receipt of the Written Determination. The notice must be in writing and submitted to the Appellate Officer. Appeals that are not timely noticed will be denied.

The Appellate Officer will forward a timely filed notice of appeal to any other party. The appealing party then has 10 calendar days to deliver to the Appellate Officer a letter that describes the basis for the
appeal and any information in support of the appeal. The Appellate Officer will forward this letter to any other party, who then has 10 calendar days to submit a written response to the letter. The Appellate Officer has discretion to ask for additional information from a party or to request information from the panel. In addition, either party may ask to review the recording of the hearing.

The following are the only available grounds for appeal:

- Procedural irregularity that affected the outcome.
- New evidence that was not reasonably available at the time of the Written Determination that could have affected the outcome.
- A sanction that is grossly disproportionate to the offense.
- A decision on responsibility that is not based on substantial information. Substantial information means relevant information that a reasonable person might accept as adequate to support a conclusion. The Appellate Officer must respect the credibility determinations of the hearing panel and must not substitute the Appellate Officer's judgment for that of the hearing panel.
- The Title IX Coordinator, investigator, hearing panel, and/or University Authority had a conflict of interest or bias for or against complainants or respondents generally or for or against an individual complainant or respondent that affected the outcome.

The Appellate Officer will review the parties' written submissions and the Written Determination and, if necessary, the entire record of the grievance process.

The Appellate Officer will issue a written decision that (1) affirms, in whole or in part, the decision on responsibility, (2) overturns, in whole or in part, the decision on responsibility, (3) affirms, overturns, or adjusts the decision on disciplinary sanction, or (4) remands the matter to remedy procedural errors or consider new evidence. The Appellate Officer will strive to issue a decision within 30 days of receipt of the written response, if any, to the appealing party's letter.

The decision of the Appellate Officer is the final University decision.
## Appendix B: University Authorities and Appellate Officers

**Related Policy:** Sexual Harassment, Sexual Assault, Stalking and Relationship Violence

<table>
<thead>
<tr>
<th>Respondent</th>
<th>University Authority</th>
<th>Appellate Officer¹</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Student</strong></td>
<td>The campus office responsible for investigating and adjudicating potential Student Conduct Code violations other than prohibited misconduct: 1) offers informal resolutions; and 2) implements responsive action. Hearing decision-makers decide upon responsive action.</td>
<td>For students on the Twin Cities campus: Executive Vice President and Provost or designee. For students on the Morris, Rochester, Duluth and Crookston campuses: Chancellor or designee.</td>
</tr>
<tr>
<td><strong>Faculty or staff member</strong></td>
<td>Dean, Vice President, Vice Chancellor or equivalent senior administrator that oversees the respondent or the respondent's department or unit</td>
<td>For faculty on the Twin Cities campus: Executive Vice President and Provost or designee. For staff on the Twin Cities campus: Vice President for Human Resources or designee. For staff and faculty on the Morris, Rochester, Duluth and Crookston campuses: Chancellor or designee.</td>
</tr>
<tr>
<td><strong>Third party</strong></td>
<td>University official who retains or oversees the third party, as designated by the responsible Vice President, Vice Chancellor or equivalent senior administrator</td>
<td>Twin Cities campus: Vice President for Human Resources or designee. Morris, Rochester, Duluth and Crookston campuses: Chancellor or designee.</td>
</tr>
<tr>
<td><strong>Twin Cities Deans</strong></td>
<td>Executive Vice President and Provost</td>
<td>President</td>
</tr>
<tr>
<td><strong>Vice Chancellors and Deans on the Crookston, Duluth, Morris and Rochester campuses</strong></td>
<td>Chancellor</td>
<td>President</td>
</tr>
<tr>
<td><strong>Executive Vice</strong></td>
<td>President</td>
<td>Board of Regents or Special Committee</td>
</tr>
</tbody>
</table>

¹ If the identified Appellate Officer also served as the University Authority in the case, the Appellate Officer will be the President or President’s designee.
<table>
<thead>
<tr>
<th><strong>President, Senior Vice President, Vice President or Chancellor</strong></th>
<th>of the Board of Regents</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General Counsel</strong></td>
<td>President, with approval of the Board of Regents</td>
</tr>
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<td><strong>President and other employees who report to the Board of Regents</strong></td>
<td>Board of Regents</td>
</tr>
</tbody>
</table>
Conflict Resolution for Faculty, P&A, Civil Service, and Student Workers

Policy Statement

Faculty, P&A, Civil Service, and student workers may access the University's carefully coordinated network of options for the good faith review and resolution of workplace conflicts. These options include:

- informal services to encourage prompt resolution of disputes, to include consultation, problem solving, facilitated discussion, and mediation; and/or
- a formal petition process reserved for conflicts not resolved through informal efforts, including a peer hearing, a final University decision by the Executive Vice President and Provost, and the opportunity to elect binding outside arbitration, or where applicable, appeal to the Minnesota Court of Appeals.

EXCEPTION: A formal petition may not be filed with OCR that (1) alleges a violation of Administrative Policy: Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence or (2) challenges findings related to or disciplinary decisions resulting from violations of Administrative Policy: Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence.
Scope

The conflict resolution process applies to employment-related conflicts of non-labor represented faculty, academic professional and administrative (P&A) staff, civil service staff, and student workers, including graduate student teaching and research assistants. In some circumstances, it applies to faculty emeriti and to recently terminated employees. This conflict resolution policy does not apply to labor-represented faculty and staff because their workplace concerns are governed by applicable collective bargaining agreements.

Arbitrations

The Office of Conflict Resolution (OCR) maintains procedures that promote the fair, efficient, and cost-effective arbitration of employment conflicts at the election of the employee. The amount of, and responsibility to pay, arbitrator fees will depend on the source of the arbitrator chosen by the employee.

- If the employee selects an arbitrator from the National Academy of Arbitrators, the employee and the University will share equally in paying the entire arbitrator fees.
- If the employee selects an arbitrator from a roster maintained by the Minnesota Bureau of Mediation Services, the arbitrator will be requested to cap their total fees at $10,000, unless fees in excess of that amount are approved by the Vice President for Equity and Diversity upon a showing of good cause by the arbitrator. The employee and University will share equally the arbitrator fees up to $7,000. The University will pay the arbitrator fees over $7,000.

Relief Available

When warranted, resolution of conflicts under this policy may include corrective action for the benefit of the employee, including reinstatement of back pay and restoration of benefits actually lost. Relief does not include attorneys' fees, damages for pain and suffering or emotional distress, or punitive damages. Resolution may not direct disciplinary action against an employee.

Retaliation
No member of the University community may retaliate against an individual because of the individual’s good faith participation in:

- reporting or otherwise expressing opposition to, suspected or alleged misconduct;
- participating in any process designed to review or investigate suspected or alleged misconduct or non-compliance with applicable policies, rules, and laws; or
- accessing OCR services.

A causal relationship between the good faith participation in one of these activities and an adverse action is needed to demonstrate that retaliation has occurred.

**Reporting Retaliation Concerns**

Individuals who believe that retaliation is occurring or has occurred, as a result of their good faith participation in one of the above referenced activities, should follow the reporting options available to them in the Administrative Policy: *Reporting Suspected Misconduct.*

Reports of retaliation will be reviewed and investigated in the same manner in which other concerns of misconduct are handled. Any University member who engages in retaliation may be subject to disciplinary action up to and including termination of employment or expulsion.

**Intentionally False Reports/Information**

Individuals who, knowingly or intentionally, file a false report or provide false or misleading information in connection with an investigation may be subject to disciplinary action up to and including termination of employment, or expulsion.

**Exclusions**

Employees who are represented by a labor organization are excluded from services. Labor-represented employees may pursue their concerns through the process established in their collective bargaining agreements.
Persons who are not employed by the University, even if their work is physically located at the University, such as employees of University of Minnesota Physicians, are not eligible for these services. Volunteers, fellows, or other individuals who work with the University, but are not paid by the University, are generally not eligible for services.

Reason for Policy

This administrative policy implements Board of Regents Policy: Conflict Resolution Process for Employees. This framework for resolution of workplace conflicts promotes early resolution of workplace conflicts and promotes the engagement of valued University faculty, P&A, Civil Service, and student employees.

Procedures

- Conflict Resolution Procedures for Faculty, P&A, Civil Service, and Student Employee Complaints

Forms/Instructions

- UM 1755 - Petition for Complaints Filed by Faculty, P&A, Civil Service and Student Employees  

Appendices

- Administrative Responsibilities
- Filing an Internal Discrimination Complaint*
- Jurisdictional Guidelines
- Relationship Between Internal Conflict Resolution Processes and Court Review
- Timeline for the Petition Process

Frequently Asked Questions
### Contacts

<table>
<thead>
<tr>
<th>Subject</th>
<th>Contact</th>
<th>Phone</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Primary Contact(s)</strong></td>
<td><strong>Tamar Gronvall</strong></td>
<td>612-624-0884</td>
<td><a href="mailto:gronvall@umn.edu">gronvall@umn.edu</a></td>
</tr>
<tr>
<td><strong>Student Conflict Resolution Center</strong> (academic conflicts)</td>
<td>Jan Morse</td>
<td>612-624-7272</td>
<td><a href="mailto:sos@umn.edu">sos@umn.edu</a></td>
</tr>
<tr>
<td></td>
<td>Michael Huyen</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>UREport</strong> (an anonymous reporting service for suspected violations of laws and University policies)</td>
<td><strong>UREport</strong></td>
<td>1-866-294-8680</td>
<td></td>
</tr>
<tr>
<td><strong>Director, Human Resources, Crookston</strong></td>
<td>Jonathon Fuller</td>
<td>218-281-8345</td>
<td><a href="mailto:ljumc@umn.edu">ljumc@umn.edu</a></td>
</tr>
<tr>
<td><strong>Director, Human Resources, Duluth</strong></td>
<td>Mark Yuran</td>
<td>218-726-6326</td>
<td><a href="mailto:myuran@d.umn.edu">myuran@d.umn.edu</a></td>
</tr>
<tr>
<td><strong>Director, Human Resources, Morris</strong></td>
<td>Sarah Mattson</td>
<td>320-589-6024</td>
<td><a href="mailto:mattsosi@morris.umn.edu">mattsosi@morris.umn.edu</a></td>
</tr>
<tr>
<td><strong>Director, Human Resources, Rochester</strong></td>
<td>Virginia Wright-Peterson</td>
<td>507-258-8009</td>
<td><a href="mailto:umrhr@r.umn.edu">umrhr@r.umn.edu</a></td>
</tr>
</tbody>
</table>
Definitions

Adverse Action
Any action that might deter a reasonable person from engaging in reporting suspected or alleged misconduct, expressing opposition to alleged misconduct, participating in an investigation related to a misconduct allegation, or accessing the Office for Conflict Resolution services. Examples of adverse action include, but are not limited to: impeding the individual’s academic advancement; departing from any customary academic or employment practice regarding the individual; firing, refusing to hire, or refusing to promote the individual; transferring or assigning the individual to a lesser position in terms of wages, hours, job classification, job security, employment or academic status; and threatening or marginalizing an individual. In some situations, retaliatory conduct may also include inappropriate disclosure of the identity of the individual who has made a complaint protected by this policy.

Attorney
A person with a J.D. law degree.

Conflict Resolution Advisory Committee
An advisory committee whose members are appointed by representative employee groups.

Employee
A person receiving a University of Minnesota paycheck.

Good Faith Participation
Reporting, or otherwise expressing opposition to, misconduct based on a reasonable belief that misconduct has occurred. Or, honestly participating in an investigation of misconduct or accessing conflict resolution services.

Investigation
The steps taken to analyze all relevant information regarding suspected or alleged misconduct and then determine whether sufficient evidence exists to find that misconduct occurred.

Party
A petitioner or respondent.

Petition
A written complaint alleging a violation of a University rule, regulation, policy, or practice pertaining to employment.

Petitioner
A University non-labor represented employee who files a petition.

Report in Good Faith
A report made by an individual who reasonably believes that misconduct has occurred and reports the incident.

**Respondent**
The person appointed by the senior administrator to respond to the petition.

**Retaliation**
Taking an adverse action against an individual because of the individual’s good faith participation in reporting suspected or alleged misconduct, expressing opposition to alleged misconduct, participating in an investigation related to a misconduct allegation, or accessing the Office for Conflict Resolution services. (See also Adverse Action.) A causal relationship between good faith participation in reporting and an adverse action is needed to demonstrate that retaliation has occurred.

**Rosters - Hearing Officer, Panelist, Advisor**

- The Hearing Officer Roster consists of individuals who are available to serve as hearing officers on peer hearing panels. The Office for Conflict Resolution appoints a hearing officer from the roster when a matter goes to a peer hearing. The hearing officer must be from the same employment category as the petitioner. Hearing officers are nominated by representative employee committees and are appointed by the vicepresident for Equity and Diversity for terms of up to three years.

- The members of the Panel Roster are available to the petitioner to be panelists in a peer hearing or arbitration. They are appointed by representative employee committees and serve terms of up to three years.

- The Advisor Roster is a list of individuals who have agreed to serve as advisors to employees during conflict resolution processes. They receive training about conflict resolution processes from Office for Conflict Resolution staff.

**Senior Administrator**
The president, chancellor, senior executive, vice president, or appropriate vice president for the unit in which the petitioner is employed.

**Vice President for Equity and Diversity**
The senior administrator of the unit in which the Office for Conflict Resolution resides.
Responsibilities

**Conflict Resolution Advisory Committee**
Advises the vice president for Equity and Diversity regarding the selection of the conflict resolution staff, its performance, and the operation of the conflict resolution program. It reviews the functioning of the program every five years and reports its findings and recommendations to the vice president for Equity and Diversity, president, and University Senate.

**Director, Office for Conflict Resolution**
Administers this policy and related procedures so that conflict resolution processes are accessible, competent, and fair. Provides informal and formal conflict resolution services. Offers educational programming about conflict resolution to University faculty and staff. Prepares an annual report on the work of the office.

**Petitioner**
A University non-labor-represented employee who files a written petition alleging a violation of University policy or practice and prepares and presents the issues to a peer panel.

**President**
Appoints a respondent and a panelist if a matter goes to arbitration.
Appoints two administrative representatives to the Conflict Resolution Advisory Committee.

**Respondent**
Appointed by the Senior Administrator to respond to the petition.

**Senior Administrator**
Appoints a respondent to a petition and ensures that a written response to the petition is submitted. Appoints a panelist if the matter goes to a peer hearing.

**Executive Vice President and Provost**
Makes the final University decision on jurisdictional determinations and on petitions, following peer panel decisions.

**Vice President for Equity and Diversity**
Appoints the director of the Office for Conflict Resolution. Supervises the Office for Conflict Resolution in consultation with the Conflict Resolution Advisory Committee. Appoints hearing officers to the Hearing Office Roster after they are nominated by representative employee committees. Determines whether to approve payment of arbitrator fees exceeding the $10,000 cap.
Related Information

• Board of Regents Policy: **Conflict Resolution Process for Employees**
• Administrative Policy: **Retaliation**
• Administrative Policy: **Reporting Suspected Misconduct**

History

Amended:
May 2017 - Comprehensive Review.

1. Updates the policy owner, contact, and unit title and names of contacts.
2. Minor edits to clarify and simplify language.
3. Provides additional FAQs to improve guidance.
4. Updates and increases the stated arbitration fees.

Amended:
August 2017 - Minor Revision. The section on Retaliation has been updated to be consistent with core language in Administrative Policy: **Retaliation**.

Amended:
February 2011 - Comprehensive Review. The following revisions were made to enhance efficiency and fair process:

1. A prohibition on retaliation was added to Board of Regents Policy: **Conflict Resolution Process for Employees**.
2. The Conflict Resolution Policy was converted to the new University-wide format for administrative policies.
3. Existing administrative procedures were revised to encourage the use of Minnesota arbitrators and streamline the arbitration process.
4. An estimated Minnesota arbitrator fee of $3,500 (shared equally by the University and the employee) was established. A process for University payment of arbitration fees exceeding $3,500 was added.

Effective:
February 11, 2005 – Board of Regents Policy: **Conflict Resolution Process for Employees** superseded Board of Regents Policy: **Grievance**
Process. The Board of Regents policy and administrative procedures were revised to include informal ombuds services and to substitute "petition" and "conflict resolution" language for "grievance" language.

Amended:
July 12, 2002 – Board of Regents Policy: Grievance Process was adopted. It superseded the Grievance Procedure dated April 16, 1993. Revisions included expanding the scope to include faculty emeriti and revising the definition of "attorney" to include persons with J.D. degrees, who may not be licensed to practice law.

Adopted:
1993 – A University-wide Grievance Procedure for non-bargaining unit University employees was adopted.
Proposed Amendments to University Policies and Procedures to Comply with the New Title IX Regulations

Equal Opportunity and Affirmative Action

Tina Marisam, EOAA Director and Title IX Coordinator
Ned Patterson, Professor
Brian Slovut, Deputy General Counsel

July 30, 2020
Act on the resolution related to amendments to University sexual misconduct policies, which amends the following policies, procedures, and rules:

- BOR Policy: *Faculty Tenure*
- BOR Policy: *Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence*
- *Civil Service Employment Rules*
- Admin. Policy: *Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence*
- Admin. Policy: *Conflict Resolution for Faculty, P&A, Civil Service, and Student Workers*
Key Developments Since the July 8 Meeting:
BOR Policy: **Faculty Tenure**

FCC Proposal: Add new § 10.4 to *Faculty Tenure*

Notwithstanding other provisions in these regulations, the process for decisions and appeals regarding disciplinary action in response to complaints against faculty for alleged violation of Board of Regents Policy: *Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence* will be conducted under Administrative Policy: *Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence* and related administrative procedures. The Administrative Policy will provide that there will be a faculty member on the hearing panel for any case in which a faculty member is a party.

*Note: The centralized grievance process would have a provision specifying the same requirement for all parties (students, staff, and faculty).*
Key Developments Since the July 8 Meeting:
BOR Policy: Faculty Tenure

Tenure Policy Section 19. Amendment.

These regulations are subject to **amendment by the Board of Regents**. Proposed amendments from any source will be submitted to the **Faculty Senate** for its advice and recommendation before final action by the Board of Regents. The Faculty Senate will solicit the recommendations of the **Faculty Affairs** Committee, the **Judicial Committee**, and the **Tenure Committee**, before giving its advice and recommendation.
Key Developments Since the July 8 Meeting:
BOR Policy: *Faculty Tenure*

**FCC Proposal:** Add new § 10.4 to *Faculty Tenure Policy*

*July 15th Faculty Senate Advisory Vote on this proposed Tenure Policy Amendment:*
70 For (84%), 10 Against, and 3 Abstentions
Key Developments Since the July 8 Meeting:
Grievance Procedures for P&A, Civil Service,
and Labor-Represented Employees

- **Civil Service Employment Rules**
- **Administrative Policy:** *Conflict Resolution for Faculty, P&A, Civil Service, and Student Workers*
- Application to labor-represented employees
Key Developments Since the July 8 Meeting:
Administrative Policy: Sexual Harassment, Sexual Assault, Stalking and Relationship Violence

Composition of hearing panels

- Five panel members, including one hearing chair and at least one panelist from the same classification (staff, student, faculty) as each party.

Additional input to University Authorities

- If the hearing panel is not unanimous in its recommendation on disciplinary sanctions, one or more of the dissenting panel members may write a dissent for the University Authority that articulates alternative recommended disciplinary sanctions.

- The University Authority will be offered an opportunity to meet with the hearing panel to discuss the hearing panel’s recommendation on disciplinary sanctions.
Key Developments Since the July 8 Meeting:
Administrative Policy: Sexual Harassment, Sexual Assault, Stalking and Relationship Violence

**Timeline changes**

- Provides 10 days in which to notice an appeal, and an additional 10 days in which to file an appeal.
- States that the University Authority will strive to make a decision on disciplinary sanctions with 21 days of receiving the hearing panel’s decision on responsibility.

**New voluntary administrative resolution option**

- Hearing chair makes a decision on responsibility based on the investigative report, the parties’ written responses to the investigative report, and the evidence gathered during the investigation.
- Sanctioning and appeal processes remain the same.

**Statement that policy applies to reports received after August 14, 2020**
## University Authorities and Appellate Officers

(revisions since June BOR Meeting)

<table>
<thead>
<tr>
<th>Respondent</th>
<th>University Authority (Decides on disciplinary sanctions)</th>
<th>Appellate Officer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Vice President, Senior Vice President or Chancellor</td>
<td>President</td>
<td>Board of Regents or Special Committee of the Board of Regents</td>
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<td>To be appointed by the Board of Regents</td>
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</table>
Staffing Needs For New
System-Wide Grievance Process

**Secretary**
- Coordinate recruitment, selection, training, and scheduling of systemwide hearing committee members
- Administer post-investigative procedures including informal resolution processes, hearings, and appeals

**Hearing Chairs**
- Serve as hearing officer in an estimated 15-25 systemwide hearings in FY21
- Draft written decisions on responsibility and on disciplinary sanctions, where applicable

**Advisors**
- Make opening and closing statements and conduct direct and cross-examination on behalf of the parties at hearings.
- Estimated need for at least one advisor, and sometimes two, per hearing.
### Planned Use of Current Resources for Staffing

<table>
<thead>
<tr>
<th>Current Resource</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Hearing Chair</strong></td>
<td>• Redirection of .2 FTE from UMD’s Office of Student Conduct &amp; Conflict Resolution</td>
</tr>
</tbody>
</table>
| **Advisors**     | • Redirection of .5 FTE from The Aurora Center  
|                  | • Current allocation of .5 FTE from Student Advocate Services;  
|                  | • Redirection of staff time from student conduct offices |
| **Secretary**    | • Redirection of a 1.0 FTE position. |
Plan To Fill Additional Staffing Needs

**Advisors and Hearing Chairs**

As an interim measure, hire advisors and hearing chairs on an as-needed basis from a pool of trained individuals.

- Estimated need for an external hearing chair and advisor(s) in 7 – 14 hearings.
- Approximately $5,000 for each advisor or hearing chair per hearing.
- Total projected cost in FY21: $80,000 – 160,000

We are continuing to look for opportunities to redirect current staff work to fill these functions (including to serve as lead hearing chair) or to partner with external sources at lower costs.
AGENDA ITEM: Resolution Related to FY 2021 Temporary Clarification of Board of Regents Policy: Student Services Fee

☐ Review  ☒ Review + Action  ☐ Action  ☐ Discussion

This is a report required by Board policy.

PRESENTERS: Rachel T.A. Croson, Executive Vice President and Provost

PURPOSE & KEY POINTS

The purpose of this item is review and action on a Resolution Related to FY 2021 Temporary Clarification of Board of Regents Policy: Student Services Fee.

Board of Regents Policy: Student Services Fee describes a threshold of enrollment of six credit-hours in order for students to be charged the student service fee (SSF). It also notes in Section II, Subd. 3 that “Credits for off-campus distance classes are excluded from the total credit count.” The policy exempts students in distance-delivered programs designed for students who would never be on campus and who would not be able to access fee-funded services, which previously were largely tied to physical access to campus.

However, the University, like many other institutions across the country, is offering courses via multiple modalities to safely deliver instruction and accommodate students and faculty. It is important that, in these times, students have access to all fee-funded services, no matter the modality of their coursework.

Therefore, the University intends to include in the count of registered credits that determine eligibility for the SSF those classes that would normally be held in person, but that will now be held at a distance given safety measures necessitated by the COVID-19 pandemic. As in any other year, the fee will be applied to degree-seeking students registered for six or more credits for the semester. The resolution clarifies that “off-campus distance classes” will only apply to those courses previously designed and delivered as completely off-campus, and not those which would have been held in-person but for the pandemic. This course of action mirrors the division of coursework under the existing policy language.

The temporary clarification of the policy for FY 2021 would assess the SSF to students registered for:

- six or more credits per semester of in-person courses or traditionally in-person courses offered in a distanced format; or
- three or more credits per summer session of in-person courses or traditionally in-person courses offered in a distanced format.
Credits for courses that are traditionally offered in a distanced format will be excluded from the total credit count.

Other criteria for application of the SSF will remain in place, including:

- Credit count – minimum of 6 credits (fall and spring).
- Exclusions – non-degree seeking students, PSEO, College in the Schools, select exempted programs (generally, professional programs), etc.
- Exemption request processes.

Should additional adjustments to the fall academic schedule be required due to the pandemic, the SSF will again be reviewed.

BACKGROUND INFORMATION

Services covered by the SSF include, but are not limited to, health services, recreational and wellness facilities and programs, sexual misconduct prevention and response programs, student unions, student legal and conflict resolution services, student media organizations, student government, and student groups and activities. Detailed listings of the student services fees by campus were included in the President’s Recommended FY21 Annual Operating Budget (see Attachment 10, pages 120-133).

The FY21 Annual Operating Budget anticipated typical application and collection of the SSF.

PRESIDENT’S RECOMMENDATION

The President recommends approval of the Resolution Related to FY 2021 Temporary Clarification of Board of Regents Policy: Student Services Fee.
REGENTS OF THE UNIVERSITY OF MINNESOTA

RESOLUTION RELATED TO

FY 2021 Temporary Clarification of Board of Regents Policy: Student Services Fee

WHEREAS, due to safety measures necessitated by the COVID-19 pandemic, the University of Minnesota (University), like many universities and colleges across the country, will offer some courses via multiple modalities, including traditionally in-person classes offered in a distanced format so that students may advance their educations while following public health guidance to, among other things, maintain physical distance; and

WHEREAS, the student services fee funds a wide range of non-instructional services that supplement the academic curriculum, play an integral role in the University’s educational experience for students, and continue to be available and beneficial to fee-paying students regardless of the modality in which courses are provided; and

WHEREAS, Board of Regents Policy: Student Services Fee did not anticipate a pandemic that would necessitate that the University pivot to offering traditionally in-person courses in a distanced format mid-way through the Spring 2020 semester while services funded by the student services fee remained available to students; and

WHEREAS, this unprecedented pandemic continues to necessitate the offering of some traditionally in-person courses in a distanced format, consistent with public health guidance, while services and activities funded by the student services fee will continue to be provided to fee-paying students.

NOW, THEREFORE, BE IT RESOLVED that to assess student services fees for FY 2021, the Board of Regents hereby authorizes the president to clarify the definition for designated student as defined by Board of Regents Policy: Student Services Fee, Section II, Subd. 3 to mean all students registered for:

- six or more credits per semester of in-person courses or traditionally in-person courses offered in a distanced format; or
- three or more credits per summer session of in-person courses or traditionally in-person courses offered in a distanced format.

Credits for courses that are traditionally offered in a distanced format will be excluded from the total credit count.
BOARD OF REGENTS POLICY:

Student Services Fee

SECTION I. SCOPE.

This policy governs assessment of the University of Minnesota (University) student services fee, which funds non-instructional programs and activities; supplements the academic curriculum; and is an integral part of the University's educational experience.

SECTION II. DEFINITIONS.

Subd. 1. Student Services Fee.

Student services fee shall mean the mandatory annual fee assessed on designated students to provide funding for student programs, activities, and services on each campus.

Subd. 2. Student Services Fee Committee.

Student Services Fee Committee shall mean the committee established on each campus to review and recommend annually the student services fee.

Subd. 3. Designated Students.

Designated students shall mean all students registered for:

(a) six or more credits per semester; or
(b) three or more credits per summer session.

Credits for off-campus distance classes are excluded from the total credit count.

SECTION III. GUIDING PRINCIPLES.

The following principles shall guide the assessment of the student services fee:

(a) Fee-supported programs, activities, and services shall be available to all students assessed the fee.

(b) All persons involved in the development of the student services fee shall recognize the relationship of the student services fee to the total tuition and other costs of education for students.

(c) The University's educational mission is well served when students have the means to engage in dynamic discussions of diverse topics in their extracurricular campus life.
(d) Decisions regarding the allocation of fees among student groups shall be made in a viewpoint-neutral manner.

SECTION IV. ASSESSMENT AND USE OF THE STUDENT SERVICES FEE.

Subd. 1. Assessment.
The student services fee shall be assessed on all designated students.

Subd. 2. Fee Exemptions.
The following students shall be exempt from assessment of the student services fee:

(a) non-degree seeking students;
(b) post-secondary education option students and concurrent high school enrollment program students;
(c) those students not designated, as defined in Section II; and
(d) others as approved by the president or delegate.

Subd. 3. Special Assessments.
Special assessments of the student services fee may be authorized by the Student Services Fee Committee for clearly defined classes of students.

Subd. 4. Optional Fees.
Registered students exempt from paying the student services fee have the option of paying the full student services fee or paying optional fees if offered by individual fee-receiving units.

Subd. 5. Prohibited Uses.
The student services fee may not be used to fund courses or activities for which academic credit is offered within a department where credit is the primary focus of the course or activity.

Subd. 6. Capital Improvements.
A request for funding of a capital improvement shall be approved by the Student Services Fee Committee on each campus. Such improvements shall not be subject to revision except in the most severe circumstances.

SECTION V. STUDENT SERVICES FEE COMMITTEE.

The Student Services Fee Committee established on each campus shall adhere to the following:

Subd. 1. Representation.
The Student Services Fee Committee shall have at least a student majority, and all members shall have the right to vote. Student, faculty, and administrative staff members shall be appointed under Student Services Fee Committee procedures in effect on each campus.

Subd. 2. Validation of Fee Payment.
Student members of the Student Services Fee Committee shall demonstrate payment of the student services fee each semester of their appointment. Summer session payment is not required.

Subd. 3. Administrative Assistance.
Each Student Services Fee Committee shall receive administrative assistance from the respective campus administrations and student associations.
SECTION VI. DELEGATION OF AUTHORITY.

Subd. 1. Recommendations.  
The president shall recommend for Board of Regents action student services fees for each campus in the Annual Operating Budget.

REVISION HISTORY

Adopted: July 9, 1982  
Amended: June 12, 1987; February 12, 1999; June 10, 2005
# University of Minnesota Mandatory FY21 Student Services Fees

## Fall 2020 and Spring 2021 Semester Rates

<table>
<thead>
<tr>
<th>Administrative Units</th>
<th>UMC</th>
<th>UMD</th>
<th>UMM</th>
<th>UMR</th>
<th>UMTC</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$16.75</td>
<td>$103.84</td>
<td>$125.50</td>
<td>$10.50</td>
<td>$161.47</td>
</tr>
<tr>
<td>Intercollegiate Athletics</td>
<td>$69.00</td>
<td>$55.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fitness/Recreation/Sports</td>
<td>$85.00</td>
<td>$88.68</td>
<td>$110.50</td>
<td>$90.00</td>
<td>$117.29</td>
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<tr>
<td>Capital Improvement Reserve Fee</td>
<td></td>
<td>$5.51</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Student Activities/Organizations</td>
<td>$50.00</td>
<td>$8.82</td>
<td>$49.29</td>
<td></td>
<td>$19.29</td>
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<tr>
<td>Media organizations (print, radio, etc.)</td>
<td>$5.32</td>
<td>$6.61</td>
<td></td>
<td>$47.50</td>
<td>$12.48</td>
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<tr>
<td>Health Services/Wellness</td>
<td>$35.00</td>
<td>$94.61</td>
<td>$120.00</td>
<td>$47.50</td>
<td>$143.71</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td><strong>$255.75</strong></td>
<td><strong>$306.78</strong></td>
<td><strong>$466.90</strong></td>
<td><strong>$148.00</strong></td>
<td><strong>$454.24</strong></td>
</tr>
</tbody>
</table>

**Student Governance (included in SSF on system campuses)**

| Crookston Student Association | $7.69 |
| Duluth Student Association | $7.66 |
| Morris Campus Student Organization | $3.10 |
| Rochester Student Association | $20.00 |

| **Total** | **$263.44** | **$314.44** | **$470.00** | **$168.00** | **$454.24** |

TC Student governance fees charged separately based on registration.

- TC Student Association | $2.46
- Council of Graduate Students | $10.36
- Professional Student Government | $16.59
# UMTC Student Service Fees
Approved for 2020-21 Funding

## 2020-21 Stu Fees
Final Rec. - 0% inc.

### Student Activity Fee:

<table>
<thead>
<tr>
<th>Student Activity Fee</th>
<th>Revenue</th>
<th>Per Sem</th>
</tr>
</thead>
<tbody>
<tr>
<td>Student Activity Fee</td>
<td>$1,471,500</td>
<td>$19.29</td>
</tr>
</tbody>
</table>

Total Student Activity Fee: $1,471,500 \(\frac{19.29}{\text{Per Sem}}\)

## 2020-21 Stu Fees
Final Rec. - 0% inc.

### Media Fee:

<table>
<thead>
<tr>
<th>Media Fee</th>
<th>Revenue</th>
<th>Per Sem</th>
</tr>
</thead>
<tbody>
<tr>
<td>MN Daily</td>
<td>$525,052</td>
<td>$6.62</td>
</tr>
<tr>
<td>Radio K-Operating</td>
<td>$309,115</td>
<td>$3.89</td>
</tr>
<tr>
<td>Students for a Conservative Voice</td>
<td>$98,093</td>
<td>$1.25</td>
</tr>
<tr>
<td>StudioU</td>
<td>$8,683</td>
<td>$0.11</td>
</tr>
<tr>
<td>Wake Student Magazine</td>
<td>$46,280</td>
<td>$0.61</td>
</tr>
</tbody>
</table>

Total Media Fee Groups: $987,223 \(\frac{12.48}{\text{Per Sem}}\)

## 2020-21 Stu Fees
Final Rec. - 0% inc.

### Student Life, Health and Wellbeing Fee:

<table>
<thead>
<tr>
<th>Student Life, Health and Wellbeing Fee</th>
<th>Revenue</th>
<th>Per Sem</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aurora Center</td>
<td>$394,905</td>
<td>$4.98</td>
</tr>
<tr>
<td>Boynton Health Facility Support Fee</td>
<td>$825,192</td>
<td>$11.22</td>
</tr>
<tr>
<td>Boynton Health Operational Fee</td>
<td>$9,725,145</td>
<td>$132.14</td>
</tr>
<tr>
<td>Student Advocate Services</td>
<td>$100,000</td>
<td>$1.38</td>
</tr>
<tr>
<td>Student Conflict Resolution Center</td>
<td>$343,145</td>
<td>$4.27</td>
</tr>
<tr>
<td>Student Fee Administration</td>
<td>$156,906</td>
<td>$1.97</td>
</tr>
<tr>
<td>Student Legal Services</td>
<td>$1,336,613</td>
<td>$16.85</td>
</tr>
<tr>
<td>Student Parent Grants</td>
<td>$150,000</td>
<td>$1.89</td>
</tr>
<tr>
<td>Student Unions &amp; Activities - Bond Repayment</td>
<td>$3,559,021</td>
<td>$44.87</td>
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<tr>
<td>Student Unions &amp; Activities - Facility Support Fee</td>
<td>$4,213,096</td>
<td>$53.11</td>
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<tr>
<td>Student Unions &amp; Activities - Operating Fee</td>
<td>$2,520,818</td>
<td>$31.77</td>
</tr>
<tr>
<td>University Recreation and Wellness - Facility Support Fee</td>
<td>$6,073,462</td>
<td>$76.60</td>
</tr>
<tr>
<td>University Recreation and Wellness - Operational Fee</td>
<td>$3,285,479</td>
<td>$41.42</td>
</tr>
</tbody>
</table>

Total Student Life, Health and Wellbeing Fee: $32,683,782 \(\frac{422.48}{\text{Per Sem}}\)

Total Student Services Fees w/o Special Assessments: $35,142,505 \(\frac{454.24}{\text{Per Sem}}\)

## 2020-21 Stu Fees
Final Rec. - 0% inc.

### Special Assessment Groups:

<table>
<thead>
<tr>
<th>Special Assessment Groups</th>
<th>Revenue</th>
<th>Per Sem</th>
</tr>
</thead>
<tbody>
<tr>
<td>Council of Graduate Students</td>
<td>$120,176</td>
<td>$10.36</td>
</tr>
<tr>
<td>Professional Student Government</td>
<td>$208,592</td>
<td>$16.59</td>
</tr>
<tr>
<td>MN Student Association</td>
<td>$141,339</td>
<td>$2.46</td>
</tr>
</tbody>
</table>

Total Special Assessments: $470,107 \(\frac{29.41}{\text{Per Sem}}\)

Total for All Groups: $35,612,612 \(\frac{483.65}{\text{Per Sem}}\)
FY 21 Student Services Fees

Rachel T.A. Croson
Executive Vice President and Provost

July 30, 2020
COVID-19 Pandemic

• In planning for the Fall, following public health guidance (CDC, MDH), including physical distancing.

• Some courses traditionally held in-person are being offered in different modalities.

• Since policy was last amended, student services which were formerly provided only in-person are now available online.

• It is important that, in these times, students have access to all these fee-funded services, no matter the modality of their coursework which would typically be offered in a classroom setting but for the pandemic.
Board of Regents Policy: *Student Services Fees*

- Policy was adopted in 1982, last updated in 2005.

- Describes a threshold of enrollment of 6 credits in order for students to be charged student services fees and receive the services from those fees, but also provides that “*credits for off-campus distance classes are excluded from the total credit count.*”

- Interpretation of “off-campus distance classes.”
Examples of Services Covered by Student Service Fees*

health services (including co-pays)
recreational/wellness facilities/programs
sexual misconduct prevention/response programs
student unions
student legal/conflict resolution services
student media organizations
student groups/activities

*more complete list and link in docket
## Student Services Fees by Campus

<table>
<thead>
<tr>
<th>Campus</th>
<th>2019-20 Semester Fee</th>
<th>2020-21 Semester Fee</th>
<th>Percentage Increase/Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td>UMC</td>
<td>$266.40</td>
<td>$263.44</td>
<td>(1.1%)</td>
</tr>
<tr>
<td>UMD</td>
<td>$314.44</td>
<td>$314.44</td>
<td>0%</td>
</tr>
<tr>
<td>UMM</td>
<td>$470.00</td>
<td>$470.00</td>
<td>0%</td>
</tr>
<tr>
<td>UMR</td>
<td>$168.00</td>
<td>$168.00</td>
<td>0%</td>
</tr>
<tr>
<td>UMTC</td>
<td>$454.24</td>
<td>$454.24</td>
<td>0%</td>
</tr>
</tbody>
</table>
Recommendation

Clarify policy to assess student services fees and provide associated services to students registered for:

• Six or more credits per semester of in-person courses or traditionally in-person courses offered in a distanced format; or

• Three or more credits per summer session of in-person courses or traditionally in-person courses offered in a distanced format.

• Retain and refine exemption process for students.
Questions?
AGENDA ITEM: Update on the University’s COVID-19 Testing Plan

☐ Review ☐ Review + Action ☐ Action ☒ Discussion

☐ This is a report required by Board policy.

PRESENTERS: President Joan T.A. Gabel
Jill DeBoer, Director, Health Emergency Response Office

PURPOSE & KEY POINTS

The purpose of this item is to discuss the University’s COVID-19 testing plans for the 2020 fall semester. The docket includes more detailed information related to measures of effective testing, including laboratory analysis, specimen collection, patient follow-up and clinical and public health response actions.

BACKGROUND INFORMATION

A University testing and tracing advisory team, co-chaired by Jakub Tolar, Vice President for Clinical Affairs, Dean of the Medical School, and Campus Public Health Officer, and Jennifer Krzmarzick, Boynton Health Medical Director, developed a set of recommendations related to testing and tracing, based on guidance from the Center for Disease Control, Minnesota Department of Health, American College Health Association, and the University’s Center for Infection Disease Response Action Plan (CIDRAP).

Based on that guidance, and public health best practices related to infectious disease, the team developed recommendations to prioritize testing – with existing system resources – for the following individuals:

- People with COVID-related symptoms (priority access to students and employees who use campus health services for primary care, as testing is available in many other locations for employees).
- Asymptomatic people with a known exposure (within 6 feet over 15 minutes) to persons with confirmed COVID-19 (close contacts).
- Asymptomatic persons linked to an ongoing public health investigation in consultation with the Minnesota Department of Health. This may include testing of groups of students or staff based on residence, educational, extracurricular, or social activity. Broader testing may be warranted in consultation with the Minnesota Department of Health in certain situations.
- Asymptomatic people requiring specified types of medical care (at the discretion of the clinician).
- Asymptomatic public utility workers essential to maintain critical infrastructure if requested by utility.
Measures of Effective COVID-19 Testing
University of Minnesota – Fall Semester

Laboratory Analysis:
1. Available lab testing procedures should produce limited false-positives and false-negatives.
2. Test results are consistently available within a timeframe that allows for effective clinical and public health responses.
3. Lab testing resources should be available at all five campus locations.

Specimen Collection:
1. Enough trained personnel are available to handle anticipated volume of specimens.
2. Enough specimen collection, cold chain, and transportation supplies are available to handle the anticipated volume of specimens effectively.
3. Recommended personal protective equipment (PPE) is available to ensure safety for personnel collecting specimens.

Patient Follow-up:
1. Ensure processes are in place for rapid result notification once lab results are available.
2. Provide accurate, clear, and comprehensive patient education on the meaning of results and public health recommendations on action steps if any.
3. Integrate information gathering for contact tracing purposes at the earliest possible step in the testing process in order to triage those cases where close contact exposures are likely.

Clinical and Public Health Response Actions:
1. Testing system is designed to provide timely information to providers for care of patients tested.
2. Testing system is linked to public health response teams on campus to ensure timely response to cases, suspected clusters, or the need to enhance prevention and mitigation strategies in a segment of the campus community or in the community as a whole.

Financial Resources (for all of the above) are available for the duration of time required for effective and efficient patient care and public health response.

06.30.20
Fall 2020 Planning: COVID-19 Testing as Part of a Layered Public Health Approach

Jill DeBoer
Director, Health Emergency Response Office
Deputy Director, Center for Infectious Disease Research and Policy

July 30, 2020
Layered Public Health Approach: COVID-19 Pandemic

- Support those at increased risk for complications from infection in making **informed individual decisions** about in-person work and school attendance.

- Expect and support **daily health monitoring** for all students and employees before coming to campus or leaving on-campus residences.

- Expect and support the practice of **staying home** for all students and employees with symptoms.

- Expect **physical distancing** of 6 feet or greater; modify physical spaces and group schedules to promote and support that essential best practice.

- Expect and support the use of appropriate **PPE** in clinical settings that require their use. Expect and support use of **cloth face coverings** for all others (with exceptions for those who cannot use them).
Layered Public Health Approach: COVID-19 Pandemic

- Expect and support **personal health hygiene** practices and **facility cleaning** per public health guidelines.
- Utilize available material and human resources in support of **“smart testing” operations** for COVID-19 infection.
- Eliminate barriers for those who require **isolation** due to COVID-19 infection.
- Assist local and state public health case investigators in the completion of thorough **contact tracing** efforts.
- Eliminate barriers for those who require **quarantine** due to close contact with a person infected with COVID-19 (defined as closer than 6 feet for 15 minutes or more).
- **Rapidly adjust** all of the above as new information leads to revised public health guidelines.
Layered Public Health Approach: COVID-19 Pandemic

- Expect and support **personal health hygiene** practices and **facility cleaning** per public health guidelines.
- Utilize available material and human resources in support of “**smart testing**” operations for COVID-19 infection.
- Eliminate barriers for those who require **isolation** due to COVID-19 infection.
- Assist local and state public health case investigators in the completion of thorough **contact tracing** efforts.
- Eliminate barriers for those who require **quarantine** due to close contact with a person infected with COVID-19 (defined as closer than 6 feet for 15 minutes or more).
- **Rapidly adjust** all of the above as new information leads to revised public health guidelines.
“Smart” Testing

CIDRAP
SARS-CoV-2 smart Testing

- Right Infrastructure: Factors such as institutional support and supply chain availability must be in place.
- Right Population: Testing must be targeted based on the goals of testing.
- Right Action: Based on test results, what actions are needed to minimize illness, deaths, and disease spread?
- Right Interpretation: The test sensitivity and specificity—and how well it performs at low versus higher levels of disease in the population—must be considered.
- Right Test: Different types of tests (e.g., molecular, antigen, antibody) are appropriate in different settings.

CIDRAP Viewpoint
COVID-19:
The CIDRAP Viewpoint
Testing and Tracing Advisory Team – University of Minnesota

- Jakub Tolar, Campus Public Health Officer, Co-Chair
- Jennifer Krzmarzick, Boynton Health Medical Director, Co-Chair
- David Worley, UMD Health Service Medical Director
- Tim Schacker, Medical School
- Bobbi Daniels, Office of Academic Clinical Affairs
- Mike Osterholm, Center for Infectious Disease Research and Policy (CIDRAP)
- Craig Hedberg, School of Public Health
- Joan Rambeck, Health Emergency Response Office (HERO)
- Cynthia Kenyon, Minnesota Department of Health
- Richard Danila, Minnesota Department of Health
- Kathy Como-Sabetti, Minnesota Department of Health
- Dave Golden, Boynton Health (staff)
- Jill DeBoer, HERO/CIDRAP (staff)
Resources Reviewed

COVID-19: The CIDRAP Viewpoint

Guidance for Mitigating COVID-19 at Higher Education Institutions

Coronavirus Disease 2019 (COVID-19)

Interim Considerations for Institutions of Higher Education

Administrators for SARS-CoV-2 Testing

Testing in Institutions of Higher Education

COVID-19 Testing:
What We Know as of June 3, 2020
Governor Walz, Mayo, U of M Announce COVID-19 Testing Breakthrough

New statewide testing strategy aims to test all symptomatic people, isolate confirmed cases, and expand contact tracing tools. With capacity to ramp up testing to as many as 20,000 Minnesotans per day, this expanded COVID-19 testing will help control the pandemic and reopen Minnesota’s society.

April 22, 2020
Measures of Effective COVID-19 Testing
University of Minnesota – Fall Semester

Laboratory Analysis
1. Limited false positives and negatives
2. Results consistently available quickly
3. Available at all 5 campuses

Specimen Collection
1. Trained personnel
2. Supplies
3. Personal protective equipment

Patient Follow-up
1. Rapid result notification
2. Patient education
3. Contact tracing

Clinical and Public Health Response Actions
1. Patient care and support
2. Case investigation, isolation, quarantine, cluster investigations and response (as needed)
Recommendation

COVID-19 testing operations on our campuses – with existing resources - should align with guidelines established by the Minnesota Department of Health. Current testing priorities are:

• People with COVID-related symptoms (priority access to students and employees who use campus health services for primary care as testing is available in many other locations for employees)

• Asymptomatic people with a known exposure (within 6 feet ≥ 15 minutes) to persons with confirmed COVID-19 (close contacts)

• Asymptomatic persons linked to an ongoing public health investigation in consultation with MDH. This may include testing of groups of students or staff based on residence, educational, extracurricular, or social activity. Broader testing may be warranted in consultation with the MDH in certain situations.

• Asymptomatic people requiring specified types of medical care (at the discretion of the clinician)

• Asymptomatic public utility workers essential to maintain critical infrastructure if requested by utility

Testing and Tracing Advisory Team – University of Minnesota