

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

Plaintiff,

v.

Defendant.

*

*

*

*

Case No. _____

NOTICE OF FILING OF DOCUMENT UNDER SEAL

Check one.

☐ Exhibit _____ which is an attachment to _____

will be electronically filed under seal within 24 hours of the filing of this Notice.

☐ _____

(title of document)

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I certify that at the same time I am filing this Notice, I will serve copies of the document identified above by _____.

/s/ Kathryn J. Bradley

Date

Signature

Printed Name and Bar Number

Address

Email Address

Telephone Number

Fax Number

EXHIBIT 8

DFSL SPRING INQUIRY

Encounters by Location

CC Students w. Encounters By Chapter

Chapter	Month of Date Time		
	January 2024	February 2024	March 2024
Null	1		
Alpha Epsilon Phi		1	
Alpha Sigma Phi		7	
Alpha Tau Omega	3	4	
Alpha Xi Delta		3	
Delta Phi Epsilon	3	1	
Kappa Alpha Order		5	
Kappa Delta		4	
Kappa Phi Lambda	1	1	
Lambda Chi Alpha		10	
Phi Sigma Kappa	1		
Phi Sigma Sigma		5	
Sigma Alpha Mu		4	
Sigma Delta Tau	1	1	
Sigma Nu	3	0	
Sigma Phi Epsilon	3	8	1
Zeta Beta Tau	1	1	

UHC Encounters By Chapter

Chapter	Month of Date Time		
	January 2024	February 2024	March 2024
Null	1		
Alpha Epsilon Phi		1	
Alpha Sigma Phi		1	
Alpha Tau Omega	1	1	
Alpha Xi Delta		1	
Delta Phi Epsilon	2	1	
Kappa Alpha Order		1	
Kappa Delta		1	
Kappa Phi Lambda	1	1	
Lambda Chi Alpha		1	
Phi Sigma Kappa	1		
Phi Sigma Sigma		1	
Sigma Alpha Mu		1	
Sigma Delta Tau	1	1	
Sigma Nu	1	0	
Sigma Phi Epsilon	2	2	1
Zeta Beta Tau	1	1	

EXHIBIT 9



DIVISION OF STUDENT AFFAIRS

March 8, 2024

Dear Interfraternity Council (IFC) and Panhellenic Association (PHA) members including new spring 2024 members:

We recognize that this has been a difficult time for many of you as we paused some fraternity and sorority events. We have prioritized communications with you and you can find all of the updated information on [the DFSL website](#). We have also met with Chapter and Council presidents. We have communicated with national organizational leadership, families, Chapter Advisors, the House Corporations, and alumni. We are deeply invested in doing all we can to keep you informed, while doing our due diligence to start the next phase of this process, which is upon us and the reason for this letter.

As part of our commitment to establishing a safe and respectful environment for all students, the University of Maryland continues the next phase of its investigation into the recent allegations concerning harmful activities within IFC and PHA organizations.

From the beginning, our priority has been the health and well-being of every member of our community, and our collective goal is to prevent a serious incident from occurring. As a reminder, our decision to pause new member education, initiation, and alcohol-related activities was made after careful consideration of reports, observations and data-driven analysis of behaviors that we felt posed a threat to the safety and well-being of some members of our community. No single or specific incident led to this decision. Our decision was made in an effort to help *prevent* a significant incident, and to give the University an opportunity to investigate these matters.

To conduct a thorough and impartial investigation, we've interviewed and hired a consulting firm to support this process. **The interviews are scheduled to take place from Monday, March 11 through Friday, March 15. During this period, a number of current and new members from each IFC and PHA chapter will be invited to interview to facilitate a comprehensive understanding of the allegations.** Beyond these individuals, we encourage anyone else who would like to participate to do so. We share your desire for a careful and efficient process, and completing this review by the end of next week relies on your cooperation.

If you are selected for an interview, you will receive a direct email tomorrow, Saturday, March 9, with detailed instructions on how to schedule your interview, the location, and what to expect during the process. It is only through your cooperation and candid participation that we can work toward reinstating the positive and healthy activities that are central to fraternity and sorority life on our campus.

Additionally, we recognize that some of you may have information relevant to the investigation, but may wish to share it anonymously. To facilitate this, we have set up a confidential reporting mechanism. If you have any information that could assist in the investigation, please do not hesitate to submit it [here](#), with the option of doing so anonymously. Your input is invaluable, and we are committed to ensuring that all voices are heard.

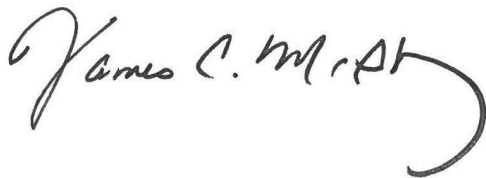
We understand that this may be a stressful time for many, and we want to assure you that these steps are being taken with the utmost care and respect for all involved. The [University Counseling Center](#) is prepared to offer confidential mental health services to any student in need. Additionally, the [Dean of Students Office](#) can provide immediate assistance and connect you with other specialized support services.

Please keep an eye on your email and be prepared to respond promptly if you are contacted to participate. If you have any questions regarding the investigation process, please write to us at vpsa@umd.edu. We are here to assist you.

We encourage you to continue to access the [DFSL website](#) for updated information regarding communications. The University of Maryland is dedicated to maintaining the integrity and values of our community. We appreciate your cooperation and commitment to helping us foster a more safe and inclusive campus.

We will offer an update on this process at the end of next week. Thank you for your attention and support.

Sincerely,

A handwritten signature in black ink that reads "James C. McShay". The signature is fluid and cursive, with a large, sweeping flourish at the end.

James McShay, Ph.D.
Assistant Vice President
Interim Director of Fraternity and Sorority Life

A handwritten signature in black ink that reads "James Bond". The signature is fluid and cursive, with a large, sweeping flourish at the end.

James Bond, J.D.
Director of Student Conduct

EXHIBIT 10



Campus Update on Fraternity and Sorority Life

Vice President Patricia A. Perillo, Student Affairs <vpsa@email.umd.edu>

Fri, Mar 15, 2024 at 4:11 PM

Reply-To: "Vice President Patty Perillo, Student Affairs" <reply-fec3107673640d7e-19_HTML-21034773-514005002-2@email.umd.edu>

View this email message as an [accessible web page](#).



March 15, 2024

Dear campus community,

On Friday, March 1, the University's Department of Fraternity and Sorority Life (DFSL) and the Office of Student Conduct (OSC) paused Interfraternity Council (IFC) and Panhellenic Association (PHA) new member activities and social activities where alcohol was present. All other activities, including philanthropic activities, service and chapter meetings were permitted to continue as scheduled.

What Prompted Our Actions

This temporary and narrow pause was prompted by reports, over a relatively short period of time, of concerning hazing behaviors and harmful alcohol-related activities within the fraternity and sorority community. These behaviors and activities posed a potential threat to the safety and well-being of members of our community. We recognize that temporarily pausing select activities has had an effect on our fraternity and sorority members, particularly new members. However, we chose a course of action that prioritized safety and prevention, with the aim of assessing the reports we had received and preventing a significant health and safety incident from occurring.

How the Investigation Was Completed

With the assistance of InCompliance, a consulting firm that specializes in these types of reviews, we moved quickly to collect and assess information about all allegations and reports. This included conducting over 150 interviews with leaders and members from our IFC and PHA communities. We also reviewed feedback submitted anonymously and accounts offered by concerned constituents, families and alumni. We would like to thank everyone who participated in this process.

Outcomes

Effective immediately, we are lifting the temporary pause on new member and alcohol-related activities, and related no-contact orders which the University issued on March 1, 2024. Thirty-two IFC and PHA chapters are cleared to return to normal activities.

As a result of evidence suggesting involvement in hazing or other incidents that threatened the health and safety of our campus community, the University is continuing its investigation of five chapters through the Office of Student Conduct. These chapters will continue to be subject to limited restrictions on their activities while the investigation continues. In addition, individual students will also be referred to the Office of Student Conduct for potential violations of the Code of Student Conduct.

Next Steps

For all fraternities and sororities, we remain cautious, watchful and deeply committed to safety and well-being. The assessment revealed areas of ongoing concern within IFC and PHA chapters that we believe necessitate a more comprehensive and deliberate review of fraternity and sorority life. We want to lift up the many positive aspects of our fraternities and sororities and lay the groundwork for this important part of campus life to flourish. To that end, we are taking the following immediate actions:

- **Fraternity and Sorority Life Working Group** – We will assemble a working group of students, staff, faculty, and alumni to assess ways we can improve safety and well-being, and foster a culture of integrity and accountability.
- **Training Review** – We will conduct a comprehensive review of all existing IFC and PHA training programs on recruitment and alcohol-related activities to address gaps and reinforce healthy behaviors.
- **Reporting** – We will establish expanded reporting mechanisms for students, faculty, staff, families and alumni to share possible instances of hazing or other concerns in real time.
- **Student Conduct** – We will review the Code of Student Conduct, as it relates to hazing and alcohol-related incidents to align with best practices.
- **Partnership and Communication** – The Department of Fraternity and Sorority Life leadership will continue to identify ways to work and facilitate communication with chapter advisors and national organization leadership on matters related to our fraternity and sorority community.
- **Alcohol and Other Drug Education** – We will develop more comprehensive and evidence-based educational opportunities for all chapter members regarding alcohol and other drug use.

Our Continued Commitment

Fraternity and Sorority Life has been an essential part of our University's campus for over 100 years. From the founding of the very first chapter in 1913, the commitment to the values remains strong and resolute. It is a commitment to brotherhood and sisterhood, service, scholarship, and philanthropy, and a sincere belief that fraternities and sororities have the potential to be a transformative part of the university experience.

We will continue our work together to create and preserve a healthy environment for all. In no uncertain terms, we are committed to fraternity and sorority life at the University of Maryland.

Sincerely,



Vice President for Student Affairs

She/Her/Hers



UNIVERSITY OF
MARYLAND

The Flagship Institution of the State of Maryland

College Park, MD 20742, USA

Phone: **301.405.1000**

EXHIBIT 11



DIVISION OF
STUDENT AFFAIRS
OFFICE OF STUDENT CONDUCT

March 15, 2024

Kappa Alpha Order Fraternity

Sent electronically to [REDACTED] terpmail.umd.edu

Regarding Case Number: 2023183903

Dear [REDACTED] Chapter President of Kappa Alpha Order Fraternity:

As you know, the University Maryland received concerning reports regarding unsafe practices at several IFC and PHA chapters, as a result of which the University conducted numerous interviews pertaining to these allegations. The Office of Student Conduct has received allegations in these interviews and from other complaints that your organization was involved in conduct that may have violated the University's *Code of Student Conduct*.

Specifically it is alleged that Kappa Alpha Order Fraternity has engaged in various physical/emotional hazing activities during the new member process in the Spring 2024 semester, including requiring tasks/errands of prospective new members, alcohol distribution to individuals under the legal drinking age, and high risk drinking behaviors. Please be advised that this type of behavior puts the health and safety of your organization's members at risk, as well as the members of the University community at large.

As a result of the foregoing, due to the concerns about the health and safety of chapter members, this notice shall also serve as a cease and desist order prohibiting Kappa Alpha Order Fraternity from continuing its new member education program at this time. Additionally, the chapter may not host social events where alcohol is present. The chapter may continue with other fraternity-related operations including philanthropy events and chapter meetings.

As the University continues to investigate these allegations, as chapter president, you are expected to contact the Office of Student Conduct at (301) 314-8204 by **March 25, 2024**, to schedule a preliminary interview. Please note that although it is "Spring Break", the University will be open March 20-22 if you wish to schedule a meeting prior to March 25. The purpose of this meeting is to review the information we received, discuss pertinent procedures, and determine appropriate next steps, if necessary. Prior to the meeting, it is recommended that you review the [Code of Student Conduct](#) to familiarize yourself with the relevant university policies.

All scheduled meetings will take place virtually via Google Meet or Zoom. A link will be provided to you upon scheduling your appointment.

We would also like to share two resources with you. The [Student Legal Aid Office](#) offers student assistance. The hyperlink has been provided for your convenience to schedule an appointment.

Additionally, the [University Counseling Center](#) is available to support you as well. If it would be helpful to speak with a professional counselor, please contact them at (301) 314-7651. After-hours crisis support phone services are available. If you have any questions or concerns regarding the student conduct process, please feel free to contact our office.

Sincerely,

James Bond
Director of Student Conduct

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

ALPHA PSI CHAPTER OF THETA CHI
FRATERNITY, *ET AL.*

Plaintiffs,

v.

JAMES BOND, *ET AL.*,

Defendants.

No. 8:24-cv-00753-DLB

* * * * *

MEMORANDUM IN OPPOSITION TO PLAINTIFF'S
MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY
INJUNCTION

Respectfully submitted,

ANTHONY G. BROWN
Attorney General of Maryland

/s/ Lillian L. Reynolds

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March 15, 2024

Attorneys for Defendants

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ALPHA PSI CHAPTER OF THETA CHI
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Plaintiffs,

v.

JAMES BOND, *ET AL.*,

Defendants.

No. 8:24-cv-00753-DLB

* * * * *

**MEMORANDUM IN OPPOSITION TO PLAINTIFFS’
MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY
INJUNCTION**

Defendants (collectively, the “University”) submit this Memorandum in Opposition to the Plaintiffs’ Motion for a Temporary Restraining Order and Preliminary Injunction. The motion should be denied. First, the issues in dispute in this case are now moot, because on March 15, 2024, the University lifted the March 1 and March 6 orders imposing a temporary restriction (or pause) on new member recruitment activities and social activities involving alcohol in IFC and PHA chapter organizations. *See* Ex. 10, Campus Wide Communication dated March 15, 2024. Second, to the extent that the matter is not now moot, the University was fully authorized pursuant to its Code of Student Conduct to impose limited, temporary restrictions on some chapter activities while it investigated serious and persistent allegations of hazing and alcohol abuse at multiple chapters which threatened the health and safety of its students. *See* Ex. 2, Code of Student Conduct, Section IX.D (“A Cease and Desist notice may be issued to Student Groups or Student Organizations whose continued operation poses a threat to the health and safety of the University community.”).

INTRODUCTION

As an initial matter, this matter is now moot and the motion should be summarily dismissed. Plaintiffs' complaint and motion are based entirely on the University's imposition of a ban on certain activities of all chapters within the Interfraternity Council ("IFC") and the Panhellenic Association ("PHA"). *See* Motion at 1. They challenge whether the University was authorized under its Code of Student Conduct and constitutionally to impose the March 1 (as clarified on March 6) prohibition of some activities of IFC and PHA member chapters. Plaintiffs do not dispute the University's right to investigate claims of misconduct or to impose interim measures under the Code of Student Conduct. *See* Motion at 3-4. They claim, however, that the March 1 Order was not authorized because it was issued to all IFC and PHA chapters, and not individual chapters based on individual allegations. They seek as relief an order relieving them from the obligation to comply with the March 1 and 6 limited ban on chapter activities.

This matter is now moot. On March 15, 2024, the University completed its initial investigation – as it had told the campus community it intended to do – and informed the community that “effective immediately, we are lifting the temporary pause on new member and alcohol-related activities, and related no-contact orders which the University issued on March 1, 2024.” *See* Ex. 10. Therefore, the March 1 and 6 orders which are the subject matter of the complaint and motion are no longer in force. This case is moot.

The University also announced that 32 chapters have been cleared to return to normal activities. *See id.* This includes three of the four plaintiff chapters - Theta Chi, Alpha Sigma Phi, and Alpha Tau Omega. Therefore, as to these three plaintiffs, there are *no* pending restrictions on their chapter activities. The University has continued its investigation against Plaintiff Kappa Alpha Order ("KAO"), based on serious allegations of hazing and alcohol abuse. The University

has issued KAO with a specific notice of the investigation, the nature of the allegations against it, the terms of a revised cease and desist order, and the next steps in the investigation - all in accordance with the Code of Student Conduct (Ex. 2, at Section IX) and pursuant to process Plaintiffs acknowledged was permissible. Therefore, without waiving in any way the appropriateness of the University's actions in imposing the March 1 order, Plaintiffs' claims are now moot and the motion, and complaint, should be dismissed.

Second, even if the case is not now moot, the motion should be denied because the University was fully justified in enacting a limited, temporary cease and desist order to limit chapter activities in light of numerous specific allegations and reports of hazing and alcohol abuse at chapter new member and social functions. The University acted out of concern for the health and safety of its students – *including Plaintiffs and their members* – and in a manner that was fully consistent with its rights under the Code of Student Conduct to issue interim cease and desist orders when there were reasonable and serious concerns about chapter activities that endangered the health and safety of its campus community. *See* Ex. 2, Code of Student Conduct, Section IX.D.2. The basis for this decision is discussed below.

STATEMENT OF FACTS

Relevant Policies Applicable to Council Chapters and their Members

The University recognizes eligible fraternities and sororities, also known as chapters, as student organizations. Ex. 1, Bond Aff. at ¶ 3. The University's chapters are governed by four councils: the Interfraternity Council ("IFC"), the Multicultural Greek Council ("MGC"), the National Pan-Hellenic Council ("NPHC"), and the Panhellenic Association ("PHA"). The vast majority of University students who are members of Greek organizations are members of chapters governed by the IFC and the PHA. Ex. 1, Bond Aff. at ¶ 3. These chapters generally engage in

recruitment activities for a period of six to eight weeks beginning in or around February of each year. Ex. 1, Bond Aff. at ¶ 3.

University students and student organizations, including chapters, are subject to the University's Code of Student Conduct (the "Code of Conduct"). Ex. 1, Bond Aff. at ¶ 4; Ex. 2. The Code of Conduct strictly forbids, among other things, students and student organizations from engaging in hazing, defined by the University's Policy and Procedures on Hazing as reckless or intentional conduct, for the purposes of admission, initiation, or continued association with a group or organization, that subjects another person to: the risk of physical harm; emotional distress, humiliation, degradation; harm from unreasonable requirements which interfere with a student's ability to function as a student; diminished physical or mental capacity; or causes or encourages another person to violate any law or University regulation. Ex. 2 at 5; Ex. 3. The Code of Conduct also prohibits the unauthorized use or possession of any controlled substance or illegal drug, providing alcohol or alcoholic beverages to underage persons, and the illegal consumption or possession of alcohol. Ex. 2 at 5-6. Additionally, the Code of Conduct prohibits the failure to comply with a directive of University officials. Ex. 2 at 7.

The Code of Conduct contains the process for the University's review of student conduct, including that of student organizations. That process commences when the Office of Student Conduct ("OSC") receives and reviews a referral¹ alleging a violation of the Code of Conduct. Ex. 2 at 9. OSC determines what steps to take in response to the referral, if any, including whether to impose interim measures. Ex. 2 at 9-10. The Code of Conduct authorizes OSC to impose, as an interim measure, a Cease and Desist notice to student organizations, including chapters, "whose

¹ A "referral" is defined as a report, complaint, or allegation of prohibited conduct against a student, student group, or student organization. Ex. 2 at 3.

continued operation poses a threat to the health and safety of the University community.” The Code of Conduct further states:

Directives to Cease and Desist may be effective immediately without prior notice to the Student Group or Student Organization if there is evidence that the continued presence and operation of the Student Group or Student Organization poses a substantial threat to the health and safety of their members or others in the community (e.g., hazing allegation).

Ex. 2 at 10. The Code of Conduct also allows OSC to institute No Contact Orders in response to a referral. Ex. 2 at 10. “No Contact Directives are effective immediately without prior notice to Students whenever there is evidence that the continued interaction of the Student with other particular members of the University community poses a substantial threat to themselves or others, or to the stability and continuation of normal University operations including, but not limited to individuals’ educational or work environments.” Ex. 2 at 4.

The Code of Conduct further provides that OSC can conduct preliminary interviews in response to a referral. There is no requirement that any written notice of complaints be provided to a party prior to a preliminary interview; rather, the allegations can be discussed during the initial meeting. Ex. 2 at 10.

The University Receives Multiple Reports Alleging Violations of the Code of Conduct by Council Chapters and Issues Limited Temporary Restrictions to Chapter Members

On or around February 22, 2024, OSC received two referrals alleging Code of Conduct violations by Fraternity 1², a member of the IFC. Ex. 1, Bond Aff. at ¶ 6. Specifically, a resident director reported that, during residence inspections on February 20, 2024, he found multiple

² The University is currently in the process of investigating the allegations against several chapters who are not parties to this proceeding but has not substantiated the allegations of misconduct against them. Therefore, to protect the privacy of these third-party chapters, the University will identify them as Fraternity 1, Fraternity 2, etc.

prohibited substances and drug paraphernalia in the fraternity house of Fraternity 1. Ex. 1, Bond Aff. at ¶ 6. OSC also received an anonymous report from a parent that their son was being subjected to harmful hazing by Fraternity 1, including being required by the chapter to stay outside in the cold for several hours on the evening of February 21, 2024, which necessitated a trip to the University Health Center for suspected hypothermia, cleaning the off-campus houses of chapter members (known as “satellite houses”), and scrubbing floors until 2:30 am. Ex. 1, Bond Aff. at ¶ 6; Ex. 4. Following OSC’s receipt of these referrals, on February 27 and 28, 2024, OSC interviewed members of Fraternity 1, who provided inconsistent and apparently false statements to OSC investigators. Ex. 1, Bond Aff. at ¶ 7.

On the evening of February 27, 2024, OSC received an anonymous email referral alleging that multiple unidentified fraternities³ were engaged in hazing activities with new members, including: being beaten with a paddle; being burned with cigarettes and torches; having to lay on nails; “[b]eing forced to consume things that are not food (an alive fish, chewing tobacco, urine)”; being spit on; and being forced to clean chapter members’ residences. Ex. 1, Bond Aff. at ¶ 8; Ex. 5, redacted referral. The anonymous reporter also alleged to have personally experienced:

Being forced to attend a “Line Up” at which they abuse you for hours on end (5 in my experience) where they force you to wall sit, do push ups, plank, intentionally harm oneself, be naked/in underwear for the purpose of public humiliation, and be physically assaulted. At one of these events one individual passed out as they refused to provide us with water and forced us to drink straight vodka and they did nothing to help him, in fact they hit him in the face with a plastic bat and poured beer on him until he woke up.

Ex. 5, referral.

³ The author referred to having spoken with 20 members in at least eight different unidentified chapters. Ex. 5.

As a result of the serious nature of the alleged widespread conduct described in the February 27, 2024, referral, Kevin Pitt, Assistant Dean of Students, Tyler Huddleston, Assistant Director, Advising and Programming, and Dr. James McShay, Assistant Vice President, Division of Student Affairs, met with the chapter presidents on the evening of Thursday February 29, 2024, to address the allegations described in the February 27, 2024, referral and to reinforce the University's policies prohibiting hazing and alcohol use. Ex. 6, Pitt Aff. at ¶ 2. Mr. Pitt presented a general overview of the concerns raised in the February 27 referral, including that there were allegations of widespread physical abuse and dangerous rituals, severe mental and emotional distress, financial exploitation and forced labor, drug and alcohol abuse, and a general atmosphere of fear and intimidation. Ex. 6, Pitt Aff. at ¶ 3. Mr. Pitt specifically mentioned that there were allegations of "line-ups" and bodily harm, including some involving human waste, and that the allegations included criminal acts that are against Maryland law⁴ and University policy. Ex. 6, Pitt Aff. at ¶ 3. During this meeting, chapter leadership was advised that the University would take action in response to further allegations of prohibited conduct, including a pause of new member activities across one or all of the councils. Ex. 6, Pitt Aff. at ¶ 4. Mr. Pitt, Mr. Huddleston, and Dr. McShay offered chapter leadership the opportunity to ask questions and several chapter leaders posed questions about the process. Ex. 6, Pitt Aff. at ¶ 5. The administrators also distributed index cards and offered chapter leaders the opportunity to confidentially seek support for chapters (their own or others) that may need assistance in addressing hazing activities and harmful traditions. Ex. 6, Pitt Aff. at ¶ 5. Finally, the administrators encouraged chapter leaders to contact them via email following the meeting with questions or concerns. Ex. 6, Bond Aff. at ¶ 5. The chapter leaders

⁴ Hazing is a misdemeanor offense under Maryland law, subject to imprisonment of up to six months, a fine not to exceed \$500, or both. Md. Code Ann., Crim. Law § 3-607.

and members at the meeting did not provide any additional substantive information that suggested that they were not engaged in the alleged misconduct, nor did they provide further information to clarify which fraternities or sororities were responsible for the allegations. Ex. 6, Bond Aff. at ¶ 5. None of the fraternity or sorority leaders contacted Mr. Pitt in the days after the meeting, by e-mail, phone, or in person. Ex. 6, Bond Aff. at ¶ 6

Several hours after meeting with the chapter presidents about appropriate conduct, in the early morning hours of March 1, there were two separate incidents of alcohol transports⁵ involving excessive alcohol consumption by new members of PHA chapters who had reportedly attended chapter events on the evening of February 29, 2024. Ex. 1, Bond Aff. at ¶ 10. OSC received referrals relating to these incidents on Friday March 1, 2024. Ex. 1, Bond Aff. at ¶ 10. Additionally, in the morning of March 1, OSC received an anonymous referral from the mother of a new member of Fraternity 2 alleging hazing by the chapter, including locking new members in the basement and breaking glass on the floor for the new members to clean up. Ex. 1, Bond Aff. at ¶ 11; Ex. 7. OSC also reviewed data from the University's Health and Counseling Centers and found there was a troubling uptick in visits to both Centers by IFC and PHA chapter members during the month of February. Ex. 1, Bond Aff. at ¶ 12; Ex. 8.

Based on the totality of information received by the University as of March 1, and concerns about ongoing violations of the Code of Conduct relating to hazing and alcohol and drug use, OSC determined that immediate action was warranted to prevent harm to the University's students, particularly since it was anticipated that there would be many recruiting activities and social events by the chapters in the coming weekend. Ex. 1, Bond Aff. at ¶ 13. Consequently, OSC determined

⁵ An "alcohol transport" is an incident where a student is transported off campus by an emergency responder to a healthcare facility due to excessive alcohol consumption. Ex. 1, Bond Aff. at ¶ 9.

that it would place a *temporary* interim cease and desist order, consistent with the Code of Conduct, relating to two specific activities by chapters: (1) hosting social events where alcohol is served; and (2) conducting new or prospective member activities. Compl. Ex. B. Because the February 27 referral alleged widespread hazing across multiple unnamed chapters and because of the nature and extent of the other evidence described above, the cease and desist order was imposed on all IFC and PHA chapters so that the University could have an opportunity to thoroughly but expeditiously investigate the allegations and identify specific chapters, if any, that were allegedly involved in hazing. The intent of the no contact restriction was to protect vulnerable underclassmen who are new or prospective members of chapters from being subjected to hazing as well as to maintain integrity in the investigation of the serious allegations set forth in the February 27 referral. Ex. 1, Bond Aff. at ¶ 13.

On March 6, as a result of questions regarding the applicability of the no contact order to non-Greek-letter organization-related matters, OSC issued a clarification of such order that provided that the only contact with new or prospective members was contact relating to Greek-letter organization-related activities and, therefore, communications, for example, about University course-work, employment operations, or any other matter unrelated to Greek-letter organization-related activities was not prohibited. Compl. Ex. C.

The University Promptly Engages an Outside Firm to Investigate the Allegations of Misconduct

Following the decision to implement interim measures on March 1, the University promptly engaged INCompliance, an outside consulting firm, to interview students for the purpose of gathering information about the activities of chapters during the preceding weeks. Ex. 1, Bond Aff. at ¶ 14; Ex. 9. Beginning on March 11, investigators interviewed over 150 chapter members

regarding their experiences with Greek life on campus.⁶ Ex. 1, Bond Aff. at ¶ 15. As of the afternoon of March 15, INCompliance’s preliminary factfinding investigation has concluded, and the University has lifted the interim measures set forth in the March 1 and 6, 2024, notices. Ex. 1, Bond Aff. at ¶ 15; Ex. 10, notice of rescission. As a result of evidence suggesting involvement in, or responsibility for, hazing or other incidents that threatened the health and safety of the campus community, the University is continuing its investigation of five chapters by the OSC, pursuant to the Code of Student Conduct, and these chapters will continue to be subject to limited restrictions, via individualized notices of investigation/interim cease and desist orders, on their activities while the investigation continues. *See id.* One of the five chapters is KAO, a plaintiff in this lawsuit. Ex. 11. The University sent KAO a notice of allegations on March 15, 2024, which stated that “it is alleged that Kappa Alpha Order Fraternity has engaged in various physical/emotional hazing activities during the new member process in the spring 2024 semester, including requiring tasks/errands of prospective new members, alcohol distribution to individuals under the legal drinking age, and high risk drinking behaviors.” Ex. 11. The University’s letter also stated that it “shall also serve as a cease and desist order prohibiting Kappa Alpha Order Fraternity from continuing its new member education program at this time” and hosting “social events where alcohol is present.” Ex. 11.

LEGAL STANDARD

Under Federal Rule of Civil Procedure 65(a), a court may issue a preliminary injunction upon the requisite showing at a hearing. A preliminary injunction seeks to “preserve[s] the status

⁶ Contrary to Plaintiffs’ contentions during the March 14, 2024, conference call with the Court, the interviewers never prohibited any students from having an advisor, legal or otherwise, present during their interviews and never demanded that any students turn over their phones. Indeed, upon information and belief, counsel for Plaintiffs served as advisors during some of the interviews.

quo pending a final trial on the merits,” and thus will stand in effect for an “indefinite duration.” *Hoechst Diafoil Co. v. Nan Ya Plastics Corp.*, 174 F.3d 411, 422 (4th Cir. 1999). As such, it is “an extraordinary remedy never awarded as of right.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). A plaintiff must make a clear showing of entitlement to such relief. *Dewhurst v. Century Aluminum Co.*, 649 F.3d 287, 290 (4th Cir. 2011).

To obtain preliminary injunctive relief, plaintiff must establish four factors: (1) that he is “likely to succeed on the merits;” (2) that he is “likely to suffer irreparable harm” absent injunctive relief; (3) “that the balance of equities tips in his favor;” and (4) that injunctive relief is in the “public interest.” *Winter*, 555 U.S. at 20; *see also WV Ass’n of Club Owners & Fraternal Servs., Inc. v. Musgrave*, 553 F.3d 292, 298 (4th Cir. 2009). Injunctive relief “should be no more burdensome to the defendant than necessary,” *Madsen v. Women’s Health Ctr., Inc.*, 512 U.S. 753 (1994), and a court should “pay particular regard for the public consequences in employing the extraordinary remedy of injunction.” *Winter*, 555 U.S. at 24.

The substantive standards for granting a motion for a temporary restraining order and entering a preliminary injunction are the same. *Virginia v. Kelly*, 29 F.3d 145, 147 (4th Cir. 1994).

ARGUMENT

I. PLAINTIFFS’ MOTION IS MOOT BECAUSE THE UNIVERSITY HAS RESCINDED THE ORDERS AT ISSUE.

Plaintiffs’ motion for temporary restraining order and preliminary injunction should be denied because the University has rescinded the interim measures challenged by Plaintiffs and, as a result, Plaintiffs’ motion is moot. Specifically, as of the filing of this opposition, the interim measures described in the March 1 and 6 notices have been lifted and are no longer in effect. Ex.

10. As a result, there is simply no need for a temporary restraining order or preliminary injunctive relief in this case.

II. PLAINTIFFS HAVE FAILED TO ESTABLISH THE LIKELIHOOD OF SUCCESS ON THE MERITS.

Although Plaintiffs' motion seeking injunctive relief should be denied as moot, it should additionally be denied because Plaintiffs' have failed to establish all four elements that are required to warrant the extraordinary measure of injunctive relief. Specifically, they have not established the likelihood of success on the merits, that the balance of equities tips in their favor, that they will suffer irreparable harm without an injunction, or that public interest favors injunctive relief. *Winter*, 555 U.S. at 20; *see also Doe v. Wake Forest Univ.*, No. 1:23-CV-00114, 2023 WL 2239475, at *1–2 (M.D.N.C. Feb. 27, 2023) (citing *Winter*, 555 U.S. at 20, 24) (holding that all four *Winter* factors must be established to warrant injunctive relief). As such, Plaintiffs' motion should be denied.

A. The University's Imposition of Interim Measures was Narrowly Tailored to Address the Compelling Governmental Interest of Protecting the Health and Safety of Students.

In counts I and II of their complaint, Plaintiffs assert that the interim measures imposed temporarily by the University from March 1 through March 15, 2024, violated Plaintiffs' first amendment rights to freedom of speech and freedom of association. As set forth below, the institution of the two-week restriction on chapter recruiting activities served a compelling governmental interest and was narrowly tailored to achieve that interest under the circumstances.

In First Amendment cases, there are three different types of forums: traditional public forums, non-public forums, and limited public forums. *ACLU v. Mote*, 423 F.3d 438, 443 (4th Cir. 2005). A limited public forum "is one that is not traditionally public, but the government has purposefully opened to the public, or some segment of the public, for expressive activity." *Id.* at

443. The Fourth Circuit has determined that the University’s campus is a limited public forum. *Id.* at 444. Because Plaintiffs are “within the class to which [the University] is made generally available,” any restrictions on Plaintiffs’ speech are subject to strict scrutiny. *Id.* In other words, the challenged restrictions must be “necessary to serve a compelling state interest and . . . narrowly drawn to achieve that end.” *Perry Educ. Ass’n v. Perry Local Educators’ Ass’n*, 460 U.S. 37, 45 (1983).

At the same time, the Supreme Court has “recognized that First Amendment rights must be analyzed in ‘light of the special characteristics of the school environment.’” *Widmar v. Vincent*, 454 U.S. 263, 268 n.5 (1981) (quoting *Tinker v. Des Moines Indep. Sch. Dist.*, 393 U.S. 503, 506 (1969)). “A university differs in significant respects from public forums such as streets or parks or even municipal theaters. A university’s mission is education, and decisions of this Court have never denied a university’s authority to impose reasonable regulations compatible with that mission upon the use of its campus and facilities.” *Id.*

It cannot be disputed that protecting the health and safety of students from hazing and medical emergencies caused by excessive alcohol consumption are compelling governmental interests. Indeed, under Maryland law, hazing is a criminal offense. *See* Md. Code Ann., Crim. Law § 3-607. In *McKenzie v. State*, 131 Md. App. 124 (2000), the Court of Appeals of Maryland held that Maryland’s anti-hazing statute is constitutional, and discussed the State’s interest in prohibiting hazing:

Group initiations . . . should not entail violence or endanger would-be members. This State should keep its students safe in situations where peer pressure and the fear of losing face propels initiates to submit to conduct that strays well beyond the boundaries of criminal liability.

* * *

We find that the legislative records, along with our research, support our view that Maryland has a compelling interest in preventing violence or dangerous initiation

activities on campuses, and that the student groups regulated by this statute lose no significant First Amendment freedoms when it is enforced.

McKenzie, 131 Md. App. at 147, 148-49. *See also Widner*, 454 U.S. at 268 n.5 (a university has the “authority to impose reasonable regulations compatible with that mission upon the use of its campus and facilities.”).

Here, the temporary interim measures imposed by the University were necessary because credible allegations of specific conduct and data suggested that such conduct was escalating and, despite attempting to provide guidance to the chapters during a meeting on February 29, 2024, violations were continuing to occur, as evidenced by two alcohol transports of individuals who reportedly attended chapter events on the evening of February 29 and a complaint by a parent alleging hazing on March 1. As a result, the University concluded that the narrowest restriction that could be imposed was to temporarily limit contact between current members of the chapters and new members to prevent any further hazing or alcohol related incidents until the University could investigate the allegations and ascertain the identities of any chapters that were involved. The University undertook its investigation into the allegations as expeditiously as possible, completing its interviews with dozens of chapter members in a five-day period. As soon as the interviews were completed, the University promptly lifted the temporary interim measures.

In short, the University imposed the least restrictive alternative possible in achieving its compelling interest of promptly identifying any chapters engaging in potentially life-threatening activities, including hazing, while simultaneously preventing new or prospective chapter members from harm pending such investigation. As a result, the University’s actions survive strict scrutiny and should be upheld.

B. Plaintiffs' Due Process Rights Were Not Violated.

Plaintiffs allege that Defendants, in their official capacities, violated their liberty interests without due process of law in violation of the Fourteenth Amendment. Compl. at ¶¶ 68-72. Specifically, Plaintiffs allege that they have constitutionally protected liberty interests in the expressive associational rights of their chapters' members, ECF No. 2-1 at 9, and that Defendants violated those interests without due process by imposing "a system-wide, interim suspension" that prohibited contact between current members and new or prospective members "without predeprivation notice or postdeprivation remedies." ECF No. 2-1 at 16. Plaintiffs' complaint also alleges that Defendants violated the University of Maryland's Student Code of Conduct by entering the "no contact order" without evidence that continued interaction between the affected students created a "substantial threat to themselves or others, or to the stability and continuation of normal University operations including but not limited to individuals' educational or work environments." Compl. ¶ 71.

To succeed on their procedural due process claim, Plaintiffs must "show (1) a cognizable 'liberty' or 'property' interest; (2) the deprivation of that interest by 'some form of state action'; and (3) that the procedures employed were constitutionally inadequate." *Iota Xi Chapter Of Sigma Chi Fraternity v. Patterson*, 566 F.3d 138, 145 (4th Cir.2009) (quoting *Stone v. Univ. of Md. Med. Sys. Corp.*, 855 F.2d 167, 172 (4th Cir. 1988)). Plaintiffs' due process claim falters first because they have not established that the no contact order between new members and current members about Greek-letter organization-related activities violated their right to expressive association. The First Amendment protects "expressive association," which is the "right to associate for the purpose of engaging in those activities protected by the First Amendment—speech, assembly, petition for the redress of grievances, and the exercise of religion." *Roberts v. U.S. Jaycees*, 468 U.S. 609,

618 (1984)). Plaintiffs' right to expressive association was not implicated by the University's orders prohibiting the chapters from hosting social events, on or off campus, where alcohol is present. Indeed, current members were free to participate in expressive events so long as alcohol was not present.

Nevertheless, even assuming that Plaintiffs plausibly allege that the suspension of contact between new and current members violated their right to expressive association, their due process claim still fails because Plaintiffs were provided with sufficient process. Defendants provided Plaintiffs with notice of the general and serious allegations of hazing against many fraternities and sororities and an opportunity to respond during the meeting held on February 29, 2024. Mr. Pitt, Mr. Huddleston, and Dr. McShay met with chapter leaders to discuss the allegations described in the February 27, 2024, referral and to reinforce the University's policies prohibiting hazing and alcohol use. Approximately 100 students were present during this meeting. Mr. Pitt discussed the multiple, anonymous allegations of physical abuse, severe mental and emotional distress, financial exploitation and forced labor, drug and alcohol abuse, and the general atmosphere of fear and intimidation. The administrators specifically advised chapter leaders that the University would take action in response to further allegations of prohibited conduct, including pausing new member activities across all councils. Chapter leaders had the opportunity to ask questions, provide information anonymously on index cards, and contact the administrators via email following the meeting with questions or concerns. The administrators received no additional substantive information from chapter leaders about the allegations. Therefore, following the two serious alcohol transports in the early morning hours of March 1, the additional anonymous referral about hazing by Fraternity 2, and the analysis of data from the University's Health and Counseling Centers, the University determined that it was necessary to issue the temporary cease and desist

order to suspend contact with new and prospective members to prevent further harm to students while it investigated all of the allegations.

Due process requires only “notice and a meaningful opportunity to be heard.” *Iota XI Chapter of the Sigma CHI Fraternity v. Patterson*, 538 F. Supp. 2d 915, 924–25 (E.D. Va. 2008), *aff’d on other grounds*, *Patterson*, 566 F.3d 138 (citing *Tigrett v. Rector & Visitors of Univ. of Va.*, 290 F.3d 620, 630 (4th Cir.2002)). The “process due is flexible and depends on context” *Doe v. Virginia Polytechnic Inst. & State Univ.*, 77 F.4th 231, 236 (4th Cir. 2023) (citing *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976)) and “requires analysis of the governmental and private interests that are affected.” *Mathews*, 424 U.S. at 334. Determining what process is due in light of those interests requires consideration of three factors: (1) “the private interest that will be affected by the official action,” (2) “the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards,” and (3) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Mathews*, 424 U.S. at 335.

For the first factor, as set forth above, Plaintiffs have not demonstrated a private, constitutionally protected interest in their current members communicating with new or prospective members about Greek life. *See, e.g., Pi Lambda Phi Fraternity, Inc. v. Univ. of Pittsburgh*, 229 F.3d 435, 444 (3d Cir. 2000), *as amended* (Nov. 29, 2000) (holding that fraternity did not have a constitutionally protected expressive association because the chapter did not take a public stance on any issue of public, political, social, or cultural importance and “[a] few minor charitable acts do not alone make a group’s association expressive . . .”).

In contrast, under the third factor, the University’s interests are clear and significant. “[E]ducation is perhaps the most important function of state and local governments.” *Goss v. Lopez*, 419 U.S. 565, 576 (1975) (quoting *Brown v. Board of Education*, 347, U.S. 483, 493 (1954)). Courts have recognized the interests of a university in “preserving . . . resources to serve its primary function of education,” “protecting vulnerable witnesses,” and “providing a safe environment for” students. *Walsh v. Hodge*, 975 F.3d 475, 484 (5th Cir. 2020); *Williams v. Pennsylvania State Univ.*, No. 4:20-CV-00298, 2023 WL 6626789, at *27 (M.D. Pa. Oct. 11, 2023) (noting that universities have well-established interests including “maintaining safety on its campus and within its student body [as well as] a strong interest in allocating resources to best achieve its educational mission and the educational component of its disciplinary process.”) (citation and internal quotation marks omitted); *Caldwell v. Univ. of New Mexico Bd. of Regents*, 510 F. Supp. 3d 982, 1052 (D.N.M. 2020) (citing cases in support of a university’s interest in maintaining a safe environment and preserving its resources). Based on the culture of secrecy governing the activities of the University’s fraternities and sororities, the recent reports of potentially deadly and unlawful activities by multiple fraternities and sororities, and the concern that current members would coach new members during any investigation, Defendants had an important interest in investigating the serious allegations of risks to students’ health and safety without interference and coaching by current members and without allowing dangerous hazing activities to continue.

Because of the important interests at stake, “[i]n the academic setting particularly, the Supreme Court has recognized that the requirements of due process may be satisfied by something less than a trial-like proceeding.” *Henson v. Honor Comm. of U. Va.*, 719 F.2d 69, 74 (4th Cir. 1983). Imposing “even truncated trial-type procedures might well

overwhelm administrative facilities . . . and . . . cost more than it would save in educational effectiveness.” *Goss*, 419 U.S. 563. Here, the fraternities and sororities had notice of the allegations during the meeting on February 29 and an opportunity to comment on them and provide additional information during that meeting and afterwards, including anonymously. Given the limited duration and scope of the University’s restriction, this was sufficient to meet basic due process requirements.

Moreover, the U.S. Supreme Court has recognized that, in the educational context, prior notice and a hearing are not always required, *even for students who are suspended from accessing their education*. “[T]here are recurring situations in which prior notice and hearing cannot be insisted upon. Students whose presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process may be immediately removed from school,” with notice and a rudimentary hearing to follow “as soon as practicable.” *Goss*, 419 U.S. at 582. Here, the University’s clarified order did not interfere with Plaintiffs’ ability to access their education; it affected only Plaintiffs’ ability to engage in pledging activities with new members over a two-week period.

Plaintiffs have similarly failed to demonstrate how they have met the second factor, i.e. the risk of erroneous deprivation of their expressive association through the procedures used and the probable value of additional or substitute procedural safeguards. *Mathews*, 424 U.S. at 335. Plaintiffs have not alleged any specific procedural or substitute safeguards the University should have used to prevent the risk of erroneous deprivation. Indeed, there is no dispute that University administrators met with student chapter leaders on February 29 and told them that the University had received multiple recent anonymous reports of serious allegations of hazing across multiple fraternities and sororities. The administrators warned student leaders that the University would

pause new member activities across all councils if they received further allegations of prohibited conduct. The chapter leaders had an opportunity to ask questions and provide comments but did not provide information to the administrators that suggested that they were *not* engaged in the misconduct, nor did they provide further information to clarify which fraternities and sororities *were* responsible for the allegations. Because of the widespread nature of the allegations of hazing and the culture of secrecy in the University's fraternities and sororities, the University could not identify which individuals in which fraternities or sororities were engaging in misconduct prior to issuing the no contact order. Therefore, following the two serious alcohol transports in the early morning hours of March 1, the additional anonymous referral about hazing, and the analysis of data from the University's Health and Counseling Centers, the University determined that it was necessary to issue the temporary cease and desist order while the University investigated the allegations. During the preliminary investigation of the allegations by INCompliance, members of fraternities and sororities had additional opportunities to be heard by investigators about the existence of hazing activities in their chapters and had the opportunity to contact Mr. Pitt, Mr. Huddleston, and Dr. McShay about the no contact order. Further, members had the opportunity to appear before investigators with advisors, including attorneys.

The University's February 29 meeting provided Plaintiffs with notice and an opportunity to be heard prior to the alleged deprivation and additional opportunities for Plaintiffs to be heard thereafter. Given the significant evidence that continued interaction between the new and prospective members and current members would create a substantial threat of harm to new members, the process provided to Plaintiffs prior to completion of the investigation complied with University policy and satisfied due process requirements.

III. THE BALANCE OF EQUITIES WEIGHS AGAINST AN INJUNCTION.

Even if Plaintiffs could establish the likelihood of success on the merits, the injunction should still be denied because the balance of equities and public interest strongly weigh against an injunction, and Plaintiffs have not shown that they will suffer irreparable harm without injunctive relief. Although Plaintiffs suggest that the University has no interests at stake and would suffer no harm if the injunction were granted, ECF No. 2-1 at 20 (asserting that “there is very little, if any, potential harm to Defendants if this requested injunctive relief is issued”), this overlooks well-settled law establishing that the University and the public have significant and compelling interests here, which weigh heavily against granting an injunction.

It is well-established that “Maryland has a compelling interest in preventing violent or dangerous initiation activities on campuses.” *McKenzie*, 131 Md. App. at 148–49. This interest is so compelling, in fact, that it led to the enactment of anti-hazing legislation in Maryland which criminalizes certain hazing conduct. *See id.*; Md. Code Ann., Crim. Law § 3-607. As set forth above, under this law, a person who “recklessly or intentionally do[es] an act or create[s] a situation that subjects a student to the risk of serious bodily injury for the purpose of an initiation into a student organization of a school, college, or university” and is subject to imprisonment for up to six months and a fine of \$500. Crim. Law § 3-607. In upholding the constitutionality of this law against a First Amendment challenge in *McKenzie v. State*, the Supreme Court of Maryland held that “[t]his State should keep its students safe in situations where peer pressure and the fear of losing face propels initiates to submit to conduct that strays well beyond the boundaries of criminal liability.” *McKenzie*, 131 Md. App. at 147. The Court went on to express its grave concern about “[a] series of campus tragedies in Maryland and other states,” and declared that “[g]roup initiations ... should not entail violence or endanger would-be members.” *Id.*

University policy accords with this compelling interest by not only prohibiting hazing, like Maryland’s anti-hazing law, but in addition, by allowing the University to take immediate and interim steps, merely upon receiving a report of alleged hazing, to protect its students prior to completion of its investigation. *See* Ex. 2, Code of Conduct at Section II.E. Such interim measures may include a “no contact” directive prohibiting “the organization or its members” from having “verbal, electronic, written, or third party communication with one another or with the student(s) seeking membership,” as well as an order to “cease and desist” from all of an organization’s activities. *Id.* Notably, Plaintiffs do not challenge this policy provision, nor can they, as it aligns with Maryland’s compelling interest and comports with the law. Yet, the University’s cease and desist order in this case, which Plaintiffs do challenge, were the very type of interim measures permitted by this policy. The injunction Plaintiffs are seeking would, contrary to their assertion, severely inhibit the University’s ability to uphold this compelling interest and prevent dangerous activities on its campus. Given the multiple credible reports of such conduct, and the repeated nature of the conduct even after University administrators spoke with chapter leaders about complying with the anti-hazing policy, the University had to act. An injunction would allow those involved in the alleged hazing to continue their unlawful actions unabated, and could have a deleterious impact on the overall University and campus community.

Importantly, consideration of Plaintiffs’ First Amendment rights at issue is “shaped by the educational context in which it arises,” *Christian Legal Soc. Chapter of the Univ. of California, Hastings Coll. of the L. v. Martinez*, 561 U.S. 661, 685 (2010), and thus the Court must be mindful of the compelling interests that are particularly applicable to this context. First Amendment claims must, therefore, “be analyzed in light of the special characteristics of the school environment,” including that universities “enjoy ‘significant measure of authority over the type of officially

recognized activities in which their students participate.” *Id.* at 686-87. “And, where state-operated educational institutions are involved,” like in the case at bar, the United States Supreme Court has “recognized ‘the need for affirming the comprehensive authority of the States and of school officials, consistent with fundamental constitutional safeguards, to prescribe and control conduct in the schools.’” *Healy v. James*, 408 U.S. 169, 180 (1972). “A university’s mission is education, and decisions of this Court have never denied a university’s authority to impose reasonable regulations compatible with that mission upon the use of its campus and facilities.” *Widmar v. Vincent*, 454 U.S. 263, 268 n.5 (1981).

More broadly, and “in furtherance of the University’s educational mission,” the University also has a significant interest in “protecting the educational experience of the students....” *Bowman v. White*, 444 F.3d 967, 980 (8th Cir. 2006) (holding that “[t]his interest is significant because an educated electorate is essential to the vitality of our democracy and a lack of proper education diminishes the value of our free speech rights”). Similarly, the University has a compelling interest in “ensuring public safety” of its campus community, which, “[l]ike education, is a fundamental human need without which the desire to speak one’s mind becomes moot.” *Id.* Indeed, the Supreme Court has recognized that “a State’s interest in protecting the ‘safety and convenience’ of persons using a public forum is a valid governmental objective.” *Heffron v. Int’l Soc. for Krishna Consciousness, Inc.*, 452 U.S. 640, 650 (1981).

Critical to the balance of equities analysis is the fact that under common law, the failure of the University to take action like it did in the face of credible allegations of dangerous hazing could expose the University to potential liability. The University owes common law duties in tort to keep their campuses safe from unreasonable risks that were foreseeable, i.e. of which they knew or should have known. *See Rhaney v. Univ. Of Maryland E. Shore*, 388 Md. 585, 601–02 (2005).

In some states, an institution's failure to address reports of hazing could constitute a violation of anti-hazing statutes. *See, e.g. Humphries v. Pennsylvania State Univ.*, 492 F. Supp. 3d 393, 405 (M.D. Pa. 2020) (noting that Pennsylvania's anti-hazing law "allows for findings that an organization or institution violated the law if it "intentionally, knowingly, or recklessly promotes or facilitates" a hazing incident, including by failing to act despite having "knowledge of the alleged incidents"). Thus, it is clear that, contrary to Plaintiffs' assertion that the University has no interests at stake and would suffer no harm if the injunction were granted, issuing an injunction in this case will severely impact the University's ability to carry out its educational mission, comply with the law, and, most importantly, ensure the safety of its students, including, ironically, *plaintiffs' own members*.

In contrast with the University's compelling interests strongly weighing against an injunction, Plaintiffs assert that their interest at stake is the "collegiality and social involvement" which "are at the heart of [their] organizational existences." ECF No. 2-1 at 18. Further, they argue that any limitation on their "unrestricted fraternal experiences" "burdens [their] ability to operate and maintain internal relations and community partnerships." ECF No. 2-1 at 20. In other words, they argue that their competing interest is their ability to function as a social organization on campus. This argument fails to tip the balance in favor of an injunction, however, because the University's order does not prevent Plaintiffs from operating as social organizations on campus. Indeed, as set forth above, the only limitations were to having events where alcohol is consumed and on certain communications with new and potential members. These limitations, which importantly were of limited duration, do not prevent Plaintiffs from having regular meetings, scheduling and hosting events, participating in campus activities, or using University facilities or resources. It would hardly pass muster to suggest that Plaintiffs would cease to operate and exist

simply because of a two-week limitation on alcoholic events and communications about Greek-life with new and potential members.

Courts have rejected such First Amendment challenges where the organizations were able to continue their primary functions. For instance, in *McKenzie*, the court upheld Maryland's anti-hazing law in the face of a First Amendment challenge because "[n]othing in the anti-hazing statute 'limits the members and prospective members of [the fraternity] or any organization from meeting at any time and place they may choose.'" *McKenzie*, 131 Md. App. at 147. Because members could continue to meet when and where they wanted, their First Amendment free association rights were not infringed upon.

Similarly, in *Healy*, the Supreme Court held that a college administration's requirement that a student group who wishes to maintain official recognition must "adhere to reasonable campus law" and agree "to conform with reasonable standards respecting conduct," did not infringe upon the students' First Amendment rights. *Healy*, 408 U.S. at 192-93. This holding was based on the fact that a college or other institution, "[j]ust as in the community at large," may impose regulations like the University's order here, "with respect to the time, the place, and the manner in which student groups conduct their speech-related activities." *Id.* at 192. However, unlike the case at bar, the Court further concluded that if an organization was prevented from holding meetings and using campus facilities and resources to perform ordinary functions, that would be an "impediment to free association." *Id.* at 181.

To the extent Plaintiffs argue that their competing interest is in not having their First Amendment rights infringed upon, this argument fails to tip in their favor because, as demonstrated above, they are not likely to succeed on such a claim. "When a party seeks a preliminary injunction on the basis of the potential violation of the First Amendment, the likelihood of success on the

merits often will be the determinative factor.” *Liberty Coins, LLC v. Goodman*, 748 F.3d 682, 690 (6th Cir. 2014). This is because the “[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976). However, because Plaintiffs have not lost their First Amendment freedoms, the balance tips strongly against granting an injunction.

Accordingly, Plaintiffs have failed to demonstrate that their interest in “collegiality and social involvement,” which was not infringed upon, outweighs the University’s strong and compelling interests in maintaining public safety and preventing hazing. Therefore, Plaintiffs’ request for an injunction should be denied.

IV. PLAINTIFFS WILL NOT SUFFER IRREPARABLE HARM IN THE ABSENCE OF AN INJUNCTION.

In addition, Plaintiffs cannot establish that they will suffer irreparable harm if the injunction is denied. “The failure to show irreparable harm is, by itself, a sufficient ground upon which to deny a preliminary injunction.” *Gelco Corp. v. Coniston Partners*, 811 F.2d 414, 418 (8th Cir. 1987). Plaintiffs argue that they will suffer irreparable harm without an injunction because for every day the University’s order remains “in effect, current University of Maryland students are being deprived of the opportunity to be part of an unrestricted fraternal experience as members of social fraternities and sororities.” ECF No. 2-1 at 20. This argument falters first because neither plaintiffs, nor students at the University generally, have a right to an “unrestricted fraternal experience.” To the contrary, fraternities, like other student organizations, are required to comport with various policies and procedures, including the University’s anti-hazing policy. *See Healy*, 408 U.S. at 193 (holding that a requirement for an organization “to adhere to reasonable campus law” does not infringe upon the First Amendment “freedom to speak out, to assemble, or

to petition for changes in school rules,” but rather “merely constitutes an agreement to conform with reasonable standards respecting conduct”).

This argument fails equally because Plaintiffs cannot show they would be irreparably harmed without an injunction. Plaintiffs must show that the harm they will face cannot be compensated by damages or other corrective relief. *Doe v. Wake Forest Univ.*, 2023 WL 2239475, at *8. Indeed, “[m]ere injuries, however substantial, in terms of money, time and energy necessarily expended in the absence of a stay are not enough. *Di Biase v. SPX Corp.*, 872 F.3d 224, 230 (4th Cir. 2017) (quoting *Sampson v. Murray*, 415 U.S. 61, 90 (1974)). Plaintiffs have failed to show how the two-week restriction on events with alcohol and communications with new and potential members about Greek-life has caused them any harm, other than a temporary delay, let alone “irreparable harm” that cannot be compensated by damages or other corrective relief. Indeed, now that the University’s measures are lifted, any alcoholic events, recruitment, or other “social involvement” that were temporarily delayed as a result of the University’s interim measures can immediately resume, without any resulting harm. The only potential exception to this statement is for Plaintiff KAO, which remains subject to a limited cease and desist order, but pursuant to the very notice and Code of Student Conduct process which Plaintiffs themselves argued was appropriate and should be followed.

Accordingly, Plaintiffs have not demonstrated that they will suffer “irreparable harm” if the injunction is denied.

V. GRANTING AN INJUNCTION IS AGAINST THE PUBLIC INTEREST.

In addition to Plaintiffs’ failure to demonstrate all of the other elements warranting issuance of an injunction, they have also failed to demonstrate that the injunction is in the public interest. “In exercising their sound discretion, courts of equity should pay particular regard for the public

consequences in employing the extraordinary remedy of injunction.” *Winter*, 555 U.S. at 24. There is a strong public interest against an injunction in this case. Specifically, because the University is a public institution, the University’s compelling interests set forth above are also compelling interests for the public at large. This finds support in Maryland’s codification of their interest in preventing hazing on university campuses into statutory law. Equally important to the public is the “State’s interest in protecting the ‘safety and convenience’ of persons using a public forum is a valid governmental objective.” *Heffron*, 452 U.S. at 650. Although the public has an interest in ensuring that students’ First Amendment rights are protected, as demonstrated above there has been no such deprivation of plaintiffs’ First Amendment rights. As such, the public interest weighs against granting an injunction.

CONCLUSION

The motion for a preliminary injunction should be denied.

Respectfully submitted,

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Attorneys for Defendants

CERTIFICATE OF SERVICE

I certify that, on this 15th day of March, 2024 the foregoing memorandum in opposition to plaintiffs' motion for a temporary restraining order and preliminary injunction was served by CM/ECF on all registered CMF users on the following:

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/s/ Lillian Reynolds

Lillian Reynolds

EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

ALPHA PSI CHAPTER OF THETA CHI
FRATERNITY, *ET AL.*

*

Plaintiffs,

*

v.

*

No. 8:24-cv-00753-DLB

*

JAMES BOND, *ET AL.*,

Defendants.

*

* * * * *

AFFIDAVIT OF JAMES BOND

I, James Bond, being over 18 years of age and competent to testify to the matters set forth herein, state as follows:

1. I am the Director of the Office of Student Conduct at the University of Maryland (the “University”). I have served in this role for two and a half years. I have worked at the University in various roles for a total of 19 years. As the Director of the Office of Student Conduct (“OSC”), I am responsible for resolving allegations of individual and organizational misconduct in a manner consistent with our Code of Student Conduct and Code of Academic Integrity, thereby ensuring due process for the University of Maryland student community. I supervise a staff of ten employees who practice the values of fairness, honesty, integrity, respect, and compassion in our work.

2. The University recognizes eligible fraternities and sororities, also known as chapters, as student organizations. The University’s chapters are governed by four councils: the Interfraternity Council (“IFC”), the Multicultural Greek Council (“MGC”), the National Pan-Hellenic Council (“NPHC”), and the Panhellenic Association (“PHA”). The vast majority of

University students who are members of Greek organizations are members of chapters governed by the IFC and the PHA. These chapters generally engage in recruitment activities for a period of six to eight weeks beginning in or around February of each year.

3. University students and student organizations, including chapters, are subject to the University's Code of Student Conduct (the "Code of Conduct"). A true and correct copy of the Code of Conduct is attached to Defendants' Memorandum in Opposition to Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction as Exhibit 2.

4. A true and correct copy of the University's Hazing Policy is attached to Defendants' Memorandum in Opposition to Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction as Exhibit 3.

5. On or around February 22, 2024, OSC received two referrals alleging Code of Conduct violations by Fraternity 1, a member of the IFC. Specifically, a resident director reported that, during residence inspections on February 20, 2024, he found multiple prohibited substances and drug paraphernalia in the fraternity house of Fraternity 1. OSC also received an anonymous report from a parent that their son was being subjected to harmful hazing by Fraternity 1. A true and correct copy of this anonymous referral is attached to Defendants' Memorandum in Opposition to Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction as Exhibit 4.

6. Following OSC's receipt of these referrals, on February 27 and 28, 2024, OSC interviewed members of Fraternity 1, who provided inconsistent and apparently false statements to OSC investigators.

7. On the evening of February 27, 2024, OSC received an anonymous email referral alleging that multiple unidentified fraternities were engaged in hazing activities with new

members. A true and correct copy of this anonymous email referral is attached to Defendants' Memorandum in Opposition to Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction as Exhibit 5.

8. The University refers to an incident where a student is transported off campus by an emergency responder to a healthcare facility due to excessive alcohol consumption as an "alcohol transport."

9. Several hours after meeting with the chapter presidents about appropriate conduct on February 29, 2024, in the early morning hours of March 1, there were two separate incidents of alcohol transports involving excessive alcohol consumption by new members of PHA chapters who had reportedly attended chapter events on the evening of February 29, 2024. OSC received referrals relating to these incidents on Friday March 1, 2024.

10. In the morning of March 1, 2024, OSC received an anonymous referral from the mother of a new member of Fraternity 2 alleging hazing by the chapter. A true and correct copy of this anonymous email referral is attached to Defendants' Memorandum in Opposition to Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction as Exhibit 7.

11. On March 1, 2024, OSC reviewed data from the University's Health and Counseling Centers and found there was a troubling uptick in visits to both Centers by IFC and PHA chapter members during the month of February. A true and correct copy of this data is attached to Defendants' Memorandum in Opposition to Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction as Exhibit 8.

12. Based on the totality of information received by the University as of March 1, 2024, and concerns about ongoing violations of the Code of Conduct relating to hazing and alcohol and drug use, OSC determined that immediate action was warranted to prevent harm to

the University's students, particularly since it was anticipated that there would be many recruiting activities and social events by the chapters in the coming weekend. Consequently, OSC determined that it would place a temporary interim cease and desist order relating to two specific activities by chapters: (1) hosting social events where alcohol is served; and (2) conducting new or prospective member activities. Because the February 27 referral alleged widespread hazing across multiple unnamed chapters and because of the nature and extent of the other evidence described above, the cease and desist order was imposed on all IFC and PHA chapters so that the University could have an opportunity to thoroughly but expeditiously investigate the allegations and identify specific chapters, if any, that were allegedly involved in hazing. The intent of the no contact restriction was to protect vulnerable underclassmen who are new or prospective members of chapters from being subjected to hazing as well as to maintain integrity in the investigation of the serious allegations set forth in the February 27 referral.

13. Following the decision to implement interim measures on March 1, 2024, the University promptly engaged InCompliance, an outside consulting firm, to interview students for the purpose of gathering information about the activities of chapters during the preceding weeks. A true and correct copy of the notice sent to the chapter members on March 8, 2024, regarding the investigation is attached to Defendants' Memorandum in Opposition to Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction as Exhibit 9.


14. Beginning on March 11, 2024, investigators interviewed over 150 chapter members regarding their experiences with Greek life on campus. As of the afternoon of March 15, 2024, InCompliance's preliminary factfinding investigation has concluded, and the University has lifted the interim measures set forth in the March 1 and 6, 2024, notices. A true and correct copy of the campuswide notice lifting the interim measures on March 15, 2024, is

attached to Defendants' Memorandum in Opposition to Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction as Exhibit 10.

15. A true and correct copy of the March 15, 2024, notice of investigation sent to Plaintiff Kappa Alpha Order is attached to Defendant's Memorandum in Opposition to Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction as Exhibit 11.

I DECLARE UNDER THE PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on March 15, 2024.



James Bond

EXHIBIT 2



V-1.00(B) UNIVERSITY OF MARYLAND CODE OF STUDENT CONDUCT

(Approved by the Board of Regents January 25, 1980; amended September 4, 1990; December 18, 2001; April 22, 2004; November 18, 2005; April 5, 2006; March 10, 2011; January 17, 2012; February 20, 2013; May 9, 2013; technical amendments approved by the President September 2, 2015; amended effective January 1, 2018)

This *Code* does not apply to matters of student academic integrity. The policy and procedures document applicable to student academic integrity is III-1.00(A) University of Maryland Code of Academic Integrity at <https://policies.umd.edu/academic-affairs/university-of-maryland-code-of-academic-integrity>.

This *Code* does not apply to student sexual harassment and other sexual misconduct. The policy and procedures document applicable to student sexual harassment and other sexual misconduct is VI-1.60(A) University of Maryland Policy & Procedures on Sexual Harassment and Other Sexual Misconduct at <https://policies.umd.edu/general-administration/university-of-maryland-policy-and-procedures-on-sexual-harassment-and-other-sexual-misconduct>.

I. INTRODUCTION

The *Code of Student Conduct (Code)* was created to ensure the safety and security of the University community. The *Code*, administered by the Office of Student Conduct, seeks to balance the rights and responsibilities of all individuals within the community and uphold the integrity and values of the University of Maryland. Reasonable efforts are made to educate and support Students in reaching their academic and personal goals while fostering a climate of accountability and responsibility for their actions. The *Code* outlines behaviors that are inconsistent with University standards and expectations and sets forth applicable procedures and potential Sanctions governing *Code* violations.

II. APPLICABILITY

- A. This *Code* covers conduct by a Student, Student Group, or Student Organization that occurs:
1. on University premises; or
 2. at University-sponsored activities; or
 3. not on University premises, if:
 - i. the conduct would constitute a violation of this *Code* had it occurred on University premises; *and*
 - ii. the Director of Student Conduct determines that the conduct affects the safety of the University community or the orderly operation of the University.

- B. This *Code* applies to all covered conduct that occurred on or after August 28, 2023.

Where the date of the alleged conduct precedes August 28, 2023, the definitions of misconduct in existence at the time of the alleged incident(s) will be used. The procedures under this *Code*, however, will be used to resolve all Referrals made on or after August 28, 2023, regardless of when the alleged incident(s) occurred.

C. Office of Student Conduct

The Office of Student Conduct and its Director are charged with the administration of the *Code of Student Conduct* and its processes. References in this *Code* to the Director of Student Conduct include the Director and designees. The Director of Student Conduct grants at their discretion to the Office of Rights and Responsibilities the authority to administer matters involving this *Code* that occur in or around the residence halls and/or on-campus University-affiliated housing owned by, leased from, operated in cooperation with, or supervised by the University. The responsibilities of the Office of Student Conduct include:

1. Providing official and final interpretation of the *Code*;
2. Accepting reports of alleged Prohibited Conduct;
3. Determining the appropriate alleged policy violation(s) to be filed in accordance with this *Code*;
4. Administering the process and procedures for investigating and resolving alleged *Code* violations;
5. Supervising, training, and advising all conduct boards;
6. Maintaining all Student disciplinary records;
7. Administering certain duties as set forth in [VI-1.60\(A\) University of Maryland Policy & Procedures on Sexual Harassment and Other Sexual Misconduct](#) and [VI-1.00\(B\) University of Maryland Non-Discrimination Policy and Procedures](#) as related to allegations against Students; and
8. Administering No Contact Orders.

D. Referral to Another University Process

Reports of Student, Student Group, or Student Organization conduct made to the Office of Student Conduct may violate other University policies, and the report may be referred to another University process and/or office in accordance with applicable University policies and procedures.

Responding Parties found responsible for Prohibited Conduct under this *Code* may additionally be subject to program review for continued participation in their academic and/or University-sponsored scholarship programs, including but not limited to a graduate assistantship.

III. DEFINITIONS

When used in the context of this *Code*, the terms below mean the following:

- A. “Advisor” means a person chosen by a Responding Party to assist the Responding Party. The Advisor may be an attorney. The Responding Party is responsible for paying any expenses incurred by retaining an Advisor. The Advisor may be present at any meeting

or proceeding to provide advice and consultation to the Responding Party. The Advisor shall not be an active participant in any meeting or proceeding, but if necessary, the Responding Party may request a break in order to speak privately with an Advisor. The Advisor may not speak for the Responding party, serve as a witness, provide evidence, delay or otherwise interfere with the University's resolution process.

- B. "Advocate" means a registered, University degree-seeking Student designated to assist a Responding Party. The role of an Advocate includes:
 - a. Providing confidential advice to the Responding Party.
 - b. Making brief opening and closing statements.
 - c. Questioning parties and witnesses, including Reporting Parties, pursuant to the applicable procedures.
 - d. Following a determination of responsibility, the Advocate may make recommendations regarding Sanctions, if appropriate.
- C. "Aggravating Factor" means a factor that may be considered in determining Sanctions. Aggravating Factors may include, but are not limited to, the degree of premeditation and/or planning on the part of the Responding Party's behavior, the nature of the violation, the severity of any resulting damage, injury, or harm, providing false information in the resolution process, and the past disciplinary record of the Responding Party.
- D. "Community Advocate" means a registered, University degree-seeking Student who is trained to assist or represent the Reporting Party and present disciplinary matters at Student Conduct Board hearings. Their responsibilities include providing brief opening and closing statements, presenting evidence, and other duties as requested by a Student Conduct Board. The Community Advocate performs their responsibilities under the oversight of the Office of Student Conduct.
- E. "Days" means business weekdays when the University is not closed.
- F. "Knowingly" means consciously engaging in specific conduct, regardless of whether the individual understood the conduct was a violation of the *Code*.
- G. "Mitigating Factor" means a factor that may be considered in determining Sanctions. A Mitigating Factor is present either at the time the violation occurred, or after the violation when a Responding Party engages in substantial activities to increase their knowledge or prevent future violations. Mitigating Factors include the steps the Responding Party has taken to address their behavior.
- H. "Referral" means a report, complaint, or allegation of Prohibited Conduct against a Student, Student Group, or Student Organization.
- I. "Reporting Party" means an individual(s) who has(have) referred a Student, Student Group, Student Organization, or incident to the Office of Student Conduct based on an alleged violation of the *Code*.
- J. "Responding Party" means a Student, Student Group, or Student Organization alleged to have committed a violation of this *Code*.
- K. "Student" means a person enrolled, registered, or auditing courses at the University on a full-time or part-time basis or a person who may not be enrolled but has a continuing

academic relationship with the University.

- L. “Student Group” means a number of persons who are associated with each other but who do not have status as an officially registered Student Organization.
- M. “Student Organization” means a group of persons who are associated with each other and who have complied with University requirements for Student Organization registration.
- N. “Support Person” means a person chosen by a Responding Party to provide emotional and logistical support. A Support Person cannot be an active participant or witness in the resolution process.
- O. “University” means the University of Maryland, College Park.
- P. “University-sponsored activity” means any activity on or off campus which is initiated, aided, authorized, or supervised by the University.
- Q. “University premises” means buildings or grounds owned, leased, operated, controlled, or managed by the University.

IV. NO CONTACT ORDERS

The Director of Student Conduct has authority to implement, modify, and terminate No Contact Orders against Students, regardless of whether a Referral of Prohibited Conduct is made under this *Code*, and consistent with all other applicable University policies and procedures. The Director of Student Conduct may consult with other University officials regarding No Contact Orders. No Contact Orders are typically mutual between two or more individuals and are designed to prevent individuals from engaging in direct or indirect communication with each other. They are typically non-punitive in nature and are not considered a Sanction, unless ordered otherwise. No Contact Orders are effective immediately without prior notice to Students whenever there is evidence that the continued interaction of the Student with other particular members of the University community poses a substantial threat to themselves or others, or to the stability and continuation of normal University operations including but not limited to individuals’ educational or work environments. No Contact Orders may, but are not required to be, implemented as an Interim Measure under this *Code*. No Contact Orders may remain in place following the conclusion of any relevant University proceeding. Violations of No Contact Orders may constitute a violation of this *Code*.

V. STUDENT RIGHTS AND RESPONSIBILITIES

A. Standards of Conduct

When Students choose to enroll at the University of Maryland, they accept the rights and responsibilities of membership in the University community both on and off campus. Students at the University of Maryland are expected to uphold the values of the University by conducting themselves in accordance with University policies and procedures.

B. Student Rights

The Office of Student Conduct provides a fair and balanced University process for resolving allegations of Student Prohibited Conduct. Students will be treated fairly and with dignity and respect without regard to race, color, sex, gender identity or expression, sexual orientation,

marital status, age, national origin, political affiliation, physical or mental disability, religion, protected veteran status, genetic information, personal appearance, or any other legally protected status, as outlined in the University's non-discrimination policies.

The focus of the Student Conduct Review Process is to resolve allegations of Student Prohibited Conduct. Students have the right to be notified of the allegations and specific policies they are alleged to have violated, to have access to the information underlying the allegation(s), and to have an opportunity to respond.

C. Student Responsibilities

1. Balancing Students' rights with their responsibilities as members of the University community is imperative to creating mature and engaged citizens. All Students are expected to understand and follow University policies and procedures as well as to comply with applicable federal, state, and local laws. Due to the high expectations the University has of its community members, responsibilities set forth in University policies may exceed federal, state, or local requirements.
2. University email is the primary means the Office of Student Conduct uses to communicate with Students. Students are responsible for reading all official communications delivered to their University email address and are advised to check their email regularly for University communications, including those from the Office of Student Conduct.

VI. STANDARD OF EVIDENCE

The preponderance of the evidence standard will be used to determine responsibility for Code violations. Preponderance of the evidence means that based on the totality of the information presented, it is more likely than not that the violation occurred. Sanctions are imposed according to the nature and severity of the violation.

VII. PROHIBITED CONDUCT

This list of "Prohibited Conduct" is provided to inform Students, Student Groups, and Student Organizations of behaviors that are not permitted. The list should be read broadly and is not designed to define Prohibited Conduct in exhaustive terms. Attempts to commit acts prohibited by this *Code* may be reviewed and sanctioned to the same extent as completed violations.

a. Offenses Against Persons

1. Intentionally or recklessly causing physical harm to any person, or intentionally or recklessly causing reasonable expectation of such harm.
2. Engaging in hazing activities as prohibited by [V-1.00\(K\) University of Maryland Policy and Procedures on Hazing](#).
3. Intentionally and substantially interfering with the lawful freedom of expression of others. (Demonstrations, rallies, leafleting, and equivalent activity are addressed by [VI-4.10\(A\) University of Maryland Policy and Procedures for the Use of Facilities and Outdoor Spaces](#), Appendix A: Guidelines for Expressive Activity.)

b. Alcohol and Other Drug Offenses

“Controlled substance” and “illegal drugs” are defined by Maryland and federal law.

1. Unauthorized distribution of any controlled substance or illegal drug, or the production, manufacture, or possession of any controlled substance or illegal drug for purposes of unauthorized distribution.
2. Unauthorized use, production, manufacture, or possession of any controlled substance or illegal drug.
3. Providing alcohol or alcoholic beverages to a person under the legal age of consumption or possession.
4. The illegal or unauthorized consumption, possession, or sale of alcohol or alcoholic beverages.
5. Operating a motor vehicle while intoxicated or impaired by alcohol or other drugs.

c. Property Offenses

1. Theft of property, services, or resources, or the unauthorized use of services to which one is not entitled.
2. Knowingly possessing stolen property.
3. Intentionally or recklessly destroying, damaging, vandalizing, tampering with, or defacing University property or the property of others.
4. Trespassing on or the unauthorized use of facilities, property, or resources.

d. Community Offenses

1. Unauthorized on-campus or illegal off-campus use, possession, or storage of any weapon or explosive. The term “weapon” includes any object or substance designed to inflict a wound, cause injury, or incapacitate, including but not limited to, all firearms, pellet guns, switchblade knives, and knives with blades five (5) or more inches in length.
2. Intentionally initiating or causing any false report, warning, or threat of fire, explosion, or other emergencies.
3. Rioting, assault, theft, vandalism, fire setting, or other serious misconduct
 - i. related to a University-sponsored event, occurring on- or off-campus, that results in harm to persons or property; or
 - ii. which otherwise poses a threat to the stability of the campus or campus community.

Such conduct may result in disciplinary action regardless of the existence, status, or outcome of any criminal charges in a court of law.

4. Engaging in disorderly or disruptive action that interferes with University or community activities, including but not limited to studying, teaching, research, and University administration.
5. Intentionally or recklessly misusing or damaging fire safety equipment.
6. Unauthorized setting of fires on University premises.
7. Unauthorized use or possession of fireworks.
8. Public urination or defecation.

e. Offenses Against University Operations

1. Intentionally furnishing false information to the University or law enforcement officials acting in performance of their duties.
2. Making, possessing, providing, or using any forged, altered, or falsified University document.
3. Failure to comply with a directive of University officials, including law enforcement officials acting in the performance of their duties.
4. Knowingly violating the terms of any Sanctions imposed in accordance with this *Code* or by the Office of Student Conduct in accordance with other University policies.

f. Other Offenses

1. Conviction, a plea of no contest, acceptance of responsibility or acceptance of punishments in state or federal court for a crime (other than a minor traffic offense) not otherwise prohibited by this *Code*.
2. Making, possessing, providing, or using any forged, altered, or falsified instrument of identification.
3. Violation of published University regulations or policies that do not have governing resolution procedures, including but not limited to, rules addressing conduct in the residence halls, use of vehicles, campus demonstrations, misuse of identification cards, acceptable use of technology resources, and access to University resources.

VIII. SANCTIONS

Students found responsible for Prohibited Conduct under this *Code* are subject to Sanctions. The aims of Sanctions are to protect the campus community, deter future offenses, promote individual accountability, and enhance ethical development. Reasonable efforts are made to educate and support Students in reaching their academic and personal goals while fostering a climate of accountability and responsibility for one's actions. However, the University is not designed nor equipped to rehabilitate or incapacitate persons who pose a substantial threat to themselves or others.

A. The following Sanctions may be imposed by the Director of Student Conduct for violations of the *Code*:

1. Expulsion: permanent separation of the Student from the University. A permanent notation will appear on the Student's transcript. The Student may also be barred from University premises. (Expulsion requires administrative review and approval by the Dean of Students who may alter, defer, or withhold the Expulsion.)
2. Suspension: separation of the Student from the University for a specified period of time. A permanent notation will appear on the Student's transcript. The Student shall not participate in any University-sponsored activity and may be barred from University premises during the period of Suspension. Suspended time will not count against any time limits required by the Graduate School for completion of a degree. (Suspension requires administrative review and approval by the Dean of Students who may alter, defer, or withhold the Suspension.)

3. Disciplinary Probation: a designated period of time in which the Student may be prohibited from representing the University in any extracurricular activity or from running for or holding office in any Student Organization or University organization, or a Student Group or Student Organization may face restrictions. Additional restrictions or conditions may also be imposed.
 4. Disciplinary Warning: written notice to the Responding Party that further Prohibited Conduct may result in more severe disciplinary action.
 5. Educational Assignments: a sanction that may be imposed in addition to those specified above with the intent of providing the Responding Party with learning, assistive, or growth opportunities, as well as restoring any harm caused to the community. Alcohol or other drug education, research or reflective assignments, community service, values/ethics-based activities, or other sanctions may be assigned.
 6. Other Sanctions: other outcomes may be imposed in addition to those specified above. For example, Students may be subject to University housing termination for Prohibited Conduct that occurs in the residence halls. Likewise, Responding Parties may be subject to restrictions or denial of driving privileges for Prohibited Conduct involving the use or registration of motor vehicles. Responding Parties may be required to pay fines or to make payments to the University or to other persons, groups, or organizations as restitution for damages incurred as a result of a violation of this *Code*. Student Groups or Student Organizations may be subject to social moratorium (prohibited from hosting, sponsoring, or attending events where alcohol is present), or other relevant restrictions and sanctions as determined by the Director of Student Conduct.
- B. Repeated or aggravated violations of any section of this *Code* may also result in Suspension or Expulsion in the imposition of lesser Sanctions as deemed appropriate.
- C. Consistent with V-8.00 University System of Maryland Policy on Event-Related Student Misconduct, any decision to impose a sanction less than Suspension or Expulsion for event-related Prohibited Conduct as prohibited by Section VII.d.3 of this *Code* must be supported by written findings signed by the Vice President for Student Affairs. A Student suspended under this section shall not be admitted to any other institution in the University of Maryland System during the term of the Suspension. A Student expelled under this section shall not be admitted to any other institution in the University of Maryland System for at least one year from the effective date of the Expulsion.
- D. The University considers Prohibited Conduct motivated in whole or in part because of an individual or group characteristic or status, or the perception of an individual or group characteristic or status, protected by the University's non-discrimination policies to be an Aggravating Factor, which may subject the Responding Party to a more severe Sanction than would be imposed in the absence of such motivation.

IX. STUDENT CONDUCT REVIEW PROCESS

- A. This section provides general information and an overview of the Student Conduct Review Process. Not all cases are the same, and allegations differ in their severity and complexity. However, the Office of Student Conduct endeavors to treat similar facts and circumstances consistently.
- B. Certain conduct may constitute both a violation of law and a violation of this *Code*. Therefore, Students may be accountable to both criminal authorities and the University as a result of the same conduct or incident. The University's Student Conduct Review Process differs from legal civil or criminal proceedings. Disciplinary action at the University will normally move forward before or during criminal proceedings and will not be subject to challenge on the grounds that criminal charges involving the same incident have been dismissed or reduced.

The same conduct may also result in civil litigation. Civil litigation is separate and independent from any University process under this *Code*, and the resolution of any civil legal action that does not involve the University by settlement or other means will not resolve a University action for violation of the *Code*.

C. Referral

- 1. Anyone may refer a Student, Student Group, or Student Organization suspected of violating this *Code* to the Office of Student Conduct. Written Referrals are preferred.

The Office of Student Conduct will review all Referrals for reasonable cause. This means the Office will review the allegations to determine whether the allegations, if substantiated, would amount to Prohibited Conduct in violation of the *Code*. If the Office of Student Conduct determines that reasonable cause exists, the Reporting Party should expect to be a participant and provide pertinent information in any future proceedings. In the absence of a determination that there is reasonable cause to proceed, the case may be dismissed.

- 2. There are no time restrictions on reporting potential *Code* violations to the Office of Student Conduct. However, individuals are encouraged to report incidents as soon as they occur so witnesses can be identified and important information and documents preserved, if there is a reasonable cause determination and the Office of Student Conduct determines to move forward.
- 3. A Reporting Party may remain anonymous; however, anonymity may limit the University's ability to investigate and respond to a Referral.
- 4. Retaliation against anyone for reporting an alleged violation of this *Code* is strictly prohibited, and persons who engage in retaliation will be considered for further disciplinary action.

D. Interim Measures

Based on the nature and circumstances of the Referral, the Director of Student Conduct, in

consultation with appropriate University administrators, may authorize Interim Measures to ensure the safety and well-being of the parties and others in the University community, as appropriate, including but not limited to the following:

1. Interim Suspension: The Director of Student Conduct may suspend a Student for an interim period pending the resolution of disciplinary proceedings. This Interim Suspension may become effective immediately without prior notice to the Student whenever there is evidence that the continued presence of the Student in the University community poses a significant threat to themselves or others, or to the stability and continuation of normal University operations. The Student will be offered an opportunity to meet with the Director of Student Conduct to review the reliability of the information within five (5) Days from the effective date of the Interim Suspension. However, there is no guarantee that the Student will be permitted to return to campus.
2. Cease and Desist: A Cease and Desist notice may be issued to Student Groups or Student Organizations whose continued operation poses a threat to the health and safety of the University community. Directives to Cease and Desist may be effective immediately without prior notice to the Student Group or Student Organization if there is evidence that the continued presence and operation of the Student Group or Student Organization poses a substantial threat to the health and safety of their members or others in the community (e.g., hazing allegation).
3. No Contact Orders: No Contact Orders may be implemented as an Interim Measure in accordance with Section IV of this *Code*.

E. Preliminary Interview

1. After determining reasonable cause exists, the Office of Student Conduct or the Office of Rights & Responsibilities will contact the Responding Party and request that they attend a Preliminary Interview. The purpose of the Preliminary Interview is to review the allegations with the Responding Party and to assist the Responding Party in understanding the Student Conduct Review Process. Responding Parties may discuss the alleged incident during the Preliminary Interview; however, they are not required to do so. Relevant information shared in a Preliminary Interview may become part of the case file for future proceedings.
2. The officers, leaders, or any identifiable spokespersons for the Student Group or Student Organization may be directed by the Director of Student Conduct to act on the Student Group or Student Organization's behalf as the Responding Party.
3. The Director of Student Conduct may initiate, defer, or dismiss allegations of Prohibited Conduct against a Responding Party regardless of whether they choose to attend or discuss the alleged incident during the Preliminary Interview. A deferral of disciplinary proceedings may not exceed a period of ninety (90) days,

and may be conditional.

F. Notice of Resolution Procedures

1. The Office of Student Conduct and/or Office of Rights and Responsibilities will review Referrals to determine whether the alleged Prohibited Conduct might result in Suspension or Expulsion from the University or University housing termination. Alleged Prohibited Conduct which results in or could have foreseeably resulted in significant injury to persons or damage to property, or which otherwise poses a substantial threat to the stability and continuation of normal University or University-sponsored activities, may result in a Student's Suspension or Expulsion or University housing termination.
2. The Office of Student Conduct will advise the Responding Party of the alleged Prohibited Conduct and the range of sanctions that might be imposed if the Responding Party is found responsible for the violation.
3. The Office of Student Conduct will advise the Responding Party of the Resolution Process options based on the alleged Prohibited Conduct.
 - i. Responding Parties who face potential Suspension, Expulsion, or University housing termination have the right to a hearing before the appropriate Student Conduct Board. The Responding Party may appeal a Student Conduct Board hearing outcome resulting in a determination of responsibility, regardless of the Sanction imposed.

Responding Parties who face potential Suspension, Expulsion, or University housing termination may waive their right to a Student Conduct Board hearing and proceed to have their case resolved in a Disciplinary Conference (or Disciplinary Conference Board, if referred thereto), or in Alternative Resolution if applicable. Responding Parties who waive their right to a Student Conduct Board hearing remain subject to the full range of Sanctions. The Responding Party may appeal the Disciplinary Conference or Disciplinary Conference Board outcome only if a Sanction of Expulsion, Suspension, or University housing termination is imposed.

- ii. Responding Parties who do not face potential Suspension, Expulsion, or University housing termination do not have a right to a hearing before a Student Conduct Board. Such cases are resolved in a Disciplinary Conference (or Disciplinary Conference Board, if referred thereto), or in Alternative Resolution if applicable. In these cases, all outcomes are considered final and may not be appealed.

G. Alternative Resolution Options

The Office of Student Conduct may develop Alternative Resolution options, which may include options such as restorative justice practices, mediation, or an informal resolution agreement. At the discretion of the Office of Student Conduct, the Responding Party may be permitted to have their case resolved in an Alternative Resolution option without participating

in a formal resolution proceeding through a Disciplinary Conference, Disciplinary Conference Board, or Student Conduct Board.

If an Alternative Resolution option is utilized and resolves the matter, the Responding Party waives the right to appeal the outcome, including any agreement, if applicable.

X. DISCIPLINARY CONFERENCE AND DISCIPLINARY CONFERENCE BOARD

1. A Disciplinary Conference is a resolution meeting between the Responding Party and the designee(s) assigned by the Director of Student Conduct who is (are) resolving the matter. Responding Parties participating in Disciplinary Conferences receive the following procedural protections:
 - a. At least three (3) Days advance written notice of the alleged *Code* violation(s) and the scheduled Disciplinary Conference;
 - b. Reasonable access to the case file prior to and during the Disciplinary Conference;
 - c. An opportunity to respond to the allegations and bring forward any documentation, witnesses, or information on their behalf; and
 - d. The option to be assisted by an Advocate or Advisor, and accompanied by a Support Person, of their choosing.
 - e. The Responding Party will be notified in writing of the outcome, including any Sanction determination, if applicable. If an appeal is permissible pursuant to subparagraph (3) below, a brief written report of the responsibility determination and Sanction, including any Aggravating Factors or Mitigating Factors that were considered, will be provided.
2. The Director of Student Conduct may refer complex or contested cases to a Disciplinary Conference Board for resolution. A Disciplinary Conference Board consists of two Students from the University Student Judiciary and a staff member from the Office of Student Conduct. All procedures applicable to Disciplinary Conferences will apply to Disciplinary Conference Board proceedings.

Following Disciplinary Conference Board proceedings, the Responding Party and the Office of Student Conduct will be notified in writing of the outcome, including any Sanction determination, if applicable. If an appeal is permissible pursuant to subparagraph (3) below, a brief written report of the responsibility determination and Sanction, including any Aggravating Factors or Mitigating Factors that were considered, will be provided.
3. Appeal
 - a. A Responding Party who is before a Disciplinary Conference (or Disciplinary Conference Board, if referred thereto) because they are not facing potential Suspension, Expulsion, or University housing termination and therefore do not have a right to a Student Conduct Board hearing, may not appeal the outcome of the Disciplinary Conference or Disciplinary Conference Board. The Disciplinary Conference or Disciplinary Conference Board outcome is final.
 - b. A Responding Party who is facing potential Suspension, Expulsion, or University housing termination and opts for a Disciplinary Conference (or Disciplinary Conference Board, if referred thereto) in lieu of a Student Conduct

Board hearing, may appeal the Disciplinary Conference or Disciplinary Conference Board outcome only if a Sanction of Expulsion, Suspension, or University housing termination is imposed.

- c. The Reporting Party cannot appeal the outcome.

XI. STUDENT CONDUCT BOARDS

In Student Conduct Board hearings, a designated panel of board members hears a case, determines facts, renders a decision, and recommends sanctions to the Office of Student Conduct. Student Conduct Boards have an integral role in the Student Conduct Review Process. The University Student Judiciary is a diverse group of Students specifically trained in the *Code* and matters related to the University's Student Conduct Board process. The University Student Judiciary operates under the direction of the Office of Student Conduct. Students selected for Student Conduct Boards are selected according to procedures developed by the Director of Student Conduct. Selected Students assume positions of responsibility in the University Student Judiciary for the express purpose of providing Student perspective as a part of the Student Conduct Review Process. Final authority for resolving matters under the *Code*, however, is vested in the Office of Student Conduct.

- a. Types of Student Conduct Boards
 - 1. Resident Board – A panel of three (3) Students from the University Student Judiciary and a non-voting Presiding Officer, that hears cases involving alleged violations of the *Code* when the incident occurs in or around the residence halls and/or on-campus University-affiliated housing owned by, leased from, operated in cooperation with, or supervised by the University.
 - 2. Central Board – A panel of three (3) Students of the University Student Judiciary and a non-voting Presiding Officer, that hears cases involving violations of this *Code* that are not referred to the Resident Board or resolved in a Disciplinary Conference or by a Disciplinary Conference Board.
 - 3. Ad-Hoc Board – A panel appointed at the discretion of the Director of Student Conduct when a Resident Board or the Central Board is unable to convene in a timely manner. An Ad-Hoc Board shall be comprised of three (3) members, one of whom may be the Presiding Officer who serves as a voting member, and include at least one Student.
- b. All Student Conduct Board hearings are facilitated by a Presiding Officer. The Presiding Officer is a member of the Board whose role is to exercise control over the proceedings for the purpose of time management and an orderly completion of the hearing. The Presiding Officer may be a trained member of the University Student Judiciary or a staff designee as selected by the Director of Student Conduct. In cases of the Central or Resident Board, the Presiding Officer is a non-voting member. In cases where there is an Ad-Hoc Board, the Presiding Officer serves as a voting member.
- c. All Student Conduct Boards may be advised by a University staff member as designated by the Director of Student Conduct. A Board Advisor is a non-voting member of the Board and has all the privileges of Board members, including the ability to comment on questions of procedure and on the relevance of evidence, and will otherwise assist in the administration of the hearing.

- d. University Student Judiciary members alleged to have violated this *Code*, a University policy, or with a criminal offense may be suspended from their University Student Judiciary positions by the Director of Student Conduct while allegations are pending. Students found responsible for *Code* violations or convicted of criminal offenses may be removed from further participation in the University Student Judiciary by the Director of Student Conduct. Additional grounds and procedures for removal may also be set forth in the bylaws of the University Student Judiciary.

XII. STUDENT CONDUCT BOARD HEARING PROCEDURES

1. The following procedural guidelines shall be applicable in Board hearings:

- a. Responding Parties shall receive written notice of the specific alleged policy violation(s) and a hearing date at least five (5) Days in advance of the hearing.
Hearing dates are scheduled in consultation with the parties whenever possible.
- b. Responding Parties will have reasonable access to their case file maintained in the Office of Student Conduct prior to their hearing.
- c. Responding Parties who fail to appear at a hearing after proper notice will have a response of “no contest” to the allegations against them entered into the record on their behalf. An outcome determination may be made without the participation or presence of the Responding Party at a hearing.
- d. All hearings are closed to the public.
- e. Hearings may be recorded or transcribed by the Office of Student Conduct, and no other recordings will be permitted. Recordings and transcripts are maintained in the Office of Student Conduct for the purpose of permitting a review by appellate bodies and by staff members in the Office of Student Conduct.
- f. Prior to the start of a hearing, any party may challenge a Student Conduct Board member’s participation based on a potential conflict of interest. Board members may be disqualified due to a conflict of interest upon a majority vote of the remaining members of the Board conducted by secret ballot or by the decision of the Director of Student Conduct. In the case of a tie among the remaining members of the Board, the issue will be referred to the Director of Student Conduct for decision.
- g. Formal rules of evidence are not applicable to Student Conduct Board hearings. The Presiding Officer of each Student Conduct Board shall admit all evidence, meaning documents, other information, and witnesses, into consideration which reasonable persons would accept as relevant, significant, and important to the issues being decided in the case. Unnecessarily repetitious, irrelevant, or prejudicial information or witnesses may be excluded at the discretion of the Presiding Officer.
- h. Responding Parties may be assisted by an Advisor and an Advocate, and accompanied by a Support Person.
As a general practice, Board hearings will not be delayed due to the unavailability of an Advocate, Advisor, or Support Person.
- i. Both parties will be provided an opportunity to question witnesses who provide

information at hearings.

j. Student Conduct Board Deliberations

i) Student Conduct Board deliberations are private, and the parties are excluded.

ii) Responsible or Not Responsible Determination

(1) The Student Conduct Board shall find the Responding Party not responsible for Prohibited Conduct if, by a majority vote of the Board members, the Student Conduct Board determines that there is not a preponderance of the evidence to support a conclusion that the Prohibited Conduct occurred. The Board will make an outcome determination that the Responding Party was found not responsible, and the matter is concluded.

(2) The Student Conduct Board shall find the Responding Party responsible for Prohibited Conduct if, by a majority vote of the Board members, the Student Conduct Board determines that the preponderance of the evidence supports a conclusion that the Prohibited Conduct occurred.

(3) The parties will be informed of the Student Conduct Board's determination of responsibility. If there is a finding of responsibility, the parties will be given an opportunity to submit documentation or make statements concerning appropriate Sanctions.

iii) If there is a determination of responsibility, the Student Conduct Board shall hold a separate session to consider Sanction recommendations, during which it may consider Aggravating Factors and Mitigating Factors and documentation or statements provided by the parties. The past disciplinary record of the Responding Party will not be provided to the Student Conduct Board prior to a determination of responsibility but may be shared with the Student Conduct Board for its consideration for recommending a Sanction(s).

k. Final decisions of all Student Conduct Boards shall be by a majority vote of the members present and voting. A tie vote on a determination of responsibility for a *Code* violation will result in a finding of "not responsible."

l. Final decisions of all Student Conduct Boards, including the determination of responsibility and Sanction recommendation, if applicable, will be accompanied by a brief written report provided to the Office of Student Conduct. The brief written report will include any Aggravating Factors or Mitigating Factors that were considered.

2. Final Outcome Notification

Based on the Student Conduct Board determining the Responding Party is responsible for Prohibited Conduct and consideration of the Board's Sanction recommendation, the Director of Student Conduct will impose an appropriate Sanction.

The Office of Student Conduct will notify the Responding Party in writing of the final outcome, including the imposed Sanction and a copy of the written report of the Student Conduct Board.

3. Appeal

a. A Responding Party who is found responsible by a Student Conduct Board may appeal the responsibility determination and imposed Sanction as provided in the Appeals section of this *Code*, regardless of the Sanction imposed.

- b. The Reporting Party cannot appeal a final outcome determination.

4. Witnesses

- a. The Presiding Officer of any Board may direct a witness to appear before the Board upon the request of any Student Conduct Board member, at the request of either party, or at the request of the Board Advisor. Directives for witnesses to appear must be approved by the Director of Student Conduct. University Students and employees are expected to comply with a request to appear before a Student Conduct Board unless compliance would result in significant and unavoidable personal hardship or substantial interference with normal University activities.
- b. If the Director of Student Conduct determines that a fair hearing cannot be held without the testimony of a particular witness and after good faith attempts are made to notify the witness, if the witness either fails to or refuses to appear, the hearing will be postponed until the witness agrees to appear or the allegations will be dismissed.
 - i. A witness who is unable to attend the hearing, may submit a signed statement to the Office of Student Conduct prior to the hearing. Statements will not be admitted into the proceedings unless verified by the witness in the presence of a staff member in the Office of Student Conduct or a person designated by the Director of Student Conduct.
- c. Witnesses will be asked to sign an 'Honesty Statement' affirming that the information they present during the hearing will be truthful and accurate. Students who knowingly provide false information may be presented with an alleged policy violation under this *Code*.
- d. Prospective witnesses, other than the Responding Party and the Reporting Party, may be excluded from the hearing during the testimony of other witnesses.
- e. Witnesses should expect to be questioned by the Reporting Party, Responding Party, the respective Advocates, and Board members (including Board Advisor, if applicable) during hearing proceedings.

XIII. APPEALS

Appeals are not intended to allow for a second review of the facts of the matter and determination whether the Responding Party is responsible for Prohibited Conduct. A review of the matter on appeal will be prompt and narrowly tailored to the stated Grounds for an Appeal outlined below. Mere dissatisfaction with the responsibility and sanction outcome is not a valid basis for appeal. In most cases, appeal reviews and considerations are confined to a review of the written record and the submissions in support of or against the appeal. In all matters, deference shall be given to the determinations of the Student Conduct Board, Disciplinary Conference Board, or Disciplinary Conference, as applicable.

A. Submission of an Appeal

- 1. A Responding Party may appeal the determination of responsibility and/or the Sanction imposed if:
 - a. The Responding Party had a hearing with a Student Conduct Board; or
 - b. The Responding Party had a Disciplinary Conference or Disciplinary

Conference Board and received a Sanction of Suspension, Expulsion, or University housing termination.

2. An appeal must be submitted in writing within five (5) Days from the date of the Office of Student Conduct's written notice of the final outcome. Appeals submitted after five (5) Days shall be denied. At the discretion of the Director of Student Conduct, extensions may be granted with written permission in extenuating circumstances. The Director of Student Conduct has the discretion to defer the imposition of Sanctions pending any appeal.
3. If the Responding Party does not submit an appeal, the responsibility determination and Sanctions become final five (5) Days from the date of the Office of Student Conduct's written notice.

B. Grounds for an Appeal shall be limited to:

a. Substantial Procedural Error

Procedural errors or errors in interpretation of University policy that were so substantial as to effectively deny a Responding Party notice or a fair opportunity to be heard. Deviations from procedures that were not so substantial as to deny a Responding Party notice or a fair opportunity to be heard will not be a basis for granting an appeal.

b. Disproportionate Sanction

The Sanction is substantially disproportionate to the offense, which means it is far in excess of what is reasonable given the facts or the circumstances of the violation.

c. Arbitrary and Capricious

An arbitrary and capricious decision is a decision without a rational basis or that is not supported by any evidence in the record.

d. New Evidence

New and significant relevant information has become available which a reasonably diligent person could not have discovered before or during the original Student Conduct Board, Disciplinary Conference Board, or Disciplinary Conference proceeding.

- i. When the basis of the appeal is new evidence, the appellate body will determine whether the information is new and was unavailable at the time of the proceeding. If the appellate body determines that the information is not new and was available at the time, the appeal will be denied.
- ii. If the information is determined to be new and unavailable at the time of the proceeding, the appellate body will consider whether the new information could have changed the outcome of the original proceeding.
- iii. If it is determined that the outcome could have been impacted by the new evidence, the case will be sent back to the original Disciplinary Conference, Disciplinary Conference Board, or Student Conduct Board, as applicable, for further review.

- e. Unanticipated Disparate Impact of the Sanction: The Sanction has an unanticipated disparate impact on a Responding Party that exceeded the intention of the imposed Sanction.

C. Appeal Screening

- a. Appeals will be screened by the Director Office of Student Conduct, and only those appeals that meet the Grounds for an Appeal provided in this *Code* will be forwarded to the appropriate appellate body for review.
- b. The Responding Party will have three (3) Days to correct an appeals submission if they are advised that the initial submission does not state sufficient Grounds for an Appeal.

D. Response from the Office of Student Conduct

Upon receipt of the Responding Party's appeal, the Office of Student Conduct will provide a response to the appeal within five (5) Days.

E. Review of the Appeal

- a. Appeals of decisions resulting in Suspension or Expulsion will be decided by the University Senate Student Conduct Committee Appellate Body, which is composed of three members from the Student Conduct Committee including at least one Student.
- b. Appeals of decisions resulting in sanctions other than Suspension or Expulsion will be decided by the Appellate Board, which is a branch of the University Student Judiciary composed of three Students.

F. The appellate body will consider the appeal and may:

- a. Affirm the Decision and the Sanction outcome(s) imposed;
- b. Affirm the Decision and reduce, but not eliminate, the Sanction outcome(s) imposed;
- c. Remand the case to a new Disciplinary Conference, Disciplinary Conference Board, or Student Conduct Board, if there was substantial procedural error;
- d. Remand the case to the original Disciplinary Conference, Disciplinary Conference Board, or Student Conduct Board in accordance with procedures outlined under "New Evidence"; or
- e. Dismiss the case if the decision is determined to be arbitrary and capricious.

G. Sanctions of Expulsions or Suspensions affirmed by the Senate Student Conduct Committee Appellate Body require administrative review and approval by the Dean of Students who may alter, defer, or withhold the Expulsion or Suspension. Sanctions other than Expulsions or Suspensions affirmed by the Appellate Board require administrative review and approval by the Director of Student Conduct who may alter, defer or withhold the Sanction.

XIV. DISCIPLINARY RECORDS

- A. Students, Student Groups, and Student Organizations found responsible for violations of this *Code* will have a disciplinary record. Disciplinary records are maintained by the Office of Student Conduct for a period of three (3) years from the date of the letter providing notice of

the final outcome and disciplinary action. Disciplinary records may be retained for longer periods of time or permanently, if specified in the Sanction. Disciplinary records of Students, Student Groups, and Student Organizations with a sanction of Suspension or Expulsion will be retained permanently unless otherwise specified.

- B. Students may petition the Office of Student Conduct to void their disciplinary record early, for good cause. Students are eligible to petition to void their disciplinary record six (6) months from the date of the letter providing notice of final disciplinary action if the following criteria are met:
 - 1. all Sanctions have been satisfactorily completed; and
 - 2. the Student must not have any new or pending disciplinary issues.
- C. Factors to be considered in review of such petitions include but are not limited to:
 - 1. Review and assessment of a completed submission of a “Petition to Void Disciplinary Record,” which should include the Student’s learning and growth since the time of the incident;
 - 2. the conduct of the Student subsequent to the Prohibited Conduct; and
 - 3. the nature of the Prohibited Conduct and the severity of any resulting damage, injury, or harm.
- D. Disciplinary records retained for less than ninety (90) calendar days or designated as “permanent” shall not be voided without unusual and compelling justification.
- E. Denials of petitions to void disciplinary records can be appealed to the Senate Student Conduct Committee Appellate Body, which will consider the appeal using the Grounds for an Appeal outlined in the Appeals section of this *Code*. Such an appeal must be submitted in writing within five (5) Days from the date of the letter providing notice of the original denial of the petition.
- F. In situations with unusual and compelling justification, the Director of Student Conduct has discretionary authority to alter, defer, or withhold a Sanction that has been previously imposed pursuant to the provisions of this *Code*, except the Director may not impose a stricter Sanction than was previously imposed pursuant to this authority. The Director of Student Conduct shall consult with the Dean of Students in cases of Suspension or Expulsion and may consult with other University administrators as appropriate in all cases. There shall be no right to appeal a denial of a request to alter, defer, or withhold a Sanction under this provision.

EXHIBIT 3



V-1.00(K) UNIVERSITY OF MARYLAND POLICY AND PROCEDURES ON HAZING

(Approved by the President, February 20, 2015; Technical Amendments September 30, 2019)

I. Policy

Hazing is a fundamental violation of human dignity. It is strictly prohibited at the University of Maryland. The following conduct is defined as hazing when engaged in, whether on or off University premises, for the purpose of admission, initiation, or continued association with a group or organization:

Recklessly or intentionally:

- 1) engaging in or enabling an act or situation that subjects another person to the risk of
 - a) physical harm;
 - b) emotional distress, humiliation, degradation;
 - c) harm from unreasonable requirements which interfere with a student's ability to function as a student, including financial requirements outside of membership dues;
 - d) diminished physical or mental capacity,¹ or
- 2) causing or encouraging another person to violate any law or University regulation.

The implied or express consent of another person is not a defense under this section.²

A. Penalties for Hazing

Aggravated violations of this policy, as defined in Part 8(k)³ of the *Code of Student Conduct*, normally result in suspension or expulsion of the responsible student from the University. Sanctions for a student group or organization found responsible for violating the policy, even for a first offense, may include revocation or denial of recognition or registration, as well as other appropriate sanctions, pursuant to the *Code of Student Conduct*. Individuals who participate in acts of hazing are personally accountable under this policy and the *Code of Student Conduct*, regardless of the outcome of any related case brought against a student group or organization.

¹ Diminished mental or physical capacity within this section means reduced ability to perform mental or physical tasks due to drugs, alcohol, or physical or mental trauma.

² This policy shall not be interpreted to apply to speech that is protected under the First Amendment to the United States Constitution.

³ 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. Responsibilities to Challenge and Report Hazing

All members of the University community share the responsibility to challenge hazing and report acts of apparent hazing to the Office of Student Conduct. Apathy in the presence of, and acquiescence to, hazing are not neutral acts. Individuals who voluntarily participate in acts of hazing as perpetrators or recipients and/or victims will be held personally accountable under this policy and the *Code of Student Conduct*.

In cases of alleged acts of hazing, the University normally does not pursue disciplinary action against those who have been hazed unless evidence exists that the recipient and/or victim was a willing participant or has provided false information to a University official. Other charges may apply depending on the unique circumstances of the case.

C. Contacts

Office of Student Conduct	(301) 314-8204	https://www.studentconduct.umd.edu
Department of Public Safety	(301) 405-3333 or 911	http://www.umpd.umd.edu/
University Counseling Center	(301) 314-7651	http://www.counseling.umd.edu/
University Health Center	(301) 314-8106	http://www.health.umd.edu/

II. Procedures

The health and safety of all members of the campus community are the University's primary concern. Hazing is considered a fundamental violation of human dignity. If you believe hazing has occurred or is ongoing, you are strongly encouraged to seek assistance from one or more of the following resources 24 hours a day, seven days a week:

- University Police (Department of Public Safety, Service Building)
Emergency: (301) 405-3333 / Mobile Phone: #3333
Non-Emergency: (301) 405-3555
- Local Police in ANY location – Emergency: 911
- Report the incident (Monday - Friday between the hours of 8:00 a.m. – 5:00 p.m.) to the Office of Student Conduct at (301) 314-8204 or via the online form on the Office of Student Conduct website: <https://www.studentconduct.umd.edu>.

A. Anonymous/Confidential Resources

The following campus entities will keep information about alleged hazing as private and confidential as allowed by applicable law (contact information for normal business hours):

1. University Counseling Center (Shoemaker Building) / Telephone: (301) 314-7651

The Counseling Center provides comprehensive psychological and counseling services to meet the mental health and developmental needs of students and others in the University community. Staffed by counseling and clinical psychologists, the Counseling Center offers a variety of services to help students, faculty, staff, and other members of the community deal with issues concerning them.

2. University Mental Health Service (Health Center) / Telephone: (301) 314-8106

The Mental Health Service is staffed by psychiatrists and licensed clinical social workers and offers confidential services including short-term psychotherapy, medication evaluations, crisis intervention, and group psychotherapy.

Reporting to either of the foregoing campus entities does not constitute a formal report to the University and no additional action will be taken unless there is an imminent threat to health or safety or other basis for disclosure as required by law.

B. Reporting

The University encourages all alleged acts of hazing to be reported promptly to University officials and/or law enforcement agencies. The criminal process and the University disciplinary process are separate and independent. Reporting to the University does not preclude a victim from filing a report with the police. The University does not normally wait for the conclusion of criminal investigations or proceedings to conduct its own investigation and may take interim measures to protect the complainant and University community.

Notice to the campus entities listed below is formal notice to the University. Victims have the right to, and can, expect that all reports of hazing will be taken seriously and investigated when formally reported.

1. University Police (Department of Public Safety, Service Building)
Emergency (301) 405-3333 / Mobile Phone #3333
Non-Emergency (301) 405-3555

The University's Department of Public Safety is a full-service police agency serving the students, faculty, staff, and visitors within its jurisdiction. The safety and well-being of hazing victims is a primary concern of the University. Student, faculty, staff, parents, and/or others are encouraged to report any hazing allegations to the University Police as soon as is reasonably possible. Upon receipt of a report, University Police will normally conduct a criminal investigation. University Police officials can also assist hazing victims in notifying other law enforcement authorities, as appropriate.

2. Office of Student Conduct (Mitchell Building) / Telephone: (301) 314-8204

All reports of hazing will be reviewed in accordance with the procedures outlined in this policy. Any person may file a complaint of hazing against a University student, defined as either a person enrolled in or auditing courses at the University on a full-time or part-time basis at the time the alleged violation occurred or an individual who may not be enrolled for a particular term at the time the alleged violation occurred but has a continuing relationship with the University. Alumni are not precluded from being charged if the victim is a student and the incident occurred while the alumnus was enrolled as a student.

There is no time limit to filing a formal complaint with the Office of Student Conduct; however, persons are encouraged to promptly report alleged acts of hazing in order to maximize the University's ability to investigate and respond. The University strives to resolve all complaints within 60 calendar days of receiving a formal complaint. The resolution time may vary depending on the complexity of the investigation and severity and extent of the alleged misconduct.

C. University Disciplinary Procedures

The Office of Student Conduct is responsible for adjudicating alleged violations of this policy. If the accused is a student, a group of students, or a student organization, any person may file a complaint with the Office of Student Conduct.

University student disciplinary procedures and procedural rights are set forth in the *Code of Student Conduct* and published in the Undergraduate and Graduate Catalogs. Both complainants and respondents are granted a number of important rights, including the right to pose questions to the other party, the right to be advised by an advocate or advisor, the right to present their side of the case, the right to question witnesses, the right to be informed of the outcome of the case, and the ability to appeal decisions made by hearing boards. The burden of proof rests on the complainant, campus advocate, or community advocate to establish that it is more likely than not that a respondent committed a violation of this policy.

Students found responsible for acts of hazing may be suspended or expelled from the University, and organizational sanctions may include revocation or denial of recognition or registration as provided by the *Code of Student Conduct*. Students who violate federal, state, and/or local laws may also be subject to criminal charges.

D. Retaliation

Retaliation against any person filing a complaint or cooperating in the investigation of such complaint is strictly prohibited. Retaliation includes, but is not limited to, direct or indirect intimidation, threats, and/or harassment involving any party in the investigation. Students found responsible for retaliation will be subject to disciplinary action under the *Code of Student Conduct*. Retaliatory conduct may also constitute a criminal offense.

E. Interim Measures

All formal reports (as set forth in Section B, above) of alleged hazing, regardless of whether the complainant chooses to pursue resolution through the University disciplinary process, will be investigated, and steps will be taken to provide support to the complainant. This support may include taking appropriate interim action prior to completion of the investigation and conclusion of the student disciplinary process.

Interim measures may include a “no contact” directive serving as notice to the organization or its members that they must not have verbal, electronic, written, or third party communication with one another or with the student(s) seeking membership. Interim measures may also include modification of students’ academic schedules, University housing and/or University employment arrangements, and an order to cease and desist all activities of the organization being investigated. Failure to comply with interim measures may result in an individual(s), a student group(s), or an organization(s) being charged with additional disciplinary violations.

III. Educational Programs and Prevention

- Hazing Prevention Steering Committee
For more information, contact the Office of the Vice President for Student Affairs at (301) 314-8428.
- Department of Fraternity and Sorority Life (DFSL)
For more information, contact DFSL at (301) 314-7172.
- Emergency Phones
University Police Emergency Response Telephones (PERT), recognized by a blue light affixed to each station, are available throughout the campus. By activating the phone, an individual will be automatically connected to a Police Dispatcher, who is immediately alerted to the location of the phone.

IV. Additional Resources and Applicable Policies

- The Student Legal Aid Office, located in South Campus Dining Hall, provides free, confidential legal advice to any University student. Undergraduates may contact (301) 314-7756 or <http://legalaid.umd.edu>. Graduate students may contact (301) 405-5807 or <http://legalaid.umd.edu>.
- The University of Maryland *Code of Student Conduct* is available online at <http://president.umd.edu/policies/v100b.html>.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

Plaintiff,

v.

Defendant.

*

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*

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Case No. _____

NOTICE OF FILING OF DOCUMENT UNDER SEAL

Check one.

☐ Exhibit _____ which is an attachment to _____

will be electronically filed under seal within 24 hours of the filing of this Notice.

☐ _____

(title of document)

will be electronically filed under seal within 24 hours of the filing of this Notice.

I certify that at the same time I am filing this Notice, I will serve copies of the document identified above by _____.

/s/ Kathryn J. Bradley

Date

Signature

Printed Name and Bar Number

Address

Email Address

Telephone Number

Fax Number

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

Plaintiff,

v.

Defendant.

*

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Case No. _____

NOTICE OF FILING OF DOCUMENT UNDER SEAL

Check one.

☐ Exhibit _____ which is an attachment to _____

will be electronically filed under seal within 24 hours of the filing of this Notice.

☐ _____

(title of document)

will be electronically filed under seal within 24 hours of the filing of this Notice.

I certify that at the same time I am filing this Notice, I will serve copies of the document identified above by _____.

/s/ Kathryn J. Bradley

Date

Signature

Printed Name and Bar Number

Address

Email Address

Telephone Number

Fax Number

EXHIBIT 6

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

ALPHA PSI CHAPTER OF THETA CHI
FRATERNITY, *ET AL.*

Plaintiffs,

v.

JAMES BOND, *ET AL.*,

Defendants.

*

*

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No. 8:24-cv-00753-DLB

*

*

* * * * *

AFFIDAVIT OF KEVIN PITT

I, Kevin Pitt, being over 18 years of age and competent to testify to the matters set forth herein, state as follows:

1. I am Assistant Dean of Students and Interim Director of Fraternity and Sorority Life at the University of Maryland College Park (the “University”). I have served as the Assistant Dean of Students since October 11, 2021, and I was appointed to the role of Interim Director of Fraternity and Sorority Life on March 6, 2023.

2. Tyler Huddleston, Assistant Director, Advising and Programming, and Dr. James McShay, Assistant Vice President, Division of Student Affairs, and I met with the fraternity and sorority chapter presidents and other chapter members on the evening of Thursday February 29, 2024, to address the allegations described in the February 27, 2024, referral and to reinforce the University’s policies prohibiting hazing and underage alcohol use. Approximately 100 students attended the meeting.

3. During that meeting, I presented a general overview of the concerns raised in the anonymous February 27 referral e-mail including that there were allegations of widespread

physical abuse and dangerous rituals, severe mental and emotional distress, financial exploitation and forced labor, drug and alcohol abuse, and a general atmosphere of fear and intimidation. I specifically mentioned that there were allegations of “line-ups” and bodily harm, including some involving human waste, and that the allegations included criminal acts that are against Maryland law and University policy.

4. During the meeting, we advised chapter leaders and members that the University would take additional actions in response to further allegations of prohibited conduct, including pausing new member activities across one or all of the councils.

5. We offered chapter leaders and members at the meeting the opportunity to ask questions, and several posed questions about the process. We also distributed index cards and offered chapter leaders the opportunity to confidentially seek support for chapters (their own or others) that may need assistance in addressing hazing activities and harmful traditions. We also encouraged chapter leaders to contact us via email following the meeting with questions or concerns. The chapter leaders and members at the meeting did not provide any additional substantive information about the allegations. They did not provide information that suggested that they were *not* engaged in the alleged misconduct, nor did they provide further information to clarify which fraternities and sororities *were* responsible for the allegations.

6. None of the fraternity or sorority leaders contacted me in the days after the meeting by e-mail, phone, or in person.

I DECLARE UNDER THE PENALTY OF PERJURY THAT THE FOREGOING IS
TRUE AND CORRECT.

Executed on March 15, 2024.

A handwritten signature in black ink, appearing to read "Kevin Pitt". The signature is written in a cursive, somewhat stylized font.

Kevin Pitt