

SERVING AS AN ADVISOR

Information for Advisors on UMW's Policy on Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence.

THE ROLE OF AN ADVISOR

During the investigation, hearing, and appeal process, the Complainant and Respondent may be accompanied by an advisor of their choosing. Complainants and Respondents should notify the Director of Compliance and Title IX/ADA Coordinator in writing at least 48 hours prior to a scheduled meeting the identity of an accompanying advisor.

Advisors are not allowed to speak on behalf of the individual that they are advising except to the extent necessary to conduct direct examination and cross-examination during a hearing.

Advisors may support the individual during the investigation and hearing process, assist the individual in preparing and submitting evidence and in responding to questions, advise the individual in suggesting witnesses and questions to be asked of witnesses and the other party in the investigation process, and assist the individual in reviewing the evidence and investigation report.

During meetings, interviews, and hearings, the advisor may talk quietly or pass notes with the party they are advising in a non-disruptive manner. The advisor may not intervene in a meeting, interview, or hearing or address the investigator or decision-maker(s), including by making statements, giving evidence, or making objections except to the extent necessary to conduct direct examination and cross-examination during a hearing.

During a hearing, an advisor may pose a question which must then be reviewed for relevance by the decision-maker before it is answered by the party or witness (direct and cross-examination). A party is not permitted to personally cross-examine the other party or any witness. Advisors are prohibited from questioning parties or witnesses in an abusive, intimidating, or disrespectful manner.

diversity.umw.edu/title-ix/

RESOURCES AND SUPPORT FOR STUDENT FACULTY, AND STAFF

On Campus

Ruth Davison, Director of Compliance and Title IX/ADA Coordinator

rdavison@umw.edu | 540-654-5656 | Fairfax House

Terri Arthur, Deputy for Employees

tlockhar@umw.edu | 540-654-2051 | GW 201

Brandy Ellard, Deputy for Students

bellard@umw.edu | 540-654-2108 | Hamlet House

Marissa Miller, Prevention and Advocacy

mmille23@umw.edu | 540-654-1193 | Fairfax House

Melissa Jones, Dean of Students

mjones6@umw.edu | 540-654-1200 | Marye House

On Campus – Confidential (Students)

Talley Center for Counseling Services

Lee Hall 106 and Tyler House | 540-654-1053

Student Health Center

Lee Hall 112 | 540-654-1040

Off Campus

Legal Aid Works

540-371-1105 | LAWfred@LegalAidWorks.org

Virginia Legal Aid | www.valegalaid.org

Employee Assistance Program

<https://adminfinance.umw.edu/hr/employee-relations/employee-assistance-program/>

National Suicide Prevention Life Line

1-800-273-8255 | <https://988lifeline.org/chat/>

Disclaimer: This document is designed to assist advisors in understanding the Formal Investigation Process for allegations involving prohibited conduct under UMW's Policy on Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence (Policy). In the event there is any conflict between this document and the Policy, the Policy controls.

University of
Mary Washington

Prohibited Conduct: Sexual Harassment, Sexual or Gender-Based Misconduct, Sexual Exploitation, Retaliation, and Complicity.

Title IX and UMW's Prohibited Conduct Policy: Title IX of the Education Amendments Act of 1972 states “[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” Title IX and its accompanying regulations, 34 C.F.R. part 106, as amended, prohibit sexual harassment and define procedures for universities addressing allegations of sexual harassment. UMW’s *Policy on Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence* prohibits conduct covered by Title IX and 34 C.F.R. part 106, as amended, as well as other forms of prohibited conduct and the procedures for addressing reports of violations.

Supportive Measures: Parties are entitled to reasonable and appropriate supportive measures throughout the process. Supportive measures may include measures such as no-contact orders, housing modifications, parking accommodations, academic accommodations and support, work schedule accommodations, and referrals for mental health counseling, victim advocacy, legal assistance, visa and immigration assistance, and other services available. Contact the Director of Compliance and Title IX/ADA Coordinator to discuss supportive measures.

Informal Resolution: Informal Resolution is a flexible process that is available in many cases. Informal Resolution results in an outcome agreed to by both parties and the Director of Compliance and Title IX/ADA Coordinator. For more information, please visit diversity.umw.edu/title-ix/ or contact the Director of Compliance and Title IX/ADA Coordinator.

FORMAL PROCESS AND PROCEDURES

Notice: If a Formal Complaint is filed, the Complainant and Respondent receive a Notice of Allegations disclosing the reported Policy violations before an investigation interview.

Investigation: During the investigation, the investigator will meet separately with the Complainant, Respondent, and other relevant witnesses for statements, which may be recorded by the investigator and will gather available information and evidence, including but not limited to electronic records or communications, photographs, surveillance videos, and other available evidence. The Complainant, Respondent, witnesses, and advisors shall not record the interview. The statements will be made available for review in accordance with the Policy. Note that parties may request a meeting with their advisor and the investigator to discuss the process before any scheduled interviews.

Throughout the investigation, the Complainant and Respondent will have an equal opportunity to be heard, provide evidence, suggest witnesses to be interviewed, and submit questions to be directed by the investigator to the other party or to witnesses.

Reviewing Evidence: The investigator will provide all directly related evidence collected during the investigation to the parties. The parties will have 10 days to provide a response.

Reviewing Investigation Report: The investigator will review the responses and provide an investigation report summarizing the relevant evidence. The report will be provided at least 10 days prior to a hearing. In certain cases, the investigation report may contain recommended finding(s) and sanction(s), if applicable, that the parties may choose to accept rather than proceeding to a hearing.

Pre-Hearing Meeting: In cases for which a hearing will be held, the party and their advisor may meet with the Director of Compliance and Title IX/ADA Coordinator to discuss the procedural aspects of the hearing. Additionally, at the pre-hearing meeting with a party, the decision-maker may consider arguments that evidence included in the investigation report is not relevant for the purposes of the hearing and that evidence omitted from the investigation report is relevant for the purposes of the hearing.

Hearing: At the hearing, the University decision-maker(s) will ask the Complainant, Respondent, investigator, and witnesses questions. Additionally, the Complainant’s and Respondent’s advisors will be permitted to ask the other party and witnesses questions. Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker must first determine whether the question will be permitted to be answered by the party or witness.

Standard of Evidence: Violations are determined by the “Preponderance of Evidence” standard which means that it is more likely than not that a violation of the policy occurred, and the Respondent is presumed not responsible, but the presumption may be overcome when the decision-maker concludes that, by a Preponderance of the Evidence, there is sufficient evidence to determine that the Respondent violated the Policy.

Determination Regarding Responsibility: The parties will be provided the determination regarding responsibility in writing after the hearing.

Appeal: The Complainant or Respondent may appeal based on the grounds specified in the Policy.

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