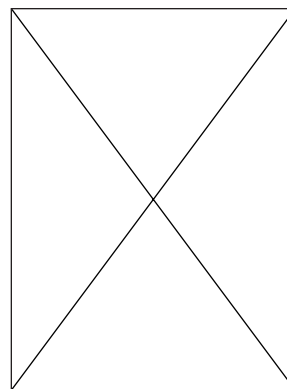


## CHAPTER 10

# APPENDICES



## Summary of Policies and Regulations Pertaining to Students

### General Summary

**Note:** Descriptions of these policies are for general information only. Please refer to specific texts for official language. Modifications may be made or other policies may be added throughout the year. Please contact the Office of Judicial Programs for additional information.

In addition to the policies reprinted or identified elsewhere (e.g., the Code of Student Conduct and Code of Academic Integrity), students enrolled at College Park are expected to be aware of, and to abide by, the policies summarized below. Information about where the complete texts may be consulted follows each summary. This information was compiled and provided by the Office of Judicial Programs.

**Alcoholic Beverage Policy and Procedures** forbid unauthorized possession, use, or distribution of alcoholic beverages on university property. Certain exceptions are specified. (Information subject to change pending legislation. Originally approved by the Board of Regents, September 26, 1969. Legal drinking age in the State of Maryland is 21 years. Reprinted in Student Handbook.)

**Policy on Amplifying Equipment** restricts the hours and locations of use of certain forms of sound amplifying equipment, provides a procedure for the authorization of otherwise restricted uses of sound amplifying equipment, and locates responsibility for complaints with those using the equipment. (Adopted by the university Senate, June 2, 1970. Reprinted in the Student Handbook.)

**Campus Activities Policies** regulate reservation of university facilities, advertising, co-sponsorship, cancellation and postponement, and various other matters relating to programs of student organizations. (Published in the Event Management Handbook. For more information, contact the Campus Reservations Office.)

**Computer Use Policy** defines standards for reasonable and acceptable use of University computer resources, including electronic mail.

**Policy on Demonstrations** establishes guidelines for demonstrations and picketing. Stipulates that the university will take steps necessary both to protect the right of individuals or groups to demonstrate and to protect the freedom of speech, assembly, and movement of any individual or group. (Adopted by the university Senate, June 2, 1970. Reprinted in the Student Handbook.)

**Examination Rules** set general standards for student conduct during examinations. They are applicable to all examinations given at the College Park campus unless contrary instructions are provided by the faculty member administering the examination. (Printed on most university examination books. See also Chapter 4.)

**Policy on Hazing and Statement on Hazing** prohibits hazing, which is defined as "intentionally or recklessly subjecting any person to the risk of bodily harm, or severe emotional distress, or causing or encouraging any person to commit an act that would be a violation of law or university regulations, for the purpose of initiating, promoting, fostering, or confirming any form of affiliation with a student group or organization, as defined by the Code of Student Conduct. The express or implied consent of the victim will not be a defense." For more information, contact the Office of Judicial Programs.

**Campus Parking Regulations** cover registration, permits, fees, violations, enforcement, fines, towing and impounding, reviews, carpool programs, special events parking, emergency parking, and a number of other areas. Notably, the regulations provide that "[t]he responsibility of finding an authorized parking space rests with the driver." Students who reside on campus and have 27 or fewer credits may not register for a parking permit. (Current regulations in effect since July, 1996. An informational guide is distributed

to all who register for parking. For more information, contact the Department of Campus Parking.)

**Policy Pertaining to Public Displays** defines standards for permissible displays, objects or structures not designed to be continuously carried or held by a demonstrator or picketer so as simultaneously to protect freedom of expression and prevent unreasonable threats to the health, safety, security, or mission of the campus. (Approved by the President, March 29, 1989. For more information, contact the Office of the Vice President for Student Affairs.)

**Residence Hall Rules** define prohibited conduct in and around campus residence and dining halls, buildings, and at Department of Resident Life-and/or Department of Dining Services-sponsored activities, in addition to that which falls under the Residence Halls/Dining Services Agreement, Code of Student Conduct, and federal, state and local laws. The rules also specify standard sanctions for rule violations, and provide for an adjudication process. (Reprinted in Community Living, the Residence Halls and Dining Services Handbook. For more information, contact the Department of Resident Life.)

**Sexual Assault Policy** offers advice and guidance for complainants, including assistance in filing criminal complaints. Defines and sets penalties for sexual assault. Specifies that "[s]exual assault is a serious offense and the standard sanction for any sexual assault, including acquaintance rape, is expulsion . . ."

**Student Organization Registration Guidelines** define student organizations, responsibilities of officers, and registration, and establish types of registration, a registration process, certain privileges of registered student organizations in good standing, sanctions which may result from registration review, and guidelines for constitutions. (For more information, or for a copy of the guidelines, contact the Office of Campus Programs.)

**Declaration of Student Rights** Defines certain rights, including expression and inquiry, assembly, thought, conscience, and religion, privacy, due process, and equal protection. Affirms "duties and responsibilities" arising from such rights.

## Appendix A: Human Relations Code\*

\*The Human Relations Code is currently being revised by the Campus Senate to reflect the recent reorganization of the academic units at the University of Maryland at College Park. The following interim procedure is to be in effect until such time as the code is revised by the Campus Senate. For the nondepartmentalized colleges, an assistant vice chancellor shall assume the responsibilities formerly held by the division provost. For the departmentalized colleges, the dean of the college shall assume the responsibilities formerly held by the division provost.

### Article I Purpose

A The University of Maryland at College Park affirms its commitments to a policy of eliminating discrimination on the basis of race, color, creed, sex, sexual orientation, marital status, personal appearance, age, national origin, political affiliation, physical or mental handicap, or on the basis of the exercise of rights secured by the First Amendment of the United States Constitution. This code is established to prevent or eradicate such discrimination in accordance with due process within the campus community. In doing so the campus recognizes that it must strive actively and creatively to build a community in which opportunity is equalized.

B. Accordingly, the Campus Senate of the University of Maryland at College Park, establishes this Human Relations Code to:

1. prohibit discrimination as defined in this document within the College Park campus community both by educational programs and, to the

- extent specified herein, by a formal grievance procedure;
2. establish the responsibilities of the Adjunct Committee on Human Relations of the Senate General Committee on Campus Affairs;
  3. establish the responsibilities of the Office of Human Relations Programs in connection with this code;
  4. establish mediation and grievance vehicles within the colleges of the campus, in conformity with the campus Affirmative Action Plan;
  5. establish the responsibilities of Equal Education and Employment Opportunity (EEEE) Officers.
- C. Every effort will be made to make students and potential students, employees and potential employees, faculty members and potential faculty members aware of the opportunities that the campus provides for every individual to develop and utilize his or her talents and skills. It is the intent of the campus to enhance among its students and employees respect by each person for that person's own race, ethnic background, sex, or sexual orientation as well as appreciation and respect for the race, ethnic background, sex or sexual orientation of other individuals.
- D. Development of a positive and productive atmosphere of human relations on the campus shall be encouraged through effective dialogue and broadening of communications channels. The Adjunct Committee on Human Relations and the Office of Human Relations Programs shall provide support and assistance, as authorized, to any individual or group deemed by them to have a positive probable impact in working toward increased understanding among all individuals and groups on the campus.
- E. The Senate Adjunct Committee on Human Relations shall advise the Office of Human Relations Programs in recommending policies that fulfill the provisions of this code. In particular:
1. The Senate Adjunct Committee on Human Relations shall be an adjunct committee of the standing Senate General Committee on Campus Affairs.
  2. The purpose of the Senate Adjunct Committee on Human Relations shall be to foster better human relations among all individuals and groups on the campus, to advise in the development of positive and creative human relations programs, to advise in the prevention and eradication of all forms of discrimination prohibited by this code, and to make regular assessments of the state of human relations within the purview of this campus.
  3. The functions of the Senate Adjunct Committee on Human Relations may include but are not limited to: requesting the Office of Human Relations Programs to conduct investigations of complaints of discrimination because of race, color, creed, sex, sexual orientation, marital status, personal appearance, age, national origin, political affiliation, physical or mental handicap, or on the basis of the exercise of rights secured by the First Amendment of the United States Constitution; providing an "open forum" for effective dialogue among all segments of the campus community; recommending to appropriate campus bodies educational programs and activities to promote equal rights and understanding; periodically reviewing such programs and activities; initiating studies of campus-sponsored or recognized programs and activities to determine how improvement can be made in respect to human relations; continually reviewing progress toward these ends and making such further recommendations as experience may show to be needed; and participating to the extent set forth herein in formal human relations grievance actions.
- F. There shall be an Office of Human Relations Programs directly responsible to the president. This office shall plan, develop, give direction to and coordinate the overall campus effort to prevent and eliminate discrimination based on race, color, creed, sex, sexual orientation, marital status, personal appearance, age, national origin, political affiliation, physical or mental handicap, or on the basis of the exercise of rights secured by the First Amendment of the United States Constitution, in all areas of campus life (this overall effort is referred to herein as the "Human Relations Program"). The office shall represent, and have direct access to, the president, and shall cooperate with the Senate Adjunct Committee on Human Relations on substantive matters concerning human relations. The office shall assist and coordinate the human relations activities of the Equal Employment and Educational Opportunity officers and the equity officers representing the various units of the campus.

The duties and responsibilities of the Office of Human Relations Programs shall include but not be limited to the following: working with deans, directors, and department chairs to ensure full compliance, in spirit as well as in letter, with laws relating to discrimination and with the campus Human Relations Code; advising campus offices in efforts to assist personnel to recognize and take advantage of career opportunities within the campus; working with appropriate offices in the surrounding community on such issues as off-campus housing practices affecting

campus students and employees, transportation, etc.; recommending to the Off-Campus Housing Office removal from or reinstatement upon lists of off-campus housing, so as to ensure that listed housing is available on a nondiscriminatory basis. (N.B. any final action taken by the university shall be preceded by proper notice to the property owner involved, and an opportunity to be heard); conducting reviews of compliance with the campus Affirmative Action Plan; initiating and carrying out programs for the elimination and prevention of racism and sexism on campus; distributing this code and informing the campus community of the interpretations of its provisions; sending periodic reports to the president and to the Senate Adjunct Committee on Human Relations concerning the Human Relations Programs; and participating to the extent set forth herein in formal human relations grievance actions.

- G. For each of the colleges of the campus, the Division of Administrative Affairs, and the Division of Student Affairs, there shall be an equity officer, who is designated in accordance with the Affirmative Action Plan and who has the duties specified by the campus Affirmative Action Plan and like duties with respect to the forms of discrimination prohibited by this code.

## Article II Coverage

### A. Kinds of Discrimination Prohibited:

1. Discrimination in employment, job placement, promotion, or other economic benefits on the basis of race, color, creed, sex, sexual orientation, marital status, personal appearance, age, national origin, political affiliation, physical or mental handicap, or on the basis of the exercise of rights secured by the First Amendment of the United States Constitution.
2. Discrimination in criteria of eligibility for access to residence, or for admission to and otherwise in relation to educational, athletic, social, cultural, or other activities of the campus because of race, color, creed, sex, sexual orientation, marital status, personal appearance, age, national origin, political affiliation, physical or mental handicap, or on the basis of the exercise of rights secured by the First Amendment of the United States Constitution.

- B. For the purposes of this code, "personal appearance" means the outward appearance of any person, irrespective of sex, with regard to bodily condition or characteristics, manner or style of dress, and manner or style of personal grooming, including, but not limited to, hair style and beards. It shall not relate, however, to the requirement of cleanliness, uniforms, or prescribed standards, when uniformly applied for admittance to a campus facility, or when uniformly applied to a class of employees, or when such bodily conditions or characteristics, or manner or style of dress or personal grooming presents a danger to the health, welfare or safety of any individual.

- C. This code shall apply to the campus community. The term "campus community" is limited to campus students, faculty, and staff; and to departments, committees, offices and organizations under the supervision and control of the campus administration.

### D. Exceptions

1. The enforcement of Federal, State or County laws and regulations does not constitute prohibited discrimination for purposes of this code. Separate housing or other facilities for men and women, mandatory retirement-age requirements, separate athletic teams when required by athletic conference regulations and political, religious and ethnic/cultural clubs are not prohibited.
2. Discrimination is not prohibited where based on a bona fide job qualification or a qualification required for the fulfillment of bona fide educational or other institutional goals. Complaints concerning the legitimacy of such qualifications may be the subject of human relations grievance actions.
3. The provisions of this code shall not apply to potential students or potential employees of the university. However, applicants for admission or employment who believe they have been discriminated against by any part of the campus community may convey such belief together with all relevant facts to the Office of Human Relations Programs, for informational purposes.
4. The grievance procedures under this code shall not apply to judgments concerning academic performance of students (e.g., grades, dissertation defenses), pending further study and action by the Campus Senate and university administration.
5. The campus, with the advice and approval of the Attorney General's Office, shall review on a continuing basis all new laws and regulations that apply to this campus to determine if any shall require changes in the coverage or exceptions to coverage of this code.

- E. This code shall apply to the campus community in relation to, but not

only to, the following:

1. All educational, athletic, cultural, and social activities occurring on the campus or in another area under its jurisdiction;
2. All services rendered by the campus to students, faculty, and staff, such as job placement and job recruitment programs and off-campus listings of housing;
3. University-sponsored programs occurring off campus, including cooperative programs, adult education, athletic events, and any regularly scheduled classes;
4. Housing supplied, regulated, or recommended by the campus for students, staff and visitors, including fraternities and sororities;
5. Employment relations between the campus and all of its employees, including matters of promotion in academic rank, academic salary, and termination of faculty status, as limited in III.M.

### Article III Human Relations Enforcement Procedures

- A. In order to identify policies or practices that may reflect discrimination, the Senate Adjunct Committee on Human Relations may request the Office of Human Relations Programs to conduct periodic review of the operation of any unit of the campus. Units shall provide the information necessary for carrying out such reviews. This information shall be submitted through the president's Office. Any such review under the authority granted in this statement of policy shall be undertaken only after specific authorization of the president. In the event that the president fails to authorize an investigation within a reasonable time of the request by the Senate Adjunct Committee on Human Relations, the chair of the Committee shall report that fact, together with reasons as he/she may have received from the president concerning the matter, to the Senate.
- B. The Office of Human Relations Programs on its own motion shall identify policies, practices, or patterns of behavior that may reflect discrimination prohibited by this code or that may conflict with any other campus policy concerning human relations or with the campus Affirmative Action Plan, and shall call these to the attention of the appropriate officials of the unit involved and recommend appropriate action. Those subject to allegations of discrimination shall be afforded all the protections of due process. The office shall endeavor by negotiation to eliminate the alleged discrimination. Where such efforts fail, the office may on its own motion report the matter to the president and to the Senate Adjunct Committee on Human Relations. Documentation of the recommendations by the office in all such cases shall be maintained on file by the office.
- C. To the maximum extent consistent with the purposes of this code, the confidentiality of personal papers and other records and the principle of privileged communication shall be respected by all persons involved in the enforcement procedures of this code. Nothing in this code shall be construed so as to conflict with the requirements of Article 76A of the Maryland Annotated Code. Persons giving information in connection with the procedures described in this code shall be advised by the person receiving such information of the limits of confidentiality which may properly be observed in code procedures and that all documents may be subject to subpoena in subsequent administrative or judicial proceedings.
- D. Any member of the campus community who believes that he or she has been or is being discriminated against in ways prohibited by this code may consult informally and confidentially with the unit EEO Officer and/or the equity officer and/or the Office of Human Relations Programs prior to filing a formal complaint.
- E. The Office of Human Relations Programs shall receive formal complaints from any member or group within the campus community claiming to be aggrieved by alleged discrimination prohibited by this code and/or any other campus document or policy relating to human relations practices. Such complaints should give in writing the names of complainant(s) and respondent(s) and the time, the place, and a specific description of the alleged discrimination. Complaints shall be submitted to the Office of Human Relations Programs, or else to the unit EEO Officer or the equity officer. Complaints must be submitted within one hundred and twenty (120) days of the alleged discrimination act(s), or within one hundred and twenty (120) days of the first date by which the complainant reasonably has knowledge thereof. Complaints not submitted directly to the Office of Human Relations Programs shall be forwarded to the Office of Human Relations Programs within five (5) working days of their receipt. Copies of the complaint shall be forwarded by the Office of Human Relations Programs to the respondent and to the appropriate unit chair or director, dean, or vice president.
- F. Complainants under this code shall be required, as a condition precedent, to waive any alternative campus administrative procedure that may then be available. A complaint that has been heard under some alternative campus procedure cannot subsequently be heard under the procedure of this code. In the case of a complaint heard under the Classified Employees Grievance Procedure, this restriction shall apply only when the complaint has entered Step Three of that procedure.
- G. The Office of Human Relations Programs and/or the equity officer shall ensure that each complainant is informed of his/her right to file the complaint with the appropriate State and Federal agencies. Forms for complaints to State and Federal agencies will be provided or the complainant will be informed where they are available.
- H. All complaints of discrimination that are not connected with the official functions of the campus or do not fall within the scope of discrimination prohibited by this code shall be referred to the appropriate campus, municipal, County, State, or Federal agencies by the Office of Human Relations Programs.
- I. After a complaint has been filed, the Office of Human Relations Programs shall promptly undertake an informal investigation in order to make a preliminary determination as to whether or not the subject matter of the complaint falls within the code, and whether or not there is probable cause for the complaint. This finding shall be reported to the complainant, the respondent, the president, and the chair of the Senate Adjunct Committee on Human Relations. The burden of proof in this investigation and throughout these enforcement procedures rests with the complainant.
- J. If the finding is that there is not probable cause to believe that discrimination has been or is being committed within the scope of this code, the Office of Human Relations Programs may dismiss the complaint. Such dismissal shall be reported to the complainant, the respondent, the president, and the chair of the Senate Adjunct Committee on Human Relations. The complainant in such a case may appeal the dismissal of the case to the Senate Adjunct Committee on Human Relations, which may direct that a Human Relations Grievance Committee conduct a grievance hearing according to the procedures set forth herein, if in the judgment of the Senate Adjunct Committee on Human Relations there is probable cause to believe that discrimination has been or is being committed within the scope of this code. The Senate Adjunct Committee on Human Relations shall have access to the complaint file for this purpose. A record of its deliberations shall be placed in the file according to the procedures established by the Office of Human Relations Programs. If the committee finds no probable cause, it may dismiss the complaint, and report such dismissal to the complainant, the respondent, and the president.
- K. If the finding is that there is probable cause to believe that discrimination has been or is being committed within the scope of this code, the Office of Human Relations Programs shall endeavor to eliminate the alleged discrimination by conference conciliation and persuasion. If by this process, an agreement is reached for elimination of the alleged discrimination, the agreement shall be reduced to writing and signed by the respondent, the complainant and the director of the Office of Human Relations Programs. The agreement shall be available to the president, the equity officer, and to the chair of the Senate Adjunct Committee on Human Relations, upon request.
- L. If a finding of probable cause is made but no mutually satisfactory solution can be reached under the procedures outlined in section K immediately preceding, the Office of Human Relations Programs shall initiate the following procedure: the Office shall notify the Senate Adjunct Committee on Human Relations of the failure to reach a mutually satisfactory solution, whereupon, providing the complainant requests in writing a Human Relations Grievance Hearings, a Human Relations Grievance Committee shall be selected according to the procedures described in Article IV following. Grievance hearing shall be closed unless both parties to the dispute agree that the hearing, or any part thereof, shall be open to the public. All parties to the dispute shall be sent within five (5) working days of the written request of such a hearing, written notification of the time and place of the beginning of the hearing and a specific statement of the charges. Hearings shall be held as promptly as is consistent with allowing adequate time for the parties to prepare their cases. Continuances may be granted within the discretion of the Office of Human Relations Programs. All parties shall have ample opportunity to present their facts and arguments in full during the hearing. All findings, recommendations, and conclusions by the Grievance Committee shall be based solely on the evidence presented during the hearing, and shall be based on a preponderance of the evidence having probative effect. The burden of proof rests with the complainant. The Grievance Committee may be assisted by an adviser. All the parties to the dispute and the Grievance Committee may invite persons to testify during the hearing. Each side shall have the right to cross-examine witnesses. Each party has the right to be represented by counsel or other representative, but the university has no obligation to provide such counsel for any party to the dispute. If a party intends to be represented by legal counsel during the hearing, he/she shall inform the Office of Human Relations Programs of this fact no later than seventy-two (72) hours prior to the hearing, and that office shall pro-

vide that information to the other party or parties. A verbatim record shall be kept of all sessions in which testimony and evidence are presented regarding the case, and this record shall be made available to all parties to the dispute at the conclusion of the proceedings. Upon request the chair of the Grievance Committee may, in his or her discretion, recess the hearing to permit review of the record by one or more parties in the conduct of their case. The chair of a Human Relations Grievance Committee with the advice of the adviser, if there is one, shall rule on all matters of procedure and admissibility of evidence. Any member of the committee not concurring in the ruling of the chair may request a closed session of the committee for debate on the point. A majority vote of the committee will determine the final decision. Formal rules of evidence shall not be applicable to any hearing before a Human Relations Grievance Committee, and any evidence or testimony that the committee believes to be relevant to a fair determination of the complaint may be admitted. The committee reserves the right to exclude incompetent, irrelevant, immaterial and repetitious evidence.

- M. In cases of allegations regarding prohibited discrimination concerning academic employment matters, a Human Relations Grievance Committee shall not substitute its judgment of academic competence for the judgment of the appropriate colleagues of the complainant. The function of the Grievance Committee shall be to determine
- a. whether there were clearly enunciated university, campus and department standards, policies, procedures, and priorities by which to assess the merit of the complaint, and whether the complainant was given a reasonable opportunity to demonstrate his/her academic merit;
  - b. whether the stated standards, policies, procedures, and priorities were applied to the complainant in a nondiscriminatory manner.
- N. Within ten (10) working days after hearing all the evidence and arguments, the Human Relations Grievance Committee shall prepare a written decision based solely on the evidence presented at the hearing. This decision shall include a summary of the evidence before the committee and the committee's findings as to whether or not a violation of the code has occurred, and the recommendations of the committee. Grievance Committees may recommend whatever forms of relief they deem appropriate, but must take due cognizance of the limitations imposed by State law and by the procedures established by the Board of Regents, for example, the procedures by which promotion in academic rank is achieved. Within five (5) working days after the decision has been filed in the Office of Human Relations Programs, the director of that office will formally notify all parties to the dispute, the president, and the Senate Adjunct Committee on Human Relations of the decision.
- O. The president shall within ten (10) working days of receipt of the decision of the Human Relations Grievance Committee issue an order specifying what actions, if any, must be taken by individuals or groups found to be guilty of violating the provisions of this code.
- P. When a hearing has been scheduled by an outside agency or court, the Office of Human Relations Programs may, with the approval of the Senate Adjunct Committee on Human Relations, prior to the convening of a Human Relations Grievance Committee to hear a case, postpone or terminate the campus grievance proceedings when such postponement or termination is in its judgment warranted by administrative considerations such as staff limitations and workload, or at the request of a party upon a showing that the campus hearing will either conflict with the off-campus hearing, or that participation in the campus hearing will unreasonably burden a party's preparation of his/her case or otherwise work to his/her prejudice. Such postponement or termination shall be reported to the complainant, respondent, and president. In any case where a complaint has been the subject of prior administrative or judicial resolution or where a complaint becomes the subject of such resolution during the course of proceedings under this code, the procedures of this code will not be applicable or will terminate, as the case may be.
- Q. The president shall provide a written explanation of the order whenever that order is not in keeping with the findings and recommendations of the Human Relations Grievance Committee. This explanation shall be sent to all parties to the dispute, to the chair of the Senate Adjunct Committee on Human Relations, to the director of the Human Relations Programs, and to the chair of the Senate. The chair of the Senate Adjunct Committee on Human Relations shall report to the Senate Executive Committee concerning the order and explanation at the next meeting of the Executive Committee, and that body shall put the matter on the agenda of the next meeting of the Senate.
- R. When required by law, copies of the Human Relations Grievance Committee's findings and recommendations and of the Chancellor's order and explanation, if any, shall be sent to the State and Federal agencies charged with enforcement of Article 49B of the Annotated Code of Maryland and the Equal Employment Opportunity Act of 1968 or their successors.

- S. When a complainant receives a decision on his/her charge of discrimination from a Human Relations Grievance Committee that decision shall not be subject to review under any grievance procedure in force on the campus.
- T. No affirmative relief shall be made to a complainant by the University unless the complainant executes the following release as part of a settlement agreement:

The complainant hereby waives, releases, and covenants not to sue the University of Maryland or its officers, agents, or employees with respect to any matters that were or might have been alleged as charges filed under the Human Relations Code in the instant case, subject to performance by the University of Maryland, its officers, agents, and employees, of the promises contained in this settlement agreement.

#### **Article IV Constitution of Human Relations Grievance Committee**

- A. A Human Relations Grievance Committee shall consist of five members selected by an affirmative vote of at least two members of a selection panel consisting of 1) The vice president of the unit of the campus within which the alleged discrimination falls. In cases of disputed jurisdiction, decisions as to which vice president shall participate will be made by the several vice presidents. 2) The director of the Office of Human Relations Programs. 3) The chair of the Senate Adjunct Committee on Human Relations. If any of these persons is unable to participate, he or she shall designate a suitable replacement.
- B. The selection of a Human Relations Grievance Committee shall be made in such a way as to promote a fair and impartial judgment. An effort shall be made to constitute the Grievance Committee of persons reasonably familiar with the kind of employment or other situation that the case concerns.
- C. A determined effort shall be made to gain the consent of complainant and respondent concerning the membership of the Grievance Committee. If in the judgment of the selection panel such efforts become unreasonably prolonged, membership will be determined by majority vote of the selection panel.
- D. None of the members of a Grievance Committee shall have been involved in the action that is the subject of the complaint. This selection panel shall remove a member of a Grievance Committee whenever it finds that member to have a personal involvement in that case; and may excuse a member from serving on the Grievance Committee on grounds of illness or on other reasonable grounds.
- E. Members of the Senate Adjunct Committee on Human Relations shall not be eligible concurrently for inclusion on Human Relations Grievance Committees.
- F. The chair of a Human Relations Grievance Committee shall be elected by the members of the committee.
- G. Members of a Human Relations Grievance Committee and those officially involved in a hearing shall not be penalized either academically or financially for time missed from work or classes during official meetings of the committee.

#### **Article V The Equal Education and Employment Opportunity Officer**

- A. Equal Education and Employment Opportunity Officers shall be instrumental in the implementation of the Human Relations Code within each unit of the College Park campus.
- B. Employees on all levels within each unit of the campus will have access to the assistance of an EEO Officer. In non-academic units, EEO Officers shall be elected by unit employees under the supervision of the equity officer within whose responsibility the unit falls, or shall be selected by the unit director in consultation with the appropriate equity officer, in either case in accordance with the Affirmative Action Plan of that unit. EEO Officers in the academic colleges shall be chosen in the manner prescribed by the council of each college.
- C. The functions of EEO Officers shall include but not be limited to:
1. Advising unit administrators with respect to the preparation plans, procedures, regulations, reports, and other matters pertaining to the campus Human Relations Program.
  2. Evaluating periodically the effectiveness and sufficiency of unit Affirmative Action Plans and other unit plans in relation to the goals of this code, and reporting these to unit administrators with recommendations as to what improvements or corrections are needed.
  3. Participating in the development of policies and programs within units with respect to hiring and recruitment, training and upgrading, and in all matters pertaining to the elimination of discrimination prohibited by this code. If a unit fails to develop policies and programs of this

nature, it is the task of the EEEO officer to act in an advocacy role and call this fact first to the attention of the unit administrator, and if no responsive action ensues, then to the Collegiate Assistant for Affirmative Action. The EEEO officer is free at all times to report such cases directly to the Office of Human Relations Programs and the Senate Adjunct Committee on Human Relations.

4. Serving in a liaison capacity between the unit to which he/she is assigned and all segments of its personnel and attempting to remedy problems brought to his/her attention regarding alleged discrimination.
  5. Advising students or employees of the unit who have reason to believe that discrimination as defined in this code is occurring. At the request of the aggrieved person the EEEO officer shall keep any or all aspects of the grievance confidential until a formal complaint has been filed. If the aggrieved so requests, the EEEO officer shall attempt to resolve the matter, calling upon the assistance of the equity officer where appropriate. The EEEO officer will keep a record of such advisory and conciliatory activities and periodically brief the equity officer.
  6. Advising and otherwise aiding complainants in making formal complaints under this code. When a complaint is filed with an EEEO officer, the complaint shall be forwarded by that officer within five (5) working days to the equity officer and the Office of Human Relations Programs. The EEEO officer shall be available to assist in a preliminary investigation of the complaint conducted under the general supervision of the Office of Human Relations Programs, to determine whether there is probable cause to believe that prohibited discrimination has occurred.
  7. Making recommendations to the Office of Human Relations Programs to help facilitate human relations programs on campus.
  8. Assisting units in publicizing the functions of EEEO officers.
  9. Collecting pertinent information regarding hiring, upgrading and promotion opportunities within units and disseminating such information to appropriate personnel.
- D. The EEEO officer shall have the full support of the unit administration, the college administration, and the Office of Human Relations Programs. The EEEO officer shall be afforded reasonable time from other regular duties to perform the functions of the office. These functions shall qualify as part of a workday in the case of a staff member and as partial fulfillment of required committee loads in the case of faculty. The EEEO officer shall be free from interference, coercion, harassment, discrimination, or unreasonable restraints in connection with the performance of the duties specified in this code.

## Article VI Effective Date

This code shall be effective as of October 18, 1976, and shall apply only to those complaints alleging discriminatory acts that occurred on or after that date.

## Appendix B: Campus Policy and Procedures on Sexual Harassment

*Approved by the President  
August 1, 1991*

### I. Policy

The University of Maryland at College Park, is committed to maintaining a work and learning environment in which students, faculty, and staff can develop intellectually, professionally, personally, and socially. Such an environment must be free of intimidation, fear, coercion, and reprisal. The campus prohibits sexual harassment. Sexual harassment may cause others unjustifiable offense, anxiety and injury. Sexual harassment threatens the legitimate expectation of all members of the campus community that academic or employment progress is determined by the publicly stated requirements of job and classroom performance, and that the campus environment will not unreasonably impede work or study.

Sexual harassment by university faculty, staff, and students is prohibited. This constitutes campus policy. Sexual harassment may also constitute violations of the criminal and civil laws of the State of Maryland and the United States. For the purpose of this campus policy, sexual harassment is defined as: (1) unwelcome sexual advances; or (2) unwelcome requests for sexual favors; and (3) other behavior of a sexual nature where:

- A. Submission to such conduct is made either explicitly or implicitly a

term or condition of an individual's employment or participation in a university-sponsored educational program or activity; or

- B. Submission to or rejection of such conduct by an individual is used as the basis for academic or employment decision affecting that individual; or
- C. Such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance, or of creating an intimidating, hostile, or offensive educational or working environment.

In assessing whether a particular act constitutes sexual harassment forbidden under this policy, the standard shall be the perspective of a reasonable person within the College Park campus community. The rules of common sense and reason shall prevail. Allegations of sexual harassment shall be judged with attention to the facts particular to the case and the context in which the alleged incident(s) occurred.

Conduct prohibited under this policy may manifest itself in many different ways. Sexual harassment may, for example, be as undisguised as a direct solicitation of sexual favors, or solicitation accompanied by overt threats. Harassment may also arise from behavior which has the effect of creating an intimidating, hostile, or offensive educational or working environment. Harassment may also be implied, arising from the relative situation of the parties. In this regard, if pervasive or continuous, the following types of acts are more likely than not to result in allegations of sexual harassment: unwelcome physical contact, sexual remarks about a person's clothing, body, or sexual relations, conversation of a sexual nature or similar jokes and stories, and the display of sexually explicit materials in the workplace or used in the classroom which are without defensible educational purpose.

Sexual harassment may occur within a variety of relationships. It may occur among peers. It may occur where no relation exists between the parties other than being co-employees, or co-students. Especially injurious, on the other hand, is harassment in relationships characterized by an inequality of power, where one party has institutional authority over the other. Inherent in these relationships is the power and fear of reprisal. Typically, such relationships are found between employer and employee; senior faculty and junior faculty; graduate teaching assistant and undergraduate; and faculty and student, when the student is enrolled in a faculty member's class or when the student is in a continuing position to require evaluation or work or letters of recommendation from the faculty. Such relationships can be immediate, here and now, or based upon future expectations, e.g., the need for future evaluations and references. Sexual harassment may occur between persons of the same or different genders.

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

### II. Procedures

Individuals who believe themselves subjected to an incident of sexual harassment should be aware that there are many ways to bring it to the attention of the university, and, where proper, obtain redress or protection. There is an informal route. There are also more formal procedures of long-standing which are sufficiently broad to deal with sexual harassment. Preventing sexual harassment is a responsibility of the entire campus community. The campus has made this a priority, but ultimately, no satisfactory investigation or resolution of a complaint can occur without the initiative and continuous cooperation of the person who feels injured. Similarly, allegations of sexual harassment are extremely serious, with potential for great harm to all persons if ill-conceived or without foundation. Procedures which implement campus policy recognize that potential. The campus is committed to protecting the rights of the alleged offender as well as the offended.

#### A. Informal Consideration

An incident of sexual harassment may be reported to any campus or university official or faculty member, including an individual's supervisor, department chair or dean, the Director of Personnel, a departmental or college equity officer, the Director of the Office of Human Relations, and to the President's Legal Office. When an individual receives a report of sexual harassment, he or she will notify the Legal Office prior to taking any action to investigate or resolve the matter informally. The Legal Office will normally manage and coordinate all matters relating to complaints. Complainants will be advised of relevant campus policies and procedures, and the informal and formal means of resolving the matter will be explained. While a written complaint is not required to initiate an informal investigation, the Legal Office must receive a signed complaint from the offended person

before any sanctions or other action can be undertaken against an individual for sexual harassment. If the matter is to be investigated, consideration shall be given to the situation and wishes of the complainant. The investigation of a complaint will include discussing the matter with the person accused of sexual harassment. The findings of the investigation shall be confidentially reported to the president and to the relevant vice president, dean, chairman or supervisor for any necessary action. Sanctions for sexual harassment may range from reprimand to termination, depending upon the circumstances of the case.

#### B. Formal Complaints

Formal grievance procedures for resolving sexual harassment complaints are available based on the classification of the aggrieved person. All faculty members may file with the dean of their academic unit under the Faculty Grievance Procedure contained within the Faculty Handbook of the College Park Campus, University of Maryland. Associate Staff employees may file with the Employee Specialist under the Associate Staff Grievance Procedure contained within the Personnel Policies and Rules for Associate Staff Employees of the University of Maryland. Office of Personnel, Chesapeake Building, 405-5648. Classified employees may file with the Employee Specialist under the Classified Grievance Procedure contained within The Handbook of Classified Employees, Office of Personnel, Chesapeake Building, 405-5648. Students may file under the Code of Student Conduct, Office of Judicial Programs, 2108 Mitchell Building, 314-8204. Faculty, associate staff, classified staff, and students may file under the UNIVERSITY OF MARYLAND AT COLLEGE PARK Human Relations Code with a campus unit equity administrator or the campus Compliance Officer, Office of Human Relations Program, 1107 Hornbake Library, 405-2838.

## Appendix C: Code of Student Conduct and Annotations

*Approved by the Board of Regents  
January 25, 1980  
Amended effective September 3, 1991*

**Note:** Different procedures and penalties are applicable in cases involving allegations of academic dishonesty. Please refer to the [Code of Academic Integrity](#), available from the Office of the Student Honor Council (314-8204).

Footnotes which appear throughout the [Code of Student Conduct](#) refer to the Annotations listed at the end of this appendix.

### Rationale

1. The primary purpose for the imposition of discipline in the university setting is to protect the campus community. Consistent with that purpose, reasonable efforts will also be made to foster the personal and social development of those students who are held accountable for violations of university regulations.<sup>1</sup>

### Definitions

2. When used in this Code:<sup>2</sup>
  - (a) the term "aggravated violation" means a violation which resulted or foreseeably could have resulted in significant damage to persons or property or which otherwise posed a substantial threat to the stability and continuance of normal university or university-sponsored activities.
  - (b) the term "distribution" means sale or exchange for personal profit.
  - (c) the term "group" means a number of persons who are associated with each other and who have not complied with university requirements for registration as an organization.
  - (d) the terms "institution" and "university" mean the University of Maryland at College Park.
  - (e) the term "organization" means a number of persons who have complied with university requirements for registration.
  - (f) the term "reckless conduct" means action which any member of the university community can be expected to know would create a clear risk of harm to persons or property, or would disrupt the lawful activities of others, including studying, teaching, research, and university administration.<sup>3 \*</sup>
  - (g) the term "student" means a person taking or auditing courses at the

institution either on a full- or part-time basis.<sup>4</sup>

- (h) the term "university premises" means buildings or grounds owned, leased, operated, controlled or supervised by the university.
- (i) the term "weapon" means any object or substance designed to inflict a wound, cause injury, or incapacitate, including, but not limited to, all firearms, pellet guns, switchblade knives, knives with blades five or more inches in length, and chemicals such as "Mace" or tear gas.
- (j) the term "university-sponsored activity" means any activity on or off campus which is initiated, aided, authorized or supervised by the university.
- (k) the terms "will" or "shall" are used in the imperative sense.

### Interpretation of Regulations

3. Disciplinary regulations at the university are set forth in writing in order to give students general notice of prohibited conduct. The regulations should be read broadly and are not designed to define misconduct in exhaustive terms.

### Inherent Authority

4. The university reserves the right to take necessary and appropriate action to protect the safety and well-being of the campus community.<sup>5</sup>

### Student Participation

5. Students are asked to assume positions of responsibility in the university judicial system in order that they might contribute their skills and insights to the resolution of disciplinary cases. Final authority in disciplinary matters, however, is vested in the university administration and in the Board of Regents.

### Standards of Due Process

6. Students subject to expulsion, suspension<sup>6</sup> or disciplinary removal from university housing<sup>7</sup> will be accorded a judicial board hearing as specified in Part 29 of this [Code](#). Students subject to less severe sanctions will be entitled to an informal disciplinary conference,<sup>8</sup> as set forth in Parts 31 and 32.
7. The focus of inquiry in disciplinary proceedings shall be the guilt or innocence of those accused of violating disciplinary regulations. Formal rules of evidence shall not be applicable, nor shall deviations from prescribed procedures necessarily invalidate a decision or proceeding, unless significant prejudice to a student respondent or the university may result.<sup>9</sup>

### Violations of Law and Disciplinary Regulations

8. Students may be accountable to both civil authorities and to the university for acts which constitute violations of law and of this [Code](#).<sup>10</sup> Disciplinary action at the university will normally proceed during the pendency of criminal proceedings and will not be subject to challenge on the ground that criminal charges involving the same incident have been dismissed or reduced.

### Prohibited Conduct

9. The following misconduct is subject to disciplinary action:
  - (a) intentionally or recklessly causing physical harm to any person on university premises or at university-sponsored activities, or intentionally or recklessly causing reasonable apprehension of such harm.
  - (b) unauthorized use, possession or storage of any weapon on university premises or at university-sponsored activities.
  - (c) intentionally initiating or causing to be initiated any false report, warning or threat of fire, explosion or other emergency on university premises or at university-sponsored activities.
  - (d) any act or omission committed on- or off-campus that constitutes a serious criminal offense. A serious criminal offense is hereby defined as being an action which Maryland state law identifies as a felony and which indicates that the student constitutes a substantial and continuing danger to the safety or property of the university or members of the campus community.
  - (e) knowingly violating the terms of any disciplinary sanction imposed in accordance with this [Code](#).
  - (f) intentionally or recklessly misusing or damaging fire safety equipment.
  - (g) Unauthorized distribution or possession for purposes of distribution of any controlled substance or illegal drug<sup>11</sup> on university premises or at university-sponsored activities.
  - (h) intentionally furnishing false information to the university.
  - (i) making, possessing, or using any forged, altered, or falsified instru-

ment of identification on university premises, or at university-sponsored activities; making, possessing, or using any forged, altered, or falsified university document, on- or off-campus.

- (j) intentionally and substantially interfering with the freedom of expression of others on university premises or at university-sponsored activities.<sup>12</sup>
- (k) theft of property or of services on university premises or at university-sponsored activities; knowing possession of stolen property on university premises or at university-sponsored activities.
- (l) intentionally or recklessly destroying or damaging the property of others on university premises or at university-sponsored activities.
- (m) engaging in disorderly or disruptive conduct on university premises or at university-sponsored activities which interferes with the activities of others, including studying, teaching, research, and university administration.\*
- (n) failure to comply with the directions of university officials, including campus police officers, acting in performance of their duties.
- (o) violation of published university regulations or policies, as approved and compiled by the Vice President for Student Affairs.<sup>13</sup> Such regulations or policies may include the residence hall contract, as well as those regulations relating to entry and use of university facilities, sale or consumption of alcoholic beverages, use of vehicles\*\* and amplifying equipment, campus demonstrations, and misuse of identification cards.
- (p) use or possession of any controlled substance or illegal drug on university premises or at university-sponsored activities.<sup>14</sup> \*\*\*
- (q) unauthorized use or possession of fireworks on university premises.

\* The response of fire, police, or emergency personnel to a non-frivolous call, or action taken by them on their own initiative pursuant or non-pursuant to policy is not considered a disruption or reckless action within the meaning of this section.

\*\* Parking and traffic violations may be processed in accordance with procedures established by the Vice President for Student Affairs.

\*\*\* This charge is considered an aggravated violation as defined by Part 2 (a) and may result in suspension or expulsion from the university.

## Sanctions

10. Sanctions for violations of disciplinary regulations consist of:
- (a) **EXPULSION:** permanent separation of the student from the university. Notification will appear on the student's transcript. The student will also be barred from the university premises (expulsion requires administrative review and approval by the President and may be altered, deferred or withheld).
  - (b) **SUSPENSION:** separation of the student from the university for a specified period of time. Permanent notification will appear on the student's transcript. The student shall not participate in any university-sponsored activity and may be barred from university premises. Suspended time will not count against any time limits of the Graduate School for completion of a degree. (Suspension requires administrative review and approval by the Vice President for Student Affairs and may be altered, deferred or withheld).
  - (c) **DISCIPLINARY PROBATION:** the student shall not represent the university in any extracurricular activity or run for or hold office in any student group or organization. Additional restrictions or conditions may also be imposed. Notification will be sent to appropriate university offices, including the Office of Campus Activities.
  - (d) **DISCIPLINARY REPRIMAND:** the student is warned that further misconduct may result in more severe disciplinary action.
  - (e) **RESTITUTION:** the student is required to make payment to the university or to other persons, groups, or organizations for damages incurred as a result of a violation of this Code.
  - (f) **OTHER SANCTIONS:** other sanctions may be imposed instead of or in addition to those specified in sections (a) through (e) of this part. For example, students may be subject to dismissal from university housing for disciplinary violations which occur in the residence halls. Likewise, students may be subject to restrictions upon or denial of driving privileges for disciplinary violations involving the use or registration of motor vehicles. Work or research projects may also be assigned.
11. Violations of sections (a) through (g) in Part 9 of this Code may result in expulsion from the university<sup>15</sup>, unless specific and significant mitigating factors are present. Factors to be considered in mitigation shall be the present demeanor and past disciplinary record of the offender, as well as the nature of the offense and the severity of any damage, injury, or harm resulting from it.
12. Violations of sections (h) through (k) in Part nine of this Code may result in suspension from the university, unless specific and significant mitigating factors as specified in Part 11 are present.

- 13. Repeated or aggravated violations of any section of this Code may also result in expulsion or suspension or in the imposition of such lesser penalties as may be appropriate.
- 14. Attempts to commit acts prohibited by this Code shall be punished to the same extent as completed violations.<sup>16</sup>
- 15. Penalties for off-campus misconduct shall not be more severe than for similar on-campus conduct.

## Interim Suspension<sup>(17)</sup>

16. The Vice President for Student Affairs or a designee may suspend a student for an interim period pending disciplinary proceedings or medical evaluation, such interim suspension to become immediately effective without prior notice, whenever there is evidence that the continued presence of the student on the university campus poses a substantial threat to him or herself or to others or to the stability and continuance of normal university functions.
17. A student suspended on an interim basis shall be given an opportunity to appear personally before the Vice President for Student Affairs or a designee within five business days from the effective date of the interim suspension in order to discuss the following issues only:
- (a) the reliability of the information concerning the student's conduct, including the matter of his or her identity;
  - (b) whether the conduct and surrounding circumstances reasonably indicate that the continued presence of the student on the university campus poses a substantial threat to him or herself or to others or the stability and continuance of normal university functions.

## The Judicial Programs Office

18. The Judicial Programs Office directs the efforts of students and staff members in matters involving student discipline. The responsibilities of the office include:
- (a) determination of the disciplinary charges to be filed pursuant to this Code.
  - (b) interviewing and advising parties<sup>18</sup> involved in disciplinary proceedings.
  - (c) supervising, training, and advising all judicial boards.
  - (d) reviewing the decisions of all judicial boards.<sup>19</sup>
  - (e) maintenance of all student disciplinary records.
  - (f) development of procedures for conflict resolution.
  - (g) resolution of cases of student misconduct, as specified in Parts 31 and 32 of this Code.
  - (h) collection and dissemination of research and analysis concerning student conduct.
  - (i) submission of a statistical report each semester to the campus community, reporting the number of cases referred to the office, the number of cases resulting in disciplinary action, and the range of sanctions imposed.<sup>20</sup>

## Judicial Panels

19. Hearings or other proceedings as provided in the Code may be held before the following boards or committees:
- (a) **CONFERENCE BOARDS**, as appointed in accordance with Part 32 of this Code.
  - (b) **RESIDENCE BOARDS**, as established and approved by the Vice President for Student Affairs.<sup>21</sup> Students residing in group living units owned, leased, operated or supervised by the university may petition the Vice President for authority to establish judicial boards. Such boards may be empowered to hear cases involving violations of the Code, as prescribed by the Vice President for Student Affairs.
  - (c) **THE CENTRAL BOARD** hears cases involving disciplinary violations which are not referred to Residence Boards or resolved in accordance with Parts 31 and 32 of this Code. The Central Board is composed of five full-time students, including at least two graduate students.
  - (d) **THE APPELLATE BOARD** hears appeals from Residence Boards, the Central Board, and ad hoc boards, in accordance with Part 41 of this Code. The Appellate Board is composed of five full-time students, including at least two graduate students.
  - (e) **AD HOC BOARDS** may be appointed by the Director of Judicial Programs when a Conference Board, a Residence Board, the Central Board, the Appellate Board or the Senate Adjunct Committee are unable to obtain a quorum or are otherwise unable to hear a case.<sup>22</sup> Each ad hoc board shall be composed of three members, including at least one student.
  - (f) **THE SENATE COMMITTEE ON STUDENT CONDUCT** hears appeals

as specified in Part 40 of this Code. The committee also approves the initial selection of all judicial board members, except members of conference and ad hoc boards.<sup>23</sup>

20. The presiding officer of each judicial board and of the Senate Adjunct Committee on Student Conduct may develop bylaws which are not inconsistent with any provision in this Code. Bylaws must be approved by the Director of Judicial Programs.<sup>24</sup>

### Selection and Removal of Board Members

21. Members of the various judicial boards are selected in accordance with procedures developed by the Director of Judicial Programs.
22. Members of conference and ad hoc boards are selected in accordance with Parts 32 and 19 (e), respectively.
23. Prospective members of the Central Board and the Appellate Board are subject to confirmation by the Senate Committee on Student Conduct.
24. Members of the Senate Committee on Student Conduct are selected in accordance with the bylaws of the university Senate.
25. Prior to participating in board or committee deliberations, new members of the Senate Adjunct Committee on Student Conduct and all judicial boards, except conference and ad hoc boards, will participate in one orientation session by the Judicial Programs Office.
26. Student members of any judicial board or committee who are charged with any violation of this Code or with a criminal offense<sup>25</sup> may be suspended from their judicial positions by the Director of Judicial Programs during the pendency of the charges against them. Students convicted for any such violation or offense may be disqualified from any further participation in the university judicial system by the Director of Judicial Programs. Additional grounds and procedures for removal may also be set forth in the bylaws of the various judicial panels.

### Case Referrals

27. Any person<sup>26</sup> may refer a student or a student group or organization suspected of violating this Code to the Judicial Programs Office. Persons making such referrals are required to provide information pertinent to the case and will normally be expected to appear before a judicial board as the complainant.<sup>27</sup>

### Deferral of Proceedings

28. The Director of Judicial Programs may defer disciplinary proceedings for alleged violations of this Code for a period not to exceed 90 days. Pending charges may be withdrawn thereafter, dependent upon the good behavior of the respondent

### Hearing Referrals

29. Staff members in the Judicial Programs Office will review referrals to determine whether the alleged misconduct might result in expulsion, suspension, or disciplinary removal from university housing.<sup>28</sup> Students subject to those sanctions shall be accorded a hearing before the appropriate judicial board. All other cases shall be resolved in the Judicial Programs Office after an informal disciplinary conference, as set forth in Part 31 and 32 of this Code.
30. Students referred to a judicial board hearing may elect instead to have their case resolved in accordance with Parts 31 and 32. The full range of sanctions authorized by this Code may be imposed, although the right of appeal shall not be applicable.

### Disciplinary Conferences<sup>(29)</sup>

31. Students subject to or electing to participate in a disciplinary conference in the Judicial Programs Office are accorded the following procedural protections:
- written notice of charges at least three days prior to the scheduled conference.
  - reasonable access to the case file<sup>30</sup> prior to and during the conference.
  - an opportunity to respond to the evidence against them and to call appropriate witnesses on their behalf.
  - the option to be accompanied and assisted by a representative, who may be an attorney. Representatives have the right to make opening and closing statements, to advise their clients during the course of the proceedings, and to petition for recesses. All representatives are subject to the restrictions of Parts 34 and 35 of this Code.
32. Disciplinary conferences shall be conducted by the Director of Judicial Programs or a designee.<sup>31</sup> Complex or contested cases may be

referred by the Director to a conference board, consisting of one member of the Central Board, one member of the Appellate Board, and a staff member in the Division of Student Affairs. Conference Board members shall be selected on a rotating basis by the Director of Judicial Programs.

### Hearing Procedures

33. The following procedural guidelines shall be applicable in disciplinary hearings:
- respondents shall be given notice of the hearing date and the specific charges against them at least five days in advance and shall be accorded reasonable access to the case file, which will be retained in the Judicial Programs Office.
  - the presiding officer of any board may subpoena witnesses upon the motion of any board member or of either party and shall subpoena witnesses upon request of the board advisor.<sup>32</sup> Subpoenas must be approved by the Director of Judicial Programs and shall be personally delivered or sent by certified mail, return receipt requested. University students and employees are expected to comply with subpoenas issued pursuant to this procedure, unless compliance would result in significant and unavoidable personal hardship or substantial interference with normal university activities.<sup>32</sup>

If the Director of Judicial Programs or his or her designee determines that a fair hearing cannot be held without the testimony of a particular witness, and, after good faith attempts are made, the witness either fails to or refuses to appear, the disciplinary hearing will be postponed until the witness agrees to appear or the charges will be dismissed.
  - respondents who fail to appear after proper notice will be deemed to have pleaded guilty to the charges pending against them.
  - hearings will be closed to the public, except for the immediate members of the respondent's family and for the respondent's representative. An open hearing may be held, at the discretion of the presiding officer, if requested by the respondent.
  - the presiding officer of each board shall exercise control over the proceedings to avoid needless consumption of time and to achieve the orderly completion of the hearing. Except as provided in section (o) of this Part, any person, including the respondent, who disrupts a hearing may be excluded by the presiding officer or by the board advisor.
  - hearings may be tape recorded or transcribed. If a recording or transcription is not made, the decision of the board must include a summary of the testimony and shall be sufficiently detailed to permit review by appellate bodies and by staff members in the Judicial Programs Office.
  - any party or the board advisor may challenge a board member on the grounds of personal bias. Board members may be disqualified upon majority vote of the remaining members of the board, conducted by secret ballot,<sup>33</sup> or by the Director of Judicial Programs.
  - witnesses shall be asked to affirm that their testimony is truthful and may be subject to charges of perjury, pursuant to Part 9 (h) of this Code.
  - prospective witnesses, other than the complainant and the respondent, may be excluded from the hearing during the testimony of other witnesses. All parties, the witnesses, and the public shall be excluded during board deliberations.
  - the burden of proof shall be upon the complainant, who must establish the guilt of the respondent by clear and convincing evidence.
  - formal rules of evidence shall not be applicable in disciplinary proceedings conducted pursuant to this Code.<sup>34</sup> The presiding officer of each board shall give effect to the rules of confidentiality and privilege, but shall otherwise admit all matters into evidence which reasonable persons would accept as having probative value in the conduct of their affairs. Unduly repetitious or irrelevant evidence may be excluded.<sup>35</sup>
  - respondents shall be accorded an opportunity to question those witnesses who testify for the complainant at the hearing.
  - affidavits shall not be admitted into evidence unless signed by the affiant and witnessed by a university employee, or by a person designated by the Director of Judicial Programs.
  - board members may take judicial notice of matters which would be within the general experience of university students.<sup>36</sup>
  - board advisors may comment on questions of procedure and

admissibility of evidence and will otherwise assist in the conduct of the hearing. Advisors will be accorded all the privileges of board members, and the additional responsibilities set forth in this Code, but shall not vote. All advisors are responsible to the Director of Judicial Programs and shall not be excluded from hearings or board deliberations by any board or by the presiding officer of any board.

- (p) the Director of Judicial Programs may appoint a special presiding officer to any board in complex cases or in any case in which the respondent is represented by an attorney. Special presiding officers may participate in board deliberations, but shall not vote.<sup>37</sup>
- (q) a determination of guilt shall be followed by a supplemental proceeding in which either party and the board advisor may submit evidence or make statements concerning the appropriate sanction to be imposed. The past disciplinary record<sup>38</sup> of the respondent shall not be supplied to the board by the advisor prior to the supplementary proceeding.
- (r) final decisions of all judicial panels shall be by majority vote of the members present and voting. A tie vote will result in a recommended acquittal in an original proceeding. A tie vote in an appellate proceeding will result in an affirmation of the original decision.
- (s) final decisions of all boards, except conference boards, shall be accompanied by a brief written opinion.

### Attorneys and Representatives

34. Representatives of both complainants and respondents in hearings pursuant to this Code have the right to call witnesses to testify, to question in person all witnesses who appear at the hearing, to voice timely objections, to make opening and closing statements, to petition for recesses in the proceedings and to zealously and lawfully assert their client's position under the Declaration of Student Rights and the Code of Student Conduct.<sup>39</sup>

All presenters and representatives who participate in disciplinary hearings and disciplinary conferences shall not:

- (a) intentionally engage in conduct to disrupt a hearing;
  - (b) intentionally attempt to improperly influence an officer of the Judicial Programs Office, a hearing advisor or member of a judicial board;
  - (c) intentionally fail to obey a reasonably definite and specific order by a presiding officer;
  - (d) knowingly make a false statement of material fact, law or representation of the Code to other participants in a hearing;
  - (e) knowingly fail to disclose a material fact in a hearing when disclosure is necessary to avoid assisting a future criminal or fraudulent act;
  - (f) knowingly offer false evidence, falsify evidence, counsel or induce witnesses to testify falsely, or offer improper inducements to testify;
  - (g) recklessly and unlawfully obstruct another party's access to evidence, or alter, destroy or conceal material not protected by privilege having potential evidentiary value;
  - (h) if the representative is an attorney, otherwise fail to follow any obligations under relevant standards of professional responsibility in matters pertaining to the representation.
- 35.(a) Any participant in a hearing may refer complaints about suspected violations of the provisions of Part 34 of this Code to the Senate Adjunct Committee on Student Conduct.
- (b) Within a reasonable time after such referral, the chairperson of the Senate Adjunct Committee on Student Conduct will review the complaint. After review the chairperson shall dismiss complaints which are anonymous, manifestly frivolous, which cannot be reasonably construed to allege a violation of Part 34, or are based on hearsay alone. Those which are not dismissed will be referred to the full Committee which will convene a hearing no sooner than 10 business days after sending a copy of the evidence presented to the representative named in the complaint. The hearing shall be held under the relevant rules and procedures governing disciplinary hearings outlined in Parts 33-35 of this Code.
  - (c) A client shall not be compelled either directly or through their representative to waive the attorney-client privilege.
  - (d) Representatives found responsible for violations of the provisions of Part 34 may be suspended from the privilege of representation for such time as the Committee may deem appropriate. In addi-

tion, the Committee may refer their findings to the Attorney

Grievance Commission, or other appropriate disciplinary body.

(e) Appeals from decisions of the Senate Committee on Student

Conduct regarding violations under Part 34 may be made by par-

ties found responsible. Appeals should be made in writing to the

Senate Campus Affairs Committee within 10 business days of

receipt of the letter notifying the party of the decision. Appeals will

be conducted in accordance with the standards for the hearing of

student disciplinary appeals. Decisions of the Campus Affairs

Committee regarding these appeals shall be final.

## Student Groups and Organizations

36. Student groups and organizations may be charged with violations of this Code.
37. A student group or organization and its officers may be held collectively<sup>40</sup> or individually responsible when violations of this Code by those associated with<sup>41</sup> the group or organization have received the tacit or overt consent or encouragement of the group or organization or of the group's or organization's leaders, officers, or spokespersons.
38. The officers or leaders or any identifiable spokespersons<sup>42</sup> for a student group or organization may be directed by the Vice President for Student Affairs or a designee to take appropriate action designed to prevent or end violations of this Code by the group or organization or by any persons associated with the group or organization who can reasonably be said to be acting in the group's or organization's behalf. Failure to make reasonable efforts to comply with the Vice President's directive shall be considered a violation of Part 9(n) of this Code, both by the officers, leaders or spokespersons for the group or organization and by the group or organization itself.
39. Sanctions for group or organization misconduct may include revocation or denial of recognition or registration, as well as other appropriate sanctions, pursuant to Part 10(f) of this Code.

## Appeals

40. Any determination made<sup>43</sup> pursuant to this Code resulting in expulsion or suspension may be appealed by the respondent to the Senate Committee on Student Conduct. The Senate Committee shall also hear appeals from denials of petitions to void disciplinary records, pursuant to Part 50 of this Code.
41. Final decisions of residence boards, the Central Board and ad hoc boards, not involving the sanctions specified in Part 40, may be appealed by the respondent to the Appellate Board.<sup>44</sup>
42. Requests for appeals must be submitted in writing to the Judicial Programs Office within seven business days from the date of the letter notifying the respondent of the original decision. Failure to appeal within the allotted time will render the original decision final and conclusive.<sup>45</sup>
43. A written brief in support of the appeal must be submitted to the Judicial Programs Office within 10 business days from the date of the letter notifying the respondent of the original decision. Failure to submit a written brief within the allotted time will render the decision of the lower board final and conclusive.<sup>46</sup>
44. Appeals shall be decided upon the record of the original proceeding and upon written briefs submitted by the parties. De novo hearings shall not be conducted.
45. Appellate bodies may:
  - (a) affirm the finding and the sanction imposed by the original board.
  - (b) affirm the finding and reduce, but not eliminate, the sanction, in accordance with Parts 46 and 46(a).
  - (c) remand the case to the original board, in accordance with Parts 46 and 46(b).
  - (d) dismiss the case, in accordance with Parts 46 and 46(c).
46. Deference shall be given to the determinations of lower boards.<sup>47</sup>
  - (a) sanctions may only be reduced if found to be grossly disproportionate to the offense.
  - (b) cases may be remanded to the original board if specified procedural errors or errors in interpretation of university regulations were so substantial as to effectively deny the respondent a fair hearing, or if new and significant evidence became available which could not have been discovered by a properly diligent respondent before or during the original hearing.<sup>48</sup> On remand, no indication or record of the previous judicial hearing will be introduced or provided to members of the new judicial panel, except to impeach contradictory testimony at the discretion of the presiding officer. The board will be directed by the committee not to repeat the specified errors that caused the remand.
  - (c) cases may be dismissed only if the finding is held to be arbitrary and capricious.<sup>49</sup>
  - (d) decisions of the Appellate Board shall be recommendations to the Director of Judicial Programs.<sup>50</sup> Decisions of the Senate Committee on Student Conduct shall be recommendations to the Vice President for Student Affairs. Decisions altering the determinations of all hearing boards and the Senate Adjunct Committee on Student Conduct shall be accompanied by a brief written opin-

ion.

47. The imposition of sanctions will normally be deferred during the pendency of appellate proceedings, at the discretion of the Director of Judicial Programs.

## Disciplinary Files and Records

48. Case referrals may result in the development of a disciplinary file in the name of the respondent, which shall be voided if the respondent is found innocent of the charges.<sup>51</sup> The files of respondents found guilty of any of the charges against them will be retained as a disciplinary record for three years from the date of the letter providing notice of final disciplinary action.<sup>52</sup> Disciplinary records may be retained for longer periods of time or permanently, if so specified in the sanction.
49. Disciplinary records may be voided<sup>53</sup> by the Director of Judicial Programs for good cause, upon written petition of respondents. Factors to be considered in review of such petitions shall include:
  - (a) the present demeanor of the respondent.
  - (b) the conduct of the respondent subsequent to the violation.
  - (c) the nature of the violation and the severity of any damage, injury, or harm resulting from it.
50. Denials of petitions to void disciplinary records shall be appealable to the Senate Committee on Student Conduct, which will apply the standard of review specified in Part 46 and 46(c). The requirements for appeals as set forth in Part 42 and 43 shall be applicable.<sup>54</sup>
51. Disciplinary records retained for less than 90 days or designated as "permanent" shall not be voided without unusual and compelling justification.<sup>55</sup>

## Annotations

1. The university is not designed or equipped to rehabilitate or incapacitate persons who pose a substantial threat to themselves or to others. It may be necessary, therefore, to remove those individuals from the campus and to sever the institutional relationship with them, as provided in this Code of Student Conduct and by other university regulations.

Any punishment imposed in accordance with the Code may have the value of discouraging the offender and others from engaging in future misbehavior. In cases of minor disciplinary violations, the particular form of punishment may also be designed to draw upon the educational resources of the university in order to bring about a lasting and reasoned change in behavior. The underlying rationale for punishment need not rest on deterrence or "reform" alone, however. A just punishment may also be imposed because it is "deserved" and because punishment for willful offenses affirms the autonomy and integrity of the offender. The latter concept was expressed by D.J.B. Hawkins in his essay "Punishment and Moral Responsibility" in 7 Modern Law Review 205:

The vice of regarding punishment entirely from the points of view of reformation and deterrence lies precisely in forgetting that a just punishment is deserved. The punishment of men then ceases to be essentially different from the training of animals, and the way is open for the totalitarian state to undertake the forcible improvement of its citizens without regard to whether their conduct has made them morally liable to social coercion or not. But merit and demerit, reward and punishment, have a different significance as applied to men and as applied to animals. A dog may be called a good dog or a bad dog, but his goodness or badness can be finally explained in terms of heredity and environment. A man, however, is a person, and we instinctively recognize that he has a certain ultimate personal responsibility for at least some of his actions. Hence merit and demerit, reward and punishment, have an irreducible individual significance as applied to men. This is the dignity and the tragedy of the human person.

A similar view was expressed by Justice Powell, dissenting in *Goss v. Lopez* (42 L. Ed. 2d 725, 745):

Education in any meaningful sense includes the inculcation of an understanding in each pupil of the necessity of rules and obedience thereto. This understanding is no less important than learning to read and write. One who does not comprehend the meaning and necessity of discipline is handicapped not merely in his education but throughout his subsequent life. In an age when the home and church play a diminishing role in shaping the character and value judgments of the young, a heavier responsibility falls upon the schools. When an immature student merits censure for his conduct, he is rendered a disservice if appropriate sanctions are not applied.

2. An effort is made in the Code to use a simplified numbering and let-

- tering system, without use of Roman numerals or subsets of letters and numbers. Any part of the Code can be found by reference to one number and one letter (e.g., Part 10a explains the meaning of expulsion).
3. Culpable conduct should include conscious acts posing a substantial risk or harm to others (e.g. throwing a heavy object out a tenth floor window above a sidewalk). If the act itself, however, is unintended (e.g. one is distracted by a noise while climbing a flight of stairs and drops a heavy object) the individual may have failed to use reasonable care, but is not normally deserving of the moral stigma associated with a "conviction" for a disciplinary offense.
  4. Former students may be charged for violations which allegedly occurred during their enrollment at the university.
  5. Colleges and universities are not expected to develop disciplinary regulations which are written with the scope of precision of a criminal code. Rare occasions may arise when conduct is so inherently and patently dangerous to the individual or to others that extraordinary action not specifically authorized in the rules must be taken.
  6. The terms "suspension" and "interim suspension" are to be distinguished throughout the Code and are not interchangeable.
  7. Disciplinary removal from university housing should be distinguished from administrative removal for violations of the residence contract. The latter does not leave students with a disciplinary record and does not come under the purview of this Code.
  8. The standard set forth here represents the minimal procedural protection to be accorded to students charged with most disciplinary violations. Students who are subject to lengthy suspensions or to expulsion may be entitled to more formal procedures, including a hearing with a right to cross-examine the witnesses against them. *Goss v. Lopez*, 419 U.S. 565 (1975).
  9. The Supreme Court has recently rejected the theory that state schools are bound by principles of federal administrative law requiring agencies to follow their own regulations. *Board of Curators, university of Missouri v. Horowitz* 55 L.Ed 2d 124, 136. See, generally, "Violation by Agencies of Their Own Regulations" 87 *Harvard Law Review* 629 (1974).
  10. Respondents in disciplinary proceedings may be directed to answer questions concerning their conduct.
 

Students who refuse to answer on grounds of the Fifth Amendment privilege may be informed that the hearing panel could draw negative inferences from their refusal which might result in their suspension or dismissal. If the student then elects to answer, his/her statements could not be used against him/her in either state or federal court. *Garrity v. New Jersey*, 385 U.S 493 (1967). See also *Furutani v. Ewigleben*, 297 F. Supp. 1163 (N.D.Cal. 1969).
  11. The "controlled substances" or "illegal drugs" prohibited in this section are set forth in Schedules I through V in Article 27, Part 279 of the Annotated Code of Maryland.
  12. Colleges and universities should be a forum for the free expression of ideas. In the recent past, however, unpopular speakers have been prevented from addressing campus audiences by students who effectively "shouted them down." Both Yale and Stanford Universities have treated such actions (which are to be distinguished from minor and occasional heckling) as serious disciplinary violations. See the "Report from the Committee on Freedom of Expression at Yale university" which is available in the Judicial Programs Office.
 

The following language from the Yale report may be used to elaborate upon the intent and scope of Part 9(j) of this Code.

    - A. "There is no right to protest within a university building in such a way that any university activity is disrupted. The administration, however, may wish to permit some symbolic dissent within a building but outside the meeting room, for example, a single picket or a distributor of handbills."
    - B. "[A] member of the audience may protest in silent, symbolic fashion, for example, by wearing a black arm band. More active forms of protest may be tolerated such as briefly booing, clapping hands or heckling. But any disruptive activity must stop [and not be repeated] when the chair or an appropriate university official requests silence.
    - C. "Nor are racial insults or any other 'fighting words' a valid ground for disruption or physical attack . . . . The banning or obstruction of lawful speech can never be justified on such grounds as that the speech or the speaker is deemed irresponsible, offensive, unscholarly, or untrue."
  13. A compilation of published regulations which have been reviewed and approved by the Vice President shall be available for public inspection during normal business hours in the Judicial Programs Office.
  14. The "controlled substances" or "illegal drugs" prohibited in this section are set forth in Schedules I through V in Article 27, Part 279 of the Annotated Code of Maryland.
  15. This Part and Parts 12 and 13 represent an attempt to give needed guidance to those who are assessing penalties. Moreover the direction of the guidance is toward imposition of more severe disciplinary sanctions in serious cases. Nonetheless, the language concerning "mitigating factors" is broad enough to give decision-makers considerable leeway to "do justice," depending upon the facts in each case. The burden of establishing facts in mitigation should, of course, be upon the respondent.
  16. There does not seem to be any rational basis for imposing less severe penalties for attempts than for completed violations. The authors of the Model Penal Code, for example, have written that:
 

To the extent that sentencing depends upon the antisocial disposition of the actor and the demonstrated need for a corrective action, there is likely to be little difference in the gravity of the required measures depending on the consummation or the failure of the plan.

See LaFave, Criminal Law Treatise p. 453.
  17. These procedures are analogous to those found in the "emergency" disciplinary rules adopted by the Board of Regents in 1971 and are consistent with the formal opinion of the Maryland Attorney General on this subject, dated January 23, 1969. See also *Goss v. Lopez*, 419 U.S. 565 (1975).
 

Nothing in this provision would prohibit the Vice President from modifying the terms of an interim suspension, so long as the hearing requirement specified in Part 17 was met. For example, a suspended student might be allowed to enter university premises solely for the purpose of attending classes.
  18. Staff members in the Judicial Programs Office should endeavor to arrange a balanced presentation before the various judicial boards and may assist both complainants and respondents.
  19. This language does not effect any change in previous policy concerning the powers of judicial boards. All board decisions, including those rendered by Conference Boards, shall be treated as recommendations.
  20. See annotation one, *supra*. The deterrent effect of punishment is diminished if the community is unaware of the number and general nature of sanctions imposed. The Director of Judicial Programs may, for example, arrange for publication of the statistical report in the campus press each semester.
  21. Boards established pursuant to this section might include modified versions of the present "Greek" or residence hall boards.
  22. It is intended that a quorum will consist of three members (out of five). The authority to appoint ad hoc boards should be broadly construed and might be especially useful, for example, when a judicial board or the Senate Committee is charged with hearing a case involving one of its own members. The final determination as to whether a panel is "unable to hear a case" should be within the discretion of the Director of Judicial Programs.
  23. The power of confirmation represents a significant grant of authority to the Senate Committee. The committee is presently under-utilized and might best contribute to the judicial system by becoming more involved with it. Moreover, confirmation procedures will give committee members direct contact with board members and will also allow the committee to exercise more control over the quality of Judicial Board decisions.
  24. Proposed bylaws must be submitted to the Attorney General for review.
  25. It could be a public embarrassment for the university to have a student charged with or convicted of a serious crime sit in judgment over other students in disciplinary proceedings. The various state criminal codes are usually so broad and archaic, however, that automatic suspension or removal should not result from any violation of any law (e.g., New York makes it a criminal misdemeanor for anyone "to dance continuously in a dance contest for 12 or more hours without respite").
  26. Case referrals should not be limited to members of the "campus community." A student who assaults another person on campus should not escape university judicial action merely because the person assaulted was a visitor (or, as in a recent case, a former student who had just withdrawn from the university).
  27. The Director of Judicial Programs may appoint a trained volunteer from the campus community to serve as the complainant. It would be

preferable, however, to employ a "community advocate" to present all disciplinary cases.

Several measures in the Code are designed to restore balance in disciplinary proceedings, even in those cases in which the complainant is inexperienced with administrative adjudication:

- (a) a hearing officer may be appointed in complex or serious cases. See Part 33(p).
- (b) the role of attorneys or advisors may be restricted. See Parts 34 and 35, and Annotation 39.
- (c) the "disciplinary conference" procedure is designed to eliminate adversary proceedings in minor cases. See Parts 31-32 and Annotation 29.

28. Staff members may consider the mitigating factors specified in Part 11 to determine the permissible sanction to be imposed if the respondent is found guilty of charges. For example, a student involved in a minor altercation might be charged pursuant to Part 9(a), but referred to a disciplinary conference, thereby precluding the possibility of expulsion or suspension for the alleged misconduct.

29. The hearing procedures specified at Part 33 need not be followed in disciplinary conferences. Instead a disciplinary conference would normally consist of an informal, nonadversarial meeting between the respondent and a staff member in the Judicial Programs Office. Complainants would not be required to participate, unless their personal testimony was essential to the resolution of a dispositive factual issue in the case. Documentary evidence and written statements could be relied upon, so long as respondents are given access to them in advance and allowed to respond to them at the conference. Respondents would also be allowed to bring appropriate witnesses with them and might be accompanied by a representative, who may participate in discussions, although not in lieu of participation by the respondent.

The conference procedure is designed to reduce the steady growth of unnecessary legalism in disciplinary proceedings. The worst features of the adversary system (including the concept that judicial proceedings are a "contest" to be "won by clever manipulation of procedural rules) undermine respect for the rule of law. Colleges and universities can and should be a testing ground for development of carefully reasoned alternatives to current procedural excesses in the larger society.\*

Procedures comparable to the disciplinary conference (referred to as "structured conversations") are suggested by David L. Kirp in his 1976 article "Proceduralism and Bureaucracy: Due Process in the School Setting" 38 *Stanford Law Review* 841.

The benefits of such conversations in the school setting may better be appreciated by contrasting them with the typical due process hearing. Hearings are designed to determine the facts of a particular controversy, and apply predetermined rules to the facts thus found. At that point, the function of the hearing is at an end. The wisdom of the underlying substantive rules has no relevance, nor is broader discussion of grievances generally encouraged, unless it is somehow pertinent to the dispute at hand.

Conversation knows no such limits. It too serves as a vehicle for resolving what are likely to be factually uncomplicated disputes, but it does more than that. It enables students to feel that they are being listened to and may encourage them to raise underlying grievances. It provides administrators with a relatively inexpensive vehicle for monitoring, and hence a basis for reshaping institutional relationships. The outcome of these 'orderly thoughtful conversations' may well be decisions different in their particulars from what might otherwise have been anticipated; repeated conversations which touch upon similar student grievances may ultimately lead disciplinarians to reassess whether control is so vital, and collaboration so improbable, as a means of assuring institutional order.

The conference procedure would not be used in any case which might result in any form of separation from the university. Accordingly, the procedure appears to meet or exceed the due process requirements set forth by the United States Supreme Court for cases involving suspensions of ten days or less. In *Goss v. Lopez* the Court held:

We stop short of construing the Due Process Clause to require, countrywide, that hearings in connection with short suspensions must afford the student the opportunity to secure counsel, to confront and cross-examine witnesses supporting the charge, or to call his own witnesses to verify his version of the incident. Brief disciplinary suspensions are almost countless. To impose in each such case even truncated trial-type procedures might well overwhelm administrative facilities in many places and, by diverting resources, cost more than it would save in educational effectiveness. Moreover, further formalizing the suspension process and escalating its formality and adversary nature may not only make it too

costly as a regular disciplinary tool but also destroy its effectiveness as part of the teaching process.

On the other hand, requiring effective notice and an informal hearing permitting the student to give his version of the events will provide a meaningful hedge against erroneous action. At least the disciplinarian will be alerted to the existence of disputes about facts and arguments about cause and effect. He may then determine himself to summon the accuser, permit cross-examination, and allow the student to present his own witnesses. In more difficult cases, he may permit counsel. In any event, his discretion will be more informed and we think the risk of error substantially reduced (42 L. Ed. 725, 740).

30. The case file consists of materials which would be considered "education records," pursuant to the Family Educational Rights and Privacy Act. Personal notes of university staff members or complainants are not included.

31. Determinations made in accordance with Parts 31 and 32 are not appealable.

32. Internal subpoenas may be desirable, since cases have arisen in which complainants or respondents were unable to present an effective case due to the indifference and lethargy of potential witnesses. A student who refused to respond to a subpoena may be charged with a violation of Part 9(n) of the Code.

The Director of Judicial Programs should not approve a subpoena unless the expected testimony would be clearly relevant. Likewise, a subpoena designed to embarrass or harass a potential witness should not be authorized.

The subpoena power specified here is not designed to reach documents or other materials.

33. Board members should be disqualified on a case basis only; permanent removal should be accomplished in accordance with Part 26. Board members should not be readily disqualified. The term "personal bias" involves animosity toward a party or favoritism toward the opposite party. See, generally, Davis, *Administrative Law Treatise* "Bias" Section 12.03.

34. The exclusionary rule generally does not apply to civil administrative proceedings. Furthermore, the University of Maryland is exempted by statute from the applicable portions of the Administrative Procedure Act. The Maryland Court of Appeals, however, has barred evidence from administrative proceedings where a respondent establishes that officials were improperly motivated to illegally seize the evidence. See *Sheetz v. City of Baltimore*, 315 Md. 208 (1989).

35. Testimony containing hearsay may be heard, if relevant. A final determination should not be based on hearsay alone.

36. Every statement or assertion need not be proven. For example, board members may take notice that many students commute to the university.

37. Student presiding officers are often at a disadvantage when the respondent is represented by an attorney. The proceedings might progress more rapidly and efficiently if a special presiding officer were appointed. Generally, a staff member in the Judicial Programs Office would be selected for such a responsibility, although other university employees with legal training might also be called upon.

38. Information pertaining to prior findings of disciplinary and residence hall violations might be reported, as well as relevant criminal convictions. Prior allegations of misconduct should not be disclosed.

39. The dynamics of a judicial hearing in a university setting are not the same as those of a courtroom. Strict adherence to the conventions of courtroom advocacy may not be in the best interest of clients in university judicial proceedings.

The presiding officer and the board advisor are authorized to take reasonable measures to maintain control over the proceedings in order to elicit relevant facts, to prevent the harassment of participants, to insure that proceedings are not disrupted and the interests of fairness are served. This may include regulating the timing, length and manner of presentations and objections, declaring recesses in the proceedings, and other appropriate actions. Presiding officers should have training and experience appropriate to the demands of the office.

Before hearings, presenters for both complainants and respondents shall be presented with a written statement approved by the Senate Adjunct Committee on Student Conduct regarding their rights and obligations during hearings and the powers of the presiding officer to control behavior in hearings.

40. Punishment of one or several individuals for the acts of others should be avoided if the identities of the specific offenders can be readily ascertained.<sup>41</sup> Association does not require formal membership.

Individuals who might reasonably be regarded as regular participants in group or organization activities may be held to be associated with the group or organization.

42. Leaders or spokespersons need not be officially designated or elected. For example, if a group or organization accepted or acquiesced in the act or statement of an individual associated with it, that individual might reasonably be regarded as a leader or a spokesman for the group or organization.
43. "Suspension" includes deferred suspension but not interim suspension or suspension which is withheld. See Annotation 6.
44. Students left with a disciplinary record after a disciplinary conference may request that their record be voided, in accordance with Part 49. Denials may be appealed, pursuant to Part 50.
45. The decision will be "final and conclusive" on the part of the judicial board, but will remain a recommendation to the Director of Judicial Programs.
46. This Part is intended to discourage frivolous appeals. Respondents who are genuinely interested in pursuing an appeal can reasonably be expected to prepare a written brief.
47. Appellate bodies which do not give deference (i.e., a presumption of validity) to lower board decisions will distort the entire disciplinary system. Respondents would be encouraged to "test their strategy" and "perfect their technique" before lower boards, since the matter would simply be heard again before a "real" board with final authority.  
Lower board members usually have the best access to the evidence, including an opportunity to observe the witnesses and to judge their demeanor. Members of appellate bodies should be especially careful not to modify a sanction or to remand or dismiss a case simply because they may personally disagree with the lower board's decision.
48. Respondents who obtain information at the hearing which might lead to new evidence are required to request an adjournment rather than wait to raise the matter for the first time on appeal.
49. An arbitrary and capricious decision would be a decision "unsupported by any evidence." The cited language has been adopted by the Federal Courts as the proper standard of judicial review, under the due process clause, of disciplinary determinations made by the state boards or agencies. See *McDonald v. Board of Trustees of the University of Illinois*, 375 F. Supp. 95, 108 (N.D. Ill., 1974).
50. See Annotation 19.
51. Voided files will be so marked, shall not be kept with active disciplinary records, and shall not leave any student with disciplinary record.
52. Disciplinary records may be reported to third parties, in accordance with university regulations and applicable state and federal law.
53. Void records shall be treated in the manner set forth in Annotation 51.
54. The scope of review shall be limited to the factors specified at Part 49. An inquiry into the initial determination of guilt or innocence is not permitted. For example, when considering the "nature" of the violation, pursuant to Part 49 (c), it is to be assumed that the violation occurred and that the respondent was responsible for it.
55. Some discretion must be retained to void even "permanent" disciplinary records. It may be unnecessary, for example, to burden a graduating senior with a lifelong stigma for an act committed as a freshman. Social norms also change rapidly. "Unacceptable" conduct in one generation may become permissible and commonplace in the next.

\* See the procedures for mandatory medical withdrawal developed by the Vice President for Student Affairs

\*\* See Macklin Fleming, *The Price of Perfect Justice: "in our pursuit of . . . perfectibility, we necessarily neglect other elements of an effective procedure, notably the resolution of controversies within a reasonable time at a reasonable cost, with reasonable uniformity . . . we impair the capacity of the legal order to achieve the basic values for which it is created, that is, to settle disputes promptly and peaceably, to restrain the strong, to protect the weak, and to conform the conduct of all the settled rules of law."*

\*\*\* See the due process standard set forth in *Dixon v. Alabama*, 294 F.2d 150, 158-159 (Fifth Cir., 1961), Cert. den 368 U.S. 930.

## Appendix D: University Policy on Disclosure of Student Records

### Buckley Amendment

The University of Maryland adheres to a policy of compliance with the Family Educational Rights and Privacy Act (Buckley Amendment). As such, it is the policy of the university (1) to permit students to inspect their education records, (2) to limit disclosure to others of personally identifiable information from education records without students' prior written consent, and (3) to provide students the opportunity to seek correction of their education records where appropriate.

#### I. Definitions

- A. "Student" means an individual who is or who has been in attendance at The University of Maryland. It does not include any applicant for admission to the university who does not matriculate, even if he or she previously attended the university. (Please note, however, that such an applicant would be considered a "student" with respect to his or her records relating to that previous attendance.)
- B. "Education records" include those records that contain information directly related to a student and that are maintained as official working files by the university. The following are not education records:
  - (1) records about students made by instructors, professors and administrators for their own use and not shown to others;
  - (2) campus police records maintained solely for law enforcement purposes and kept separate from the education records described above;
  - (3) employment records, except where a currently enrolled student is employed as a result of his or her status as a student;
  - (4) records of a physician, psychologist, or other recognized professional or paraprofessional made or used only for treatment purposes and available only to persons providing treatment.
  - (5) records that contain only information relating to a person's activities after that person is no longer a student at the university.

#### II. It is the policy of the University of Maryland to permit students to inspect their education records.

##### A. Right of Access

Each student has a right of access to his or her education records, except confidential letters of recommendation received prior to January 1, 1975, and financial records of the student's parents.

##### B. Waiver

A student may, by a signed writing, waive his or her right of access to confidential recommendations in three areas: admission to any educational institution, job placement, and receipt of honors and awards. The university will not require such waivers as a condition for admission or receipt of any service or benefit. If the student chooses to waive his or her right of access, he or she will be notified, upon written request, of the names of all persons making confidential recommendations. Such recommendations will be used only for the purpose for which they were specifically intended. A waiver may be revoked in writing at any time, and the revocation will apply to all subsequent recommendations, but not to recommendations received while the waiver was in effect.

##### C. Types and Locations of Education Records, Titles of Records Custodians

Please note that all requests for access to records should be routed through the Registrations Office (see II.D. below).

###### (1) Admissions

Applications and transcripts from institutions previously attended:

- a: Undergraduate/Director of Undergraduate Admissions, Mitchell Building
- b: Graduate/Director of Graduate Admissions, Lee Building

###### (2) Registrations

All ongoing academic and biographical records. Graduate and Undergraduate|Director of Registrations, Mitchell Building.

###### (3) Departments

Departmental offices; Chairs (Check first with the Director of Registrations). (Miscellaneous records kept vary with the department.)

###### (4) Deans

Deans' offices of each school. Miscellaneous records.

(5) Resident Life

Mitchell Building, Director of Resident Life. Students' housing records.

(6) **Advisors**

Pre-Law Advisor: Hornbake Library

Pre-Dental Advisor: Hornbake Library

Pre-Medical Advisor: Hornbake Library

Letters of evaluation, personal information sheet, transcript, test scores (if student permits).

(7) **Judicial Affairs**

Mitchell Building, Director of Judicial Affairs. Students' judicial and disciplinary records.

(8) **Counseling Center**

Shoemaker Hall, Director. Biographical data, summaries of conversations with students, test results. (Where records are made and used only for treatment purposes, they are not education records and are not subject to this policy.)

(9) **Financial Aid**

Undergraduate: Lee Building, Director of Financial Aid. Graduate and Professional Schools: Located in deans' offices. Financial aid applications, needs analysis statements, awards made (no student access to parents' confidential statements).

(10) **Career Development Center**

Undergraduate Library, Director. Recommendations, copies of academic records (unofficial). (Note WAIVER section.)

(11) **Business Services**

Lee Building, Bursar. All student accounts receivable, records of students' financial charges, and credits with the university.

D. **Procedure to be Followed**

Requests for access should be made in writing to the Office of Registrations. The university will comply with a request for access within a reasonable time, at least within 45 days. In the usual case, arrangements will be made for the student to read his or her records in the presence of a staff member. If facilities permit, a student may ordinarily obtain copies of his or her records by paying reproduction costs. The fee for copies is \$.25 per page. No campus will provide copies of any transcripts in the student's records other than the student's current university transcript from that campus. Official university transcripts (with university seal) will be provided at a higher charge.

III. **It is the policy of the University of Maryland to limit disclosure of personally identifiable information from education records unless it has the student's prior written consent, subject to the following limitations and exclusions.**

A. **Directory Information**

(1) The following categories of information have been designated directory information:

Name

Address

Telephone listing

Date and place of birth

Photograph

Major field of study

Participation in officially recognized activities and sports

Weight and height of members of athletic teams

Dates of attendance

Degrees and awards received

Most recent previous educational institution attended.

(2) This information will be disclosed even in the absence of consent unless the student files written notice requesting the university not to disclose any or all of the categories within three weeks of the first day of the semester in which the student begins each school year. This notice must be filed annually within the above allotted time to avoid automatic disclosure of directory information. The notice should be filed with the campus Registrations Office. See II.C.

(3) The university will give annual public notice to students of the categories of information designated as directory information.

(4) Directory information may appear in public documents and otherwise be disclosed without student consent unless the student objects as provided above.

(5) All requests for non-disclosure of directory information will be implemented as soon as publication schedules will reasonably allow.

(6) The university will use its best efforts to maintain the confidentiality of those categories of directory information that a student properly requests not be publicly disclosed. The university, however, makes no representations, warranties, or guarantees that directory information designated for non-disclosure will not appear in public documents.

## B. Prior Consent Not Required

Prior consent will not be required for disclosure of education records to the following parties:

- (1) School officials of the University of Maryland who have been determined to have legitimate educational interests
  - (a) "School officials" include instructional or administrative personnel who are or may be in a position to use the information in furtherance of a legitimate objective;
  - (b) "Legitimate educational interests" include those interests directly related to the academic environment;
- (2) Officials of other schools in which a student seeks or intends to enroll or is enrolled. Upon request, and at his or her expense, the student will be provided with a copy of the records that have been transferred;
- (3) Authorized representatives of the Comptroller General of the U.S., the Secretary of Education, the Secretary of the Department of Health and Human Services, the Director of the National Institute of Education, the Administrator of the Veterans' Administration, but only in connection with the audit or evaluation of federally supported education programs, or in connection with the enforcement of or compliance with Federal legal requirements relating to these programs. Subject to controlling Federal law or prior consent, these officials will protect information received so as not to permit personal identification of students to outsiders and destroy such information when it is no longer needed for these purposes;
- (4) Authorized persons and organizations that are given work in connection with a student's application for, or receipt of, financial aid, but only to the extent necessary for such purposes as determining eligibility, amount, conditions, and enforcement of terms and conditions;
- (5) State and local officials to which such information is specifically required to be reported by effective state law adopted prior to November 19, 1974;
- (6) Organizations conducting educational studies for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction. The studies shall be conducted so as not to permit personal identification of students to outsiders, and the information will be destroyed when no longer needed for these purposes;
- (7) Accrediting organizations for purposes necessary to carry out their functions;
- (8) Parents of a student who is a dependent for income tax purposes. (Note: The university may require documentation of dependent status such as copies of income tax forms.)
- (9) Appropriate parties in connection with an emergency, where knowledge of the information is necessary to protect the health or safety of the student or other individuals;
- (10) In response to a court order or subpoena, the university will make reasonable efforts to notify the student before complying with the court order.
- (11) To an alleged victim of any crime of violence of the results of any institutional disciplinary proceeding against the alleged perpetrator of that crime with respect to that crime.

## C. Prior Consent Required

In all other cases, the university will not release personally identifiable information in education records or allow access to those records without prior consent of the student. Unless disclosure is to the student himself or herself, the consent must be written, signed, and dated, and must specify the records to be disclosed, the identity of the recipient, and the purpose of disclosure. A copy of the record disclosed will be provided to the student upon request and at his or her expense.

## D. Record of Disclosures

The university will maintain with the student's education records a record for each request and each disclosure, except for the following:

- (1) disclosures to the student himself or herself;
- (2) disclosures pursuant to the written consent of the student (the written consent itself will suffice as a record);
- (3) disclosures to instructional or administrative officials of the university;
- (4) disclosures of directory information. This record of disclosures may be inspected by the student, the official custodian of the

records, and other university and governmental officials.

## IV. It is the policy of the university of Maryland to provide students the opportunity to seek correction of their education records.

### A. Request to Correct Records

A student who believes that information contained in his or her education records is inaccurate, misleading, or violative of privacy or other rights may submit a written request to the Office of Registrations specifying the document(s) being challenged and the basis for the complaint. The request will be sent to the person responsible for any amendments to the record in question. Within a reasonable period of time of receipt of the request, the university will decide whether to amend the records in accordance with the request. If the decision is to refuse to amend, the student will be so notified and will be advised of the right to a hearing. He or she may then exercise that right by written request to the Office of the Registrar.

### B. Right to a Hearing

Upon request by a student, the university will provide an opportunity for a hearing to challenge the content of the student's records. A request for a hearing should be in writing and submitted to the Office of Registrations. Within a reasonable time of receipt of the request, the student will be notified in writing of the date, place, and time reasonably in advance of the hearing.

#### (1) Conduct of the Hearing

The hearing will be conducted by a university official who does not have a direct interest in the outcome. The student will have a full and fair opportunity to present evidence relevant to the issues raised and may be assisted or represented by individuals of his or her choice at his or her own expense, including an attorney.

#### (2) Decision

Within a reasonable period of time after the conclusion of the hearing, the university will notify the student in writing of its decision. The decision will be based solely upon evidence presented at the hearing and will include a summary of the evidence and the reasons for the decision. If the university decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, the university will amend the records accordingly.

### C. Right to Place an Explanation in the Records

If, as a result of the hearing, the university decides that the information is not inaccurate, misleading, or otherwise in violation of the student's rights, the university will inform the student of the right to place in his or her record a statement commenting on the information and/or explaining any reasons for disagreeing with the university's decision. Any such explanation will be kept as part of the student's record as long as the contested portion of the record is kept and will be disclosed whenever the contested portion of the record is disclosed.

## V. Right to File Complaint

A student alleging university noncompliance with the Family Educational Rights and Privacy Act may file a written complaint with the Family Educational Rights and Privacy Act Office (FERPA), Department of Education, 600 Independence Ave, S.W., Washington, D.C. 20202-4605.

## Appendix E: Smoking Policy and Guidelines

*Approved by the President  
March 6, 1993*

### A. Policy

The University of Maryland at College Park has found that a significant percentage of faculty, staff and students do not smoke, smoke is offensive to many non-smokers, it is harmful and even debilitating to some individuals due to their physical condition, and there is evidence suggesting that passive smoke inhalation is harmful to non-smokers. In response to the above considerations, it is hereby established as the policy of the University of Maryland at College Park to achieve a public facility environment as close to smoke-free as practicably possible. Obtaining and maintaining this result will require the willingness, understanding, and patience of all members of the campus community.

It is the policy of the University of Maryland at College Park to follow all federal, state, or local laws regarding smoking. This Smoking Policy is in addition to any such policies which may be in effect.

## B. Guideline

1. Smoking is prohibited in indoor locations.

## C. Implementation

### Unit heads, or their designees, are responsible for:

1. Assuring that this policy is communicated to everyone within their jurisdiction and to all new members of the campus community.
2. Implementing the policy and guideline and assuring that appropriate notice is provided.
3. Developing guidelines to embrace all special circumstances in the campus is impossible. If unit heads find circumstances in their areas that they believe warrant exception from particular provisions in this Smoking Policy, they may address requests for specific local exceptions to the President or his or her designee.

## D. Compliance

This policy relies on the thoughtfulness, consideration, and cooperation of smokers and non-smokers for its success. It is the responsibility of all members of the campus community to observe this Smoking Policy and Guideline. Complaints or concerns regarding this policy or disputes regarding its implementation should be referred to the immediate supervisor for resolution. If a resolution cannot be reached, the matter will be referred by the supervisor to the appropriate department head or vice president for mediation.

## E. Review

The provisions and guidelines attaching to this Smoking Policy shall be subject to future review and revision to ensure that the objective is obtained. Especial attention shall be given to determining if voluntary compliance without disciplinary sanctions has proven satisfactory.

## F. Residential Housing

This Policy does not apply to privately occupied portions of university-owned residential space, such as dormitory rooms, apartments, and houses.

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## Appendix F: Academic Integrity

The academic regulations and requirements of the University of Maryland at College Park are designed to provide and enhance a maximum educational environment for the entire campus academic community. The success of the design depends upon the mutual respect, courteous treatment, and consideration of everyone involved. The following statements contain procedures and expectations for both faculty and students. For questions about the interpretation of these statements, students should contact their academic advisor, department chair, or dean.

### Resolution on Academic Integrity

*Approved by Board of Regents  
May 8, 1981*

WHEREAS, it is the responsibility of the University of Maryland to maintain integrity in teaching and learning as a fundamental principle on which a university is built; and

WHEREAS, all members of the university community share in the responsibility for academic integrity; therefore

BE IT RESOLVED, that the University of Maryland Board of Regents hereby adopts the following Statement of Faculty, Student and Institutional Rights and Responsibilities for Academic Integrity.

### Statement of Faculty, Student and Institutional Rights and Responsibilities for Academic Integrity

#### Preamble

At the heart of the academic enterprise are learning, teaching, and scholarship. In universities these are exemplified by reasoned discussion between student and teacher, a mutual respect for the learning and teaching process, and intellectual honesty in the pursuit of new knowledge. In the traditions of the academic enterprise, students and teachers have certain rights and responsibilities which they bring to the academic community. While the following state-

ments do not imply a contract between the teacher or the university and the student, they are nevertheless conventions which the university believes to be central to the learning and teaching process.

#### Faculty Rights and Responsibilities

1. Faculty shall share with students and administration the responsibility for academic integrity.
2. Faculty are accorded freedom in the classroom to discuss subject matter reasonably related to the course. In turn they have the responsibility to encourage free and honest inquiry and expression on the part of students.
3. Faculty are responsible for the structure and content of their courses, but they have the responsibility to present courses that are consistent with their descriptions in the university catalog. In addition, faculty have the obligation to make students aware of the expectations in the course, the evaluation procedures, and the grading policy.
4. Faculty are obligated to evaluate students fairly and equitably in a manner appropriate to the course and its objectives. Grades shall be assigned without prejudice or bias.
5. Faculty shall make all reasonable efforts to prevent the occurrence of academic dishonesty through the appropriate design and administration of assignments and examinations, through the careful safeguarding of course materials and examinations, and through regular reassessment of evaluation procedures.
6. When instances of academic dishonesty are suspected, faculty shall have the right and responsibility to see that appropriate action is taken in accordance with university regulations.

#### Student Rights and Responsibilities

1. Students shall share with faculty and administration the responsibility for academic integrity.
2. Students shall have the right of inquiry and expression in their courses without prejudice or bias. In addition, students shall have the right to know the requirements of their courses and to know the manner in which they will be evaluated and graded.
3. Students shall have the obligation to complete the requirements of their courses in the time and manner prescribed and to submit to evaluation of their work.
4. Students shall have the right to be evaluated fairly and equitably in a manner appropriate to the course and its objectives.
5. Students shall not submit as their own work any work which has been prepared by others. Outside assistance in the preparation of this work, such as librarian assistance, tutorial assistance, typing assistance, or such assistance as may be specified or approved by the instructor is allowed.
6. Students shall make all reasonable efforts to prevent the occurrence of academic dishonesty. They shall by their own example encourage academic integrity and shall themselves refrain from acts of cheating and plagiarism or other acts of academic dishonesty.
7. When instances of academic dishonesty are suspected, students shall have the right and responsibility to bring this to the attention of the faculty or other appropriate authority.

#### Institutional Responsibility

1. Campuses or appropriate administrative units of the University of Maryland shall take appropriate measures to foster academic integrity in the classroom.
2. Campuses or appropriate administrative units shall take steps to define acts of academic dishonesty, to ensure procedures for due process for students accused or suspected of acts of academic dishonesty, and to impose appropriate sanctions on students guilty of acts of academic dishonesty.
3. Campuses or appropriate administrative units shall take steps to determine how admission or matriculation shall be affected by acts of academic dishonesty on another campus or at another institution. No student suspended for disciplinary reasons at any campus of the University of Maryland shall be admitted to any other University of Maryland campus during the period of suspension.

AND, BE IT FURTHER RESOLVED, that campuses or appropriate administrative units of the University of Maryland will publish the above Statement of Faculty, Student and Institutional Rights and Responsibilities for Academic Integrity in faculty handbooks and in student handbooks and catalogs; and

BE IT FURTHER RESOLVED, that the Board of Regents hereby directs each campus or appropriate administrative unit to review existing procedures or to implement new procedures for carrying out the institutional responsibilities for academic integrity cited in the above Statement; and

BE IT FINALLY RESOLVED, that the Board of Regents hereby directs each campus or appropriate administrative unit to submit to the President or designee for approval the campus' or unit's procedure for implementation of the institutional responsibility provisions of the above Statement.

## Appendix G: Statute of Limitations for the Termination of Degree Programs

*Committee on Academic Procedures and Standards*

*Approved December 7, 1989*

The following policies apply to all undergraduate degree programs terminated at the University of Maryland at College Park at the beginning of the Spring, 1990 Semester and thereafter.

1. All students enrolled at the University of Maryland at College Park or at a Maryland community college program articulated with the terminated degree program during the semester in which the program is terminated must complete the major requirements of the terminated degree program within five calendar years of the date upon which the program is terminated. If only a few students are enrolled in a terminated program, a shorter time limit may be imposed based on a study of the academic records of all students enrolled in the program. If a shorter time period is imposed, all students enrolled in the program will be notified of its length.
2. Students who, prior to the termination date had been enrolled in the terminated program or a Maryland community college articulated with the terminated program, but who subsequently interrupt their studies at the University of Maryland at College Park or the community college for one or more semesters will be allowed to enter or re-enter the program only if a careful analysis of their records by the appropriate dean indicates they will be able to complete the major requirements of the terminated program within the remaining time period specified.
3. When a program is terminated the University of Maryland at College Park will make a good faith effort to notify those students who had interrupted their studies in that program. As part of that good faith effort, the University of Maryland at College Park will publish in its re-enrollment forms, catalogues, and schedules of classes a statement advising returning students that programs may have been terminated and that the student needs to check the current status of the program.
4. At the end of the time period specified for completion of major requirements after the termination date of the program, the relevant department or college will evaluate the records of each student enrolled in the program for fulfillment of departmental major requirements and will notify students whether they have completed these requirements. Such notice shall be in writing and sent to the student's last known addresses.
5. When a degree program is terminated, the university will send notification of the time limit for completion of the major requirements to all students enrolled in the program at that time. It will also attempt to send notification to students who interrupted their studies while enrolled in the program in the preceding three years, insofar as such students can reasonably be identified. This notification will be sent to the students' last known addresses on file with the university. Such notifications also will be sent to the Maryland community colleges having programs articulated with the terminated program.

## Appendix H: Policy for Student Residency Classification for Admission, Tuition and Charge-Differential Purposes

*Approved by the Board of Regents  
August 28, 1990*

**Upon advice of the Attorney General's Office, all eight indicia of permanent residency must be met for the entire twelve (12) month period preceding the last day of late registration.**

## I. Policy

It is the policy of the Board of Regents of the University of Maryland System to recognize the categories of in-state and out-of-state students for purposes of admission, tuition, and charge differentials at those institutions where such differentiation has been established. The student is responsible for providing the information necessary to establish eligibility for in-state status.

- A. Students who are financially independent or financially dependent, as hereinafter defined, shall have their residency classification determined on the basis of permanent residency. For purposes of this policy, a permanent residence is a person's permanent place of abode as determined by the following criteria. Such students will be assigned in-state status for admission, tuition, and charge differential purposes only if the student (if financially independent) or the student's parent, guardian or spouse (in the case of a financially dependent student):
  1. Owns or rents and occupies living quarters in Maryland. There must exist a genuine deed or lease in the individual's name, reflecting payments/rents and terms typical of those in the community at the time executed. Persons not having such a lease may submit an affidavit reflecting payments/rents and terms, as well as the name and address of the person to whom payments are made which may be considered as meeting this condition. As an alternative to ownership or rental of living quarters in Maryland, a student may share living quarters in Maryland which are owned or rented and occupied by a parent, legal guardian, or spouse;
  2. Maintains within Maryland substantially all personal property;
  3. Pays Maryland income tax on all earned taxable income, including all taxable income earned outside the State;
  4. Registers all owned motor vehicles in Maryland in accordance with Maryland law;
  5. Possesses a valid Maryland driver's license, if licensed, in accordance with Maryland law;
  6. Is registered in Maryland, if registered to vote;
  7. Receives no public assistance from a state other than the State of Maryland or from a city, county or municipal agency other than one in Maryland; and
  8. Has a legal ability under federal and Maryland law to reside permanently without interruption in Maryland.
- B. In addition to meeting all of the criteria set forth in the preceding section, to qualify for in-state status on the basis of permanent residence, a student or, if the student is financially dependent, the parent, legal guardian, or spouse, must have resided in Maryland for at least twelve (12) consecutive months immediately prior to and including the last date available for late registration for the forthcoming semester or session and must have continuously resided in Maryland during that period.
- C. If a student is financially dependent as hereinafter defined, the permanent residence of the parent, guardian, or spouse on whom he/she is dependent shall determine in-state status. If a student is financially independent, the permanent residence of the student shall determine in-state status.
- D. In-state status based on permanent residence is lost at any time a financially independent student establishes a permanent residence outside the State of Maryland. If the parent, guardian, or spouse through whom a financially dependent student has attained in-state status establishes a permanent residence outside the State of Maryland, the in-state status is lost. In each instance, the student will then be assess out-of-state tuition and charges beginning the next semester or session.
- E. In addition, the following categories of students shall have in-state status:
  1. A full-time or part-time (at least 50 percent time) permanent employee of the University of Maryland System;
  2. The spouse or dependent child of a full-time or part-time (at least 50 percent time) permanent employee of the University of Maryland System;
  3. A full-time active member of the Armed Forces of the United States whose home of residency is Maryland or one who resides or is stationed in Maryland, or the spouse or a financially dependent child of such a person; and
  4. A graduate assistant.
- F. Students not entitled to in-state status under the preceding paragraphs shall be assigned out-of-state status for admission, tuition, and

charge-differential purposes.

April 14, 1981

## II. Procedures

- A. The date on which conditions for in-state classification must be met is the last published date to register for the forthcoming semester or session. In those instances where an entering class size is established and where an application deadline is stated, institutions may require that conditions for in-state classification must be satisfied as of the announced closing application date.
- B. A change in status must be requested in writing by a student prior to the last published date of registration in order to be effective for that semester or session. A student applying for a change to in-state status must furnish appropriate documentation as required by the institution.
- C. The student shall notify the institution in writing within fifteen (15) days of any change of circumstances which may alter in-state status.
- D. In the event incomplete, false, or misleading information is presented, the institution may, at its discretion, revoke an assignment of in-state status in addition to other disciplinary actions provided for by the institution's policy.
- E. Each institution of the University of Maryland System shall develop and publish additional procedures to implement this policy. Procedures shall provide that on request the President or designee has the authority to waive any residency requirement as set forth in IA and IB, if it is determined that the student is, indeed, a permanent resident, and application of the criteria creates an unjust result. Such procedures must provide for appeal to the President or designee of any residency determination using a system wide petition form (Appendix A). These procedures shall be filed with the Office of the Chancellor.

## III. Definitions

- A. Financially Dependent: For purposes of this policy, a financially dependent student is one who is claimed as a dependent for tax purposes, or who receives more than one-half of his or her support from a parent, legal guardian, or spouse during the twelve (12) month period immediately prior to the last published date for registration for the semester or session. If a student receives more than one-half of his or her support in the aggregate from a parent and/or legal guardian and/or spouse, the student shall be considered financially dependent on the person providing the greater amount of support.
- B. Financially Independent: A financially independent student is one who (1) declares himself or herself to be financially independent as defined herein; (2) does not appear as a dependent on the Federal or State income tax return of any other person; (3) receives less than one-half of his or her support from any other person or persons; and (4) demonstrates that he or she provides through self-support one-half or more of his or her total expenses.
- C. Parent: A parent may be a natural parent, or, if established by a court order recognized under the law of the State of Maryland, an adoptive parent.
- D. Guardian: A guardian is a person so appointed by a court order recognized under the law of the State of Maryland.
- E. Spouse: A spouse is a partner in a legally contracted marriage.
- F. Support: (1) Except as set forth in (2) below, support shall mean financial or material support, including gifts, services, and trusts, including income or benefits derived from one's family. (2) Support shall not include grants, stipends, awards, and benefits (including Federal and State student aid, grants, and loans) received for the purpose of education or by virtue of an individual's status or prospective status as a student. Such resource shall not be considered in calculating a student's financial dependence or independence.

## Appendix I: Undergraduate Student Grievance Procedure

\*The Undergraduate Student Grievance Procedure is currently being revised by the Campus Senate to reflect the recent reorganization of the academic units at College Park. The following interim procedure is to be in effect until such time as the procedure is revised by the Campus Senate. For the nondepartmentalized colleges, the dean for Undergraduate Studies shall assume the responsibilities formerly held by the division provost. For the departmentalized colleges, the dean of the College shall assume the responsibilities formerly held by the division provost.

Approved by Board of Regents

## I. Purpose

The following procedure provides a means for an undergraduate student to present a complaint resulting from a believed violation of the "Expectations of Faculty and Academic Units," set forth in Section II, below, to have that complaint examined as a matter of regular procedure, and to receive a final determination thereon. This procedure offers a vehicle for seeking redress with respect to acts or omissions of individual faculty members, or of an academic department/program/ or college. Redress may be sought under this procedure without fear of reprisal or discrimination.

## II. Scope of Grievances: Expectations of Faculty and Academic Units

The academic regulations and requirements of the College Park campus are designed to provide and enhance a maximum educational environment for the entire mutual academic community. The success of the design depends upon the mutual respect, courteous treatment, and consideration of everyone involved.

- A. The following are considered to be reasonable student expectations of faculty:
  1. A written description at the beginning of each undergraduate course specifying in general terms the content, nature of assignments, examination procedures, and the bases for determining final grades. In cases where all or some of this information cannot be provided at the beginning of the course, a clear explanation of the delay and the bases of course development shall be provided;
  2. Reasonable notice of major papers and examinations in the course;
  3. A reasonable number of recitations, performances, quizzes, tests, graded assignments and/or student/instructor conferences to permit evaluation of student progress throughout the course;
  4. Unless prohibited by statute or contract, a reasonable opportunity to review papers and examinations after evaluation by the instructor, while the materials remain reasonably current;
  5. A reasoned approach to the subject which attempts to make the student aware of the existence of different points of view;
  6. Reasonable access to the instructor during announced regular office hours or by appointment;
  7. Regular attendance by assigned faculty and reasonable adherence to published campus schedules and location of classes and examinations. Classes not specified in the schedules are to be arranged at a mutually agreeable time on campus, unless an off-campus meeting is clearly justified.
  8. Reasonable confidentiality of information gained through student-faculty contact.
  9. Public acknowledgment of significant student assistance in the preparation of materials, articles, books, devices and the like.
  10. Assignment of materials to which all students can reasonably be expected to have access.
- B. The academic units (programs, departments, colleges, schools) in cooperation with the Office of the Dean for Undergraduate Studies and the Office of Records and Registrations shall, whenever possible, provide the following:
  1. Accurate information on academic requirements through designated advisors and referral to other parties for additional guidance.
  2. Specific policies and procedures for the award of academic honors and awards, and the impartial application thereof.
  3. Equitable course registration in accordance with university policy and guidelines.
- C. The scope of the matters which may constitute a grievance cognizable under this Undergraduate Student Grievance Procedure is limited to believed violations of the expectations of faculty and academic units set forth above in paragraphs A and B of this section.

## III. Human Relations Code/Alternative Grievance Procedures

A Human Relations Code, with an implementing Office of Human Relations Programs, presently exists for the campus. The Undergraduate Student Grievance Procedure and the Human Relations Code may not be used simultaneously or consecutively with one another with respect to the same (or substantially the same) issue/complaint or with respect to issues/complaints arising out of or pertaining to the same set of facts. The proce-

dures of the Human Relations Code and/or of any other university grievance/review process may not be utilized to challenge the procedures, actions, determinations or recommendations of any person(s) or board(s) acting pursuant to the authority and/or requirements of the Undergraduate Student Grievance Procedure.

#### IV. General Limitations

Notwithstanding any provision of this Undergraduate Student Grievance Procedure to the contrary, the following matters do not constitute the basis for a grievance and are not susceptible of challenge thereby:

- A. Policies, regulations, decisions, resolutions, directives and other acts of the Board of Regents of the University of Maryland, of the Office of the Chancellor of the University of Maryland System, and of the President of the University of Maryland at College Park.
- B. Any statute or any regulation, directive or order of any department or agency of the United States or the State of Maryland, and any other matter outside of the control of the University of Maryland.
- C. Course offerings.
- D. The staffing and structure of any academic department or program.
- E. The fiscal management of the University of Maryland, and the allocation of university resources.
- F. Any issue(s)/act(s) which does not affect the complaining party personally and directly.
- G. Matters of academic judgment relating to an evaluation of a student's academic performance and/or of his or her academic qualifications; except that the following matters of a procedural nature may be reviewed under this Undergraduate Student Grievance Procedure if filed as a formal grievance within thirty (30) days of the first meeting of the course to which they pertain:
  1. Whether reasonable notice has been given as to the relative value of all work considered in determining the final grade and/or assessment of performance in the course e.g., the relative value of examinations, papers, laboratories and other academic exercises and requirements. The remedy with respect to a grievance based upon this subsection shall be the giving of notice by the faculty member.
  2. Whether a reasonably sufficient number of examinations, papers, laboratories and/or other academic exercises and requirements have been scheduled to present the student with a reasonable opportunity to demonstrate his or her academic merit. The remedy with respect to a grievance based upon this subsection shall be the scheduling of such additional academic exercises as the faculty member, in consultation with the Dean and upon consideration of the written opinion of the College hearing board, shall deem appropriate.

Notwithstanding any language in this paragraph or elsewhere in this Undergraduate Student Grievance Procedure, nothing herein shall be construed to permit a challenge, either directly or indirectly, to the award of a specific grade.

No recommendation or decision may be made pursuant to the Undergraduate Student Grievance Procedure which conflicts with or modifies, directly or indirectly, any policy, statute, regulation or other matter set forth in paragraphs A and B of this section.

"Class" grievances and concomitant remedies are not cognizable; however, a screening or hearing board may, in its discretion, consolidate grievances presenting similar facts and issues, and recommend such generally applicable relief as it deems warranted.

#### V. Finality

A student who elects to utilize the Undergraduate Student Grievance Procedure agrees that in doing so he/she shall abide by the final disposition arrived at thereunder, and shall not subject this disposition to review under any other procedure within the university. For the purpose of this limitation, a student shall be deemed to have elected to utilize the Undergraduate Student Grievance Procedure when he/she files a written grievance as set forth in section VI.A.2. and VI.B. below.

#### VI. Procedure

- A. Grievance Against Faculty Member, Academic Department, Program or College

##### 1. Resolution of grievance by informal means.

The initial effort in all cases shall be to achieve a resolution of the grievance through the following informal means:

- a. In the case of a grievance against an individual faculty member, the student should first contact the member, present the grievance in its entirety, and attempt a complete resolution; if any portion of the grievance thereafter remains unresolved, the student may present such part to the immediate administrative supervisor of the faculty member concerned. A grievance may be initially presented directly to the administrative supervisor of the faculty member if he or she is not reasonably available to discuss the matter. The supervisor shall attempt to mediate the dispute; should a resolution mutually satisfactory to both the student and the faculty member be achieved, the case shall be closed.
- b. In the case of a grievance against an academic department, program school or college, the student should contact the department head, director or dean thereof, present the grievance in its entirety, and attempt a complete resolution.

##### 2. Resolution of grievance by formal means.

Should a student be dissatisfied with the disposition of his or her grievance following the attempt to resolve it informally according to the steps set forth in subparagraph A.1. above, he/she may obtain a formal resolution thereof pursuant to the following procedure:

- a. The student shall file with the Screening Board for Academic Grievances of the college (hereinafter "college screening board") from which the matter arises, a written grievance. The written grievance must set forth in detail:
  - (i) the act, omission or matter complained of;
  - (ii) all facts which the student believes to be relevant to the grievance;
  - (iii) the resolution sought;
  - (iv) all arguments upon which the student relies in seeking such resolution
- b. In order to be considered, a grievance must be filed in a timely manner. To be filed in a timely manner, the written grievance (as set forth in subparagraph 2.a. above) must be received by the appropriate college screening board within thirty (30) days of the act, omission or matter which constitutes the basis of the grievance, or within thirty (30) days of the date the student is first placed upon reasonable notice thereof, whichever is later. It is the responsibility of the student to ensure timely filing.
- c. The college screening board shall immediately notify the faculty member against whom a grievance has been timely filed, or the head of the academic unit against which a grievance has been filed, and forward to them a copy of the grievance together with all other relevant material and information known to it. The faculty member or head of the academic unit shall within ten (10) days after receipt thereof, make a complete written response to the college screening board; in the event the faculty member receives the written grievance and other relevant materials and information from the college screening board after the last day of classes of the semester in which the grievance is filed, then the time for making a written response is extended to and includes ten (10) days after the first day of classes of the next succeeding semester in which the faculty member is teaching/working on campus (however, this extension shall not be available to a faculty member whose appointment terminates on or before the last day of the semester in which the grievance is filed). A copy of said response shall be sent by the college screening board to the student. In its discretion, the college screening board may request further written submissions from the student, the faculty member and/or the head of the academic unit.
- d. The college screening board shall review the case to determine if a formal hearing is warranted:
  - (i) The college screening board shall dismiss all or part of a grievance which it concludes:
    - (a) is untimely;
    - (b) is based upon a nongrievable matter;
    - (c) is being pursued concurrently in another review/grievance procedure within the university and/or in a court of law or equity;
    - (d) has been previously decided pursuant to this or any other review/grievance procedure within the university and/or by a court of law or equity;
    - (e) is frivolous;
    - (f) is intended to harass, embarrass, and/or has otherwise been filed in bad faith;
  - (ii) The college screening board in its discretion may dismiss all or part of a grievance which it concludes:
    - (a) is insufficiently supported;
    - (b) is premature;
    - (c) is otherwise inappropriate or unnecessary to present to the college hearing board.
- e. The college screening board shall meet and review grievances in pri-

- vate. A decision to dismiss a grievance shall require the majority vote of at least three members. If a grievance is dismissed either in whole or in part, the student shall be so informed and given a concise statement as to the basis for such action; however, the decision of the college screening board to dismiss a grievance is final and is not subject to appeal.
- f. If the college screening board determines that a grievance is appropriately one for a hearing, it will so inform the dean. The dean shall thereafter within fifteen (15) days convene a college hearing board to hear the grievance, except that for good cause in the discretion of the dean, such time may be extended.
- g. The following rules apply to the conduct of a hearing by the college hearing board:
- (i) Reasonable notice of the time and place of the hearing shall be given to the student and the faculty member or head of an academic unit. Notice shall include a brief statement of the violation(s) alleged and the remedy sought by the student.
  - (ii) A record of the hearing, including all exhibits, shall be kept;
  - (iii) The hearing shall be closed to the public unless a public hearing is specifically requested by both parties;
  - (iv) Each party shall have an opportunity to make an opening statement, present evidence, present witnesses, cross-examine witnesses, offer personal testimony, and such other material as is relevant to the grievance. It is the responsibility of each party to ensure that those witnesses whom he/she wishes to present are available, as well as to have his or her case completely prepared at the time of the hearing.
  - (v) The student shall first present his or her case; the faculty member or head of the academic unit shall then present his or her response.
  - (vi) Upon the completion of the presentation of all evidence, each party shall have an opportunity to present oral arguments and a closing statement. The chair of the college hearing board may in his discretion set time limits upon such arguments and statements.
  - (vii) Upon the request of either party, all persons to be called as witnesses shall be sequestered.
  - (viii) Incompetent, irrelevant, immaterial and unduly repetitious evidence may be excluded in the discretion of the chair of the college hearing board.
  - (ix) Each party may be assisted in the presentation of his or her case by a student or faculty member of his or her choice.
  - (x) It is the responsibility of the chair of the college hearing board to manage the hearing and to decide all questions relating to the presentation of evidence and appropriate procedure, and is the final authority on all such matters, except as are specifically established herein.
  - (xi) All documents and materials filed with the college screening board by the student and the faculty member or the head of an academic unit, shall be forwarded to the college hearing board for its consideration, and shall become part of the record of the hearing.
  - (xii) The college hearing board shall have the right to examine any person or party testifying before it, and on its own motion, to request the presence of any person for the purpose of testifying and the production of any evidence the chair believes to be relevant.
  - (xiii) The above-enumerated procedures and powers of the college hearing board are non-exclusive; the chair of the college hearing board may take such action as is necessary in his or her determination to facilitate the orderly and fair conduct of the hearing and as is not inconsistent with the procedures set forth herein.
- h. Upon completion of the hearing, the college hearing board shall meet privately to consider the validity of the grievance. The burden of proof rests upon the student to establish a violation of the expectations of faculty and academic units, set forth in Section II, above, and any concomitant right to relief. It must be shown by a preponderance of the evidence that a substantial departure from the expectations has occurred, and that such substantial departure has operated to the actual prejudice and injury of the student. A decision by the college hearing board upholding the grievance, either in whole or part, shall require the majority vote of at least three members. The decision of the college hearing board shall address only the validity of the grievance, and shall be forwarded to the dean in a written opinion.
- i. In the event the college hearing board decided in part or in whole on behalf of the student, it may submit an informal recommendation to the dean with respect to such relief as it may believe is warranted by the facts as proven in the hearing.
- j. The dean shall immediately, upon receipt of the written opinion, forward copies to the student and the faculty member or head of the academic unit. Each party has ten (10) days from the date of receipt to file with the dean an appeal of the decision of the college hearing board. The sole grounds for appeal shall be:
- (i) a substantial prejudicial procedural error committed in the conduct of the hearing in violation of the procedures established herein. Discretionary decisions of the chair of the college hearing board shall not constitute the basis of an appeal;
  - (ii) the existence of new and relevant evidence of a significant nature which was not reasonably available, at the time of the hearing. The appeal shall be in writing and set forth in complete detail the grounds relied upon. A copy of the appeal shall also be sent to the opposite party, who shall have ten (10) days following receipt to file a written response with the dean.
- k. In the absence of a timely appeal, or following receipt and consideration of all timely appeals and responses, the dean in his or her discretion may:
- (i) dismiss the grievance;
  - (ii) grant such redress as he/she believes is appropriate, except that no affirmative relief shall be made to a student unless the student executes the following release:
 

"The complainant hereby waives, releases and covenants not to sue the University of Maryland or its officers, agents or employees with respect to any matters which were or might have been alleged as a grievance filed under the Undergraduate Student Grievance Procedure in the instant case, subject to performance by the University of Maryland, its officers, agents and employees, of the promises contained in a final decision under this Procedure."
  - (iii) reconvene the college hearing board to rehear the grievance in part or whole and/or to receive new evidence;
  - (iv) convene a new college hearing board to rehear the case in its entirety
- l. The dean shall inform all parties of his or her decision in writing and the grievance shall thereafter be concluded. The decision of the provost shall be final and binding, and not subject to appeal or review.
- m. For the nondepartmentalized colleges, the dean for Undergraduate Studies shall assume the duties performed by the deans of the departmentalized colleges.

## B. Grievance Against Administrative Dean for Undergraduate Studies, College Dean

### 1. Resolution of grievance by informal means.

The initial effort in all cases shall be to achieve a resolution of the grievance through informal means. The student should first contact the administrative dean, present the grievance in its entirety, and attempt a complete resolution; if any portion of the grievance thereafter remains unresolved, the student may present such part to the Vice President for Academic Affairs. A Grievance may be initially presented directly to the Vice President if the administrative dean is not reasonably available to discuss the matter. The Vice President shall attempt to mediate the dispute; should a resolution mutually satisfactory to both the student and the administrative dean/college dean be achieved, the case shall be closed.

### 2. Resolution of grievance by formal means.

Should a student be dissatisfied with the disposition of his or her grievance following the attempt to resolve it informally according to the steps set forth in subparagraph B.1. above, he/she may obtain a formal resolution thereof pursuant to the following procedure:

- a. The student shall file with the President a written grievance. The written grievance must set forth in detail:
  - (i) the act, omission or matter complained of;
  - (ii) all facts which the student believes to be relevant to the grievance;
  - (iii) the resolution sought;
  - (iv) all arguments upon which the student relies in seeking such resolution.
- b. In order to be considered, a grievance must be filed in a timely manner. To be filed in a timely manner, the written grievance (as set forth in 2.a. above) must be received by the President within thirty (30) days of the act, omission or matter which constitutes the basis of the grievance, or within thirty (30) days of the date the student is first placed upon reasonable notice thereof, whichever is later. It is the responsibility of the student to ensure timely filing.
- c. The President shall forward the grievance to the college screening board of a college other than that from which the grievance has arisen.
- d. The college screening board shall immediately notify the administrative dean against whom a grievance has been timely filed,

and forward him/her a copy of the grievance with all other relevant material and information known to it. The administrative dean shall within ten (10) days after receipt thereof, make a complete written response to the college screening board; in the event the administrative dean receives the written grievance and other relevant materials and information from the college screening board after the last day of classes of the semester in which the grievance is filed, then the time for making a written response is extended to and includes ten (10) days after the first day of classes of the next succeeding semester. A copy of said response shall be sent by the college screening board to the student. In its discretion, the college screening board may request further written submissions from the student and/or the administrative dean.

- e. The college screening board shall thereafter review and act on the grievance in the same manner and according to the requirements set forth in subparagraphs A.2.d. through A.2.e. of this section, for the review of grievances against faculty members, academic departments, programs and colleges.
- f. If the college screening board determines that a grievance is appropriately one for a hearing, it will so inform the President. The President shall thereafter within fifteen (15) days, convene a campus hearing board to hear the grievance; except that for good cause in the discretion of the President, such time may be extended.
- g. The campus hearing board shall conduct hearings in accordance with the rules established in subparagraph A.2.g. above, for the conduct of hearings by a college hearing board. Upon completion of a hearing, the campus hearing board shall meet privately to consider the grievance in the same manner and according to the same rules as set forth in subparagraph A.2.h. for the consideration of grievances by a college hearing board, except that the board's decision shall be forwarded to the President.
- h. In the event the campus hearing board decides in part or in whole on behalf of the student, it may submit an informal recommendation to the President with respect to such relief as it may believe is warranted by the facts as proven in the hearing.
- i. The President shall immediately, upon receipt of the written opinion, forward copies to the student and the administrative dean. Each party has ten (10) days from the date of receipt to file with the President an appeal of the decision of the campus hearing board. The sole grounds for appeal shall be:
  - (i) a substantial prejudicial procedural error committed in the conduct of the hearing in violation of the procedures established herein. Discretionary decisions of the chair of the campus hearing board shall not constitute the basis of an appeal;
  - (ii) the existence of new and relevant evidence of a significant nature which was not reasonably available at the time of the hearing.  
The appeal shall be in writing and set forth in complete detail the grounds relied upon. A copy of the appeal shall also be sent to the opposite party, who shall have ten (10) days following receipt to file a written response with the President.
- j. In the absence of a timely appeal, or following receipt and consideration of all timely appeals and responses, the President in his or her discretion may:
  - (i) dismiss the grievance;
  - (ii) grant such redress as he/she believes is appropriate, except that no affirmative relief shall be made to a student unless the student executes the following release: "The complainant hereby waives, releases and covenants not to sue the University of Maryland or its officers, agents or employees with respect to any matters which were or might have been alleged as a grievance filed under the Undergraduate Student Grievance Procedure in the instant case, subject to performance by the University of Maryland, its officers, agents and employees, of the promises contained in a final decision under this Procedure."
  - (iii) reconvene the campus hearing board to rehear the grievance in part or whole and/or to receive new evidence;
  - (iv) convene a new campus hearing board to rehear the case in its entirety.
- k. The President shall inform all parties of his or her decision in writing, and the grievance shall thereafter be concluded. The decision of the President shall be final and binding, and not subject to appeal or review.

## VII. Composition of Screening and Hearing Boards

The following procedures shall govern the selection, composition and establishment of the college screening boards, and the college and campus hearing boards. The procedures are directive only, and for the guidance and ben-

efit of the deans and President. The selection, composition and establishment of a board is not subject to challenge by a party as part of this grievance procedure or any other grievance/review procedure in the university; except that at the start of a hearing, a party may challenge for good cause a member(s) of the college or campus hearing board before whom the party is appearing. The chair of the hearing board shall consider the challenge and may replace such member(s) if in his or her discretion it is believed such action is necessary to achieve an impartial hearing and decision. A challenge of the chair shall be decided in the discretion of the most senior of the other faculty members on the board. Decisions with respect to a challenge shall be final and not subject to further review or appeal.

### A. College Screening Boards for Academic Grievances

#### 1. Membership of Screening Boards

- a. Prior to the beginning of each academic year, the college council of each college shall choose at least fifteen (15) faculty members and fifteen (15) students to be eligible to serve on boards considering academic grievances from that college. Concurrently, it shall choose three (3) other faculty members to be eligible to serve on boards considering academic grievances for the Administrative Dean for Undergraduate Studies. The names shall be forwarded to the Administrative Dean.
- b. Prior to the beginning of each academic year, the Administrative Council of the Administrative Dean for Undergraduate Studies shall choose at least fifteen (15) students to be eligible to serve on a screening board to review grievances arising within academic units under the administration of the Administrative Dean for Undergraduate Studies. These names shall be forwarded to the Administrative Dean.

#### 2. Establishment of Screening Boards

- a. Upon receipt of the names of the designated faculty and students, the dean shall appoint a five-member college screening board which shall consist of three (3) faculty members and two (2) students, and each shall serve on the college screening board for the academic year or until a new board is appointed by the dean, whichever occurs later. The dean shall also designate two (2) alternative faculty members and two (2) alternative students from the names presented by the college council to serve on the college screening board should a vacancy occur. The dean shall designate one of the faculty members to be chair of the college screening board. Members of the college screening board shall not serve on a college hearing board during the same year, except that alternative members may serve on a hearing board other than one considering a case in which the member had previously been involved in the screening process. A member of the college screening board shall not review a grievance arising out of his or her own department or program; in such instance, an alternative member shall serve in his or her place.
- b. Upon receipt of the names of the faculty members designated by each college council and the students designated by the administrative council, the Administrative Dean for Undergraduate Studies shall appoint a five-member screening board to review grievances arising within the academic units under his or her administration. This screening board shall thereafter be established and composed in accordance with the procedures set forth in subparagraph A.2.a. of the section, for college screening boards.

### B. College Hearing Boards for Academic Grievances

For each grievance referred by a college screening board, the dean shall appoint a five-member college hearing board. The college hearing board shall be composed of three (3) faculty members and two (2) students selected by the dean from among those names previously designated by the college council and not appointed to the college screening board. The dean shall designate one (1) faculty member as chair. No faculty member or student shall be appointed to hear a grievance arising out of his or her own department or program. The Administrative Dean for Undergraduate Studies shall appoint in the same manner, a hearing board to hear each grievance referred by the screening board reviewing grievances arising from the academic units under his administration. The members of the hearing board shall be selected from among those names previously forwarded to the Administrative Dean by the college councils and from those who had not been appointed to the screening board.

### C. Campus Hearing Board for Academic Grievances

For each case referred by a college screening board to the President for a hearing, the President shall appoint a five-member campus hearing board. The campus hearing board shall be composed of three (3) faculty members and two (2) students selected by the President from among those names designated by the college councils and remaining after the establishment of screening boards. The President shall designate one faculty member as chair. No faculty member or student shall be appointed to hear a grievance

arising out of his or her own college or administrative unit.

### VIII. Definitions

- A. **"Days"**  
 "Days" or "day" refer to days of the academic calendar, not including Saturdays, or Sundays.
- B. **"Party"**  
 "Party" or "parties" refer to the student and the individual faculty member or head of the academic unit against whom a grievance is made.

## Appendix J: Procedures for Review of Alleged Arbitrary and Capricious Grading

*Approved by Board of Regents  
 March 12, 1982*

### Purpose

- The following procedures are designed to provide a means for undergraduate students to seek review of final course grades alleged to be arbitrary and capricious. Before filing a formal appeal, students are urged to resolve grievances informally with the instructor and/or the administrator of the academic unit offering the course. Students who file a written appeal under the following procedures shall be expected to abide by the final disposition of the appeal, as provided in part seven, and shall be precluded from seeking review of the matter under any other procedure within the university.

### Definitions

- When used in these procedures
  - the term "arbitrary and capricious" grading means: i) the assignment of a course grade to a student on some basis other than performance in the course, or ii) the assignment of a course grade to a student by resorting to unreasonable standards different from those which were applied to other students in that course, or iii) the assignment of a course grade by a substantial, unreasonable and unannounced departure from the instructor's previously articulated standards.
  - the words "Day" or "Days" refer to working days at the university, excluding Saturdays, Sundays and university holidays.
  - the word "administrator" is defined as the administrative head of the academic unit offering the course.

### Procedures

- A student who believes his or her final grade in a course is improper and the result of arbitrary and capricious grading should first confer promptly with the instructor of the course. If the instructor has left the university or is on approved academic leave or cannot be reached by the student after a reasonable effort, the student shall consult with the administrator. If the student and the instructor or administrator are unable to arrive at a mutually agreeable solution, the student may file an appeal within twenty days after the first day of instruction of the next semester (excluding summer terms) to a standing committee consisting of three tenured faculty members of the academic unit offering the course. If the instructor of the course is a member of the committee, that instructor shall be disqualified and replaced by a tenured faculty member selected by the administrator.
- The student shall file an appeal by submitting to the committee a written statement detailing the basis for the allegation that a grade was improper and the result of arbitrary and capricious grading, and presenting relevant evidence. The appeal shall be dismissed if:
  - the student has submitted the same, or substantially the same, complaint to any other formal grievance procedure;
  - the allegations, even if true, would not constitute arbitrary and capricious grading;
  - the appeal was not timely; or
  - the student has not conferred with the instructor or with the instructor's immediate administrative supervisor, in accordance with part three of these procedures.
- If the appeal is not dismissed, the committee shall submit a copy of the student's written statement to the instructor with a request for a prompt written reply. If it then appears that the dispute may be resolved without recourse to the procedures specified in part six, the committee will attempt to arrange a mutually agreeable solution.
- If a mutually agreeable solution is not achieved, the committee shall pro-

ceed to hold an informal, nonadversarial fact-finding meeting concerning the allegations. Both the student and the instructor shall be entitled to be present throughout this meeting and to present any relevant evidence, except that the student shall not be present during the discussion of any other student. Neither the student nor the faculty member shall be accompanied by an advocate or representative. The meeting shall not be open to the public.

- The committee shall deliberate privately at the close of the fact-finding meeting. If a majority of the committee finds the allegation supported by clear and convincing evidence, the committee shall take any action which they feel would bring about substantial justice, including, but not limited to:
  - directing the instructor to grade the student's work anew, or
  - directing the instructor to administer a new final examination or paper in the course, or
  - directing the cancellation of the student's registration in the course, or
  - directing the award of a grade of "pass" in the course, except that such a remedy should be used only if no other reasonable alternative is available.

The committee is not authorized to award a letter grade or to reprimand or otherwise take disciplinary action against the instructor. The decision of the committee shall be final and shall be promptly reported in writing to the parties. The administrator of the academic unit shall be responsible for implementing the decision of the committee.

## Appendix K: Policy on Participation by Students in Class Exercises That Involve Animals

Students who are concerned about the use of animals in teaching have the responsibility to contact the instructor, prior to course enrollment, to determine whether animals are to be used in the course, whether class exercises involving animals are optional or required and what alternatives, if any, are available. If no alternatives are available, the refusal to participate in required activities involving animals may result in a failing grade in the course. Departments including courses where animals are used must actively inform students of such courses, including but not limited to, notices in the catalog.

The University of Maryland, at College Park campus, affirms the right of the faculty to determine course content and curriculum requirements. The University, however, also encourages faculty to consider offering alternatives to the use of animals in their courses. In each course, the instructor determines whether the use of animals in the classroom exercises will be a course requirement or optional activity. The following departments currently have courses that may require animals to be used in class activities: Animal Sciences, Nutrition and Food Science, Microbiology, Poultry Science, Psychology, Veterinary Medicine, and Zoology.

*Committee on Academic Procedures and Standards  
 April 27, 1990*