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## **The Universities at Shady Grove: Protocol Prohibiting Sex Discrimination & For Addressing USG Related Sexual Harassment and Sexual Misconduct Matters**

### **I. Preamble**

The Universities at Shady Grove (USG) and its Partner Institutions are committed to creating and maintaining an environment where all persons participating in USG, Partner Institution, or any other programs and activities at USG may learn and work together in an atmosphere free from Sex Discrimination. Sex Discrimination means exclusion from participation in or being denied the benefits of any Education Program or Activity of an Institution on the basis of sex, including sexual orientation, gender identity, and pregnancy or related conditions. Sexual Harassment and Sexual Misconduct are forms of Sex Discrimination that are prohibited by state and federal laws, including Title IX of the Education Amendments of 1972 (Title IX) and Title VII of the Civil Rights Act of 1964, as well as by the University System of Maryland (USM) and Partner Institution policies. Sex Discrimination may also constitute criminal activity.

USG and its Partner Institutions prohibit Sex Discrimination and promote prompt reporting, timely, fair, and impartial investigation and resolution of cases, as well as prohibit retaliation in connection with these matters. This Protocol is designed to assist USG Community members to know the process by which USG related Sex Discrimination matters will be handled by Partner Institutions working with USG. USG Community Members include, but are not limited to, all Partner Institution students, faculty, and staff participating in USG related programs and activities, Partner institution applicants for admission or employment for USG assigned positions, and USG visitors and third-party contractors/vendors.

### **II. Institutional Constituents**

#### **A. USG**

Opened in Fall 2000, USG is a uniquely collaborative regional higher education center in the state of Maryland. Developed in response to the growing demand for higher education in

[shadygrove.usmd.edu/faculty-and-staff/human-resources/titleix](https://shadygrove.usmd.edu/faculty-and-staff/human-resources/titleix)

Montgomery County, this upper-division center represents a partnership of nine USM institutions (collectively referred to herein as “Partner Institutions”). These nine institutions host students, faculty and staff at the USG campus.

Through this partnership, students have the opportunity to complete the final two years of a bachelor’s degree, and/or pursue a graduate level degree from one of USM’s degree-granting institutions, without ever leaving Montgomery County. USG offers more than 80 undergraduate and graduate programs, including weekday, evening and weekend course offerings. Through such offerings, USM institutions have significantly expanded the educational opportunities available to students in Montgomery County and the state of Maryland.

## **B. Partner Institutions**

The nine Partner Institutions at USG are:

- Bowie State University (BSU),
- Salisbury University (SU),
- Towson University (TU),
- University of Baltimore (UB),
- University of Maryland Baltimore (UMB),
- University of Maryland Baltimore County (UMBC),
- University of Maryland College Park (UMCP),
- University of Maryland Eastern Shore (UMES), and
- University of Maryland Global Campus (UMGC)

## **C. Home Institutions**

For purposes of this Protocol, the Partner Institution from which USG hosts a particular student, staff, or faculty member is considered the “Home Institution” for that individual. The Home Institution of staff and faculty on USG Payroll is UMCP, as these individuals are employed through UMCP. The Home Institution of a student taking classes at USG would be the Partner Institution where the student is registered. The Home Institution of a faculty member teaching at USG would be the Partner Institution through which they are employed and/or appointed.

[shadygrove.usmd.edu/faculty-and-staff/human-resources/titleix](https://shadygrove.usmd.edu/faculty-and-staff/human-resources/titleix)

### III. Governing Policies & Procedures

USG and its Partner Institutions operate in accordance with the University System of Maryland (USM) Board of Regents Policy VI-1.60 - Policy on Sex Discrimination (USM Policy on Sex Discrimination). Under the USM Policy, Sex Discrimination means exclusion from participation in or being denied the benefits of any Education Program or Activity of an Institution on the basis of sex, including sexual orientation, gender identity, and pregnancy or related conditions. Sex Discrimination includes Sexual Harassment and Sexual Misconduct.

Sexual Harassment means conduct on the basis of sex that satisfies one or more of the following:

- Quid pro quo harassment - An employee of the Institution conditioning the provision of an aid, benefit, or service of the Institution on an individual's participation in unwelcome sexual conduct;
- Hostile Environment Harassment - Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the Institution's Education Program or Activity; or
- Sexual Assault, Dating Violence, Domestic Violence, or Stalking, all of which are more fully defined in the USM Policy on Sex Discrimination.<sup>1</sup>

Sexual Misconduct means sex-based harassment involving unwelcome and offensive conduct, which need not be severe or pervasive, when the conduct is based on sex, sexual orientation, or gender identity or consists of unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature; and

- Submission to the conduct is made either explicitly or implicitly a term or condition of the employment of an individual;
- Submission to or rejection of the conduct is used as a basis for employment decisions affecting

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<sup>1</sup> The USM Policy on Sex Discrimination is attached in full as Appendix D and is also located at the following website link: <http://www.usmd.edu/regents/bylaws/SectionVI/>.

the individual; or

- Based on the totality of the circumstances, the conduct creates a working environment that a reasonable person would perceive to be abusive or hostile or has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Pursuant to the USM Policy on Sex Discrimination, each Partner Institution has its own policies and procedures geared to eliminate Sex Discrimination, prevent its recurrence, and address its effects. Partner Institution policies addressing Sex Discrimination (as informed by the USM Policy on Sex Discrimination) will govern how USG related Sex Discrimination matters are handled by any applicable Partner Institution.

Generally, all students, faculty and staff at USG are students, faculty, or staff of one the nine USG Partner Institutions. Students, faculty and staff at USG are governed by their Home Institution Sex Discrimination policy and procedures. As such, their Home Institution is their primary contact for information and resources.

This Protocol has been established to provide additional USG specific information and should be used in conjunction with Home Institution policies, procedures, and resources. Each Partner Institution policy identifies a Title IX Coordinator responsible for coordinating the Partner Institution's efforts to comply with and carry out its responsibilities under Title IX and the USM Policy on Sex Discrimination. A full list of Partner Institution Title IX Coordinators with contact information and website links to all Partner Institution Sex Discrimination policies and procedures, is attached hereto as Appendix A.

#### **IV. Important Roles**

##### **A. Responsible Employee**

A Partner Institution Responsible Employee is any faculty or staff member who is designated by a Partner Institution policy as an individual required to report allegations or disclosures of Sex Discrimination, including Sexual Harassment and Sexual Misconduct, to

[shadygrove.usmd.edu/faculty-and-staff/human-resources/titleix](https://shadygrove.usmd.edu/faculty-and-staff/human-resources/titleix)

The Partner Institution. Responsible Employees include at a minimum all Partner Institution Title IX Coordinators, Title IX Team Members, administrators, non-confidential employees in their supervisory roles, faculty, teaching assistants, athletic coaches, institution law enforcement, and all other non-confidential first responders. See Partner Institution policies in Appendix A for Partner Institution specific designations regarding Responsible Employees. Responsible Employees must follow their Home Institution policies with regard to their duties as Responsible Employees. **If there is any confusion as to whether you are a Partner Institution Responsible Employee, please contact your Home Institution Title IX Coordinator.**

Reporting to any Partner Institution Responsible Employee is not confidential reporting. Information reported to a Partner Institution Responsible Employee will be shared as needed to inform those responsible for handling USG and/or Partner Institution response to reports of Sexual Misconduct.

## **B. Complainant & Respondent**

In Sex Discrimination cases, the party reporting and/or having experienced the conduct that would constitute Sex Discrimination is typically referred to as the “Complainant.” The party who has been reported to be the perpetrator of conduct that would constitute Sex Discrimination is typically referred to as the “Respondent.” The policies and procedures of the Home Institution of the Respondent would generally control the investigation and adjudication process of a complaint of Sex Discrimination.

## **C. Title IX Coordinator**

The lead individual assigned by each Partner Institution to coordinate the Partner Institution response to Sex Discrimination and Title IX matters. A full list of Partner Institution Title IX Coordinators with contact information and website links to all Partner Institution Sex Discrimination policies and procedures, is attached hereto as Appendix A.

[shadygrove.usmd.edu/faculty-and-staff/human-resources/titleix](https://shadygrove.usmd.edu/faculty-and-staff/human-resources/titleix)

#### **D. The USG Title IX Liaison**

Due to the unique multi-institution nature of USG, and due to the fact that many Partner Institutions are not physically in close proximity to the campus at USG, USG has developed an additional resource for individuals involved in Sex Discrimination matters that occur in connection with USG related programs and activities – the USG Title IX Liaison.

The primary role of the Title IX Liaison is to help Partner Institution Title IX Coordinators navigate the unique structure of USG, provide information to Partner Institution Title IX Coordinators about the services available on-site at USG, and to connect Partner Institution Title IX Coordinators with each other when involved in an inter-institutional case. The Title IX Liaison may also help refer and connect parties (including complainants, respondents and responsible employees) to the appropriate Partner Institution Title IX Coordinators and/or local and on-site resources and is generally available to assist USG Community members to connect with appropriate individuals as questions arise concerning the handling of matters covered by this Protocol.

The USG Title IX Liaison will assist with other requests, as appropriate, made by the Partner Institution Title IX Coordinator or other parties that are necessary due to the remote location of USG from the Home Institution and that cannot otherwise reasonably be accomplished through telecommunication (telephone, email, etc.) or by a scheduled visit. USG will always take immediate action when we believe that there is a threat of imminent harm.

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#### **USG Title IX Liaison**

**Michael Wahl**, Safety & Security Manager, Title IX Liaison

301-738-6178

[mwahl2@umd.edu](mailto:mwahl2@umd.edu)

Building III-2241A

9636 Gudelsky Drive, Rockville, MD 20850

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[shadygrove.usmd.edu/faculty-and-staff/human-resources/titleix](http://shadygrove.usmd.edu/faculty-and-staff/human-resources/titleix)

## **V. Reporting Sex Discrimination**

Complaints or inquiries regarding Sex Discrimination may be made to any Partner Institution Title IX Coordinator, Title IX Team Member, or other Responsible Employee. Reports made to the USG Title IX Liaison will generally be referred to the appropriate Home Institution Title IX Coordinator. External complaints or inquiries regarding Title IX, including Sex Discrimination, may be made to the US Department of Education, Office for Civil Rights (OCR):<sup>2</sup>

### **A. Requests for Confidentiality**

When receiving a report, Partner Institution Title IX Coordinators work closely with a reporting party to establish the appropriate parameters of confidentiality in each case, always making every effort to operate with discretion and maintain the privacy of the individuals involved. All requests for confidentiality will be carefully evaluated.

### **B. Confidential Reporting**

Unless otherwise noted, Responsible Employees at all Partner Institutions must report information regarding Sex Discrimination. As stated above, Responsible Employees are not confidential resources.

Confidential reporting options at all Partner Institutions are listed in the Partner Institution policies and procedures linked to in Appendix A. In addition, see Appendix B for a full list of additional USG on and off-site confidential reporting options.

As set forth in Appendix B, USG offers the following additional confidential resource onsite: The USG Center for Counseling and Well-being. Members of the Counseling Center, when they are acting in their official capacity as mental health providers, are able to serve as confidential resources and reporting options. Members of the Counseling Center staff acting in other roles, such as teaching, should not be assumed to be a confidential resource in any non-Counseling Center role.

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<sup>2</sup> OCR Contact information is as follows: U.S. Department of Education, Office for Civil Rights, 400 Maryland Avenue, SW Washington, D.C. 20202-1100; (800) 421-3481; <https://ocras.ed.gov/contact-ocr>

Individuals may seek assistance and support from a confidential resource at USG or a Partner Institution. However, please be advised that even confidential resources may not be able to maintain absolute confidentiality in certain circumstances, for example, where the alleged perpetrator(s) poses a serious and immediate threat to the victim or larger USG Community or where child abuse is implicated. Confidential resources also have to report certain incidents of Sex Discrimination in a general way (nature, date, time and general location) for Clery Act statistical purposes and legal compliance. A report of an incident of Sex Discrimination to any Partner Institution confidential resource or the USG Center for Counseling and Well-being does not constitute notice to USG or any Partner Institution of the reported conduct.

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### **Confidential On-Site Support at USG**

#### **USG Center for Counseling and Well-being**

Building IV-3139

301-738-6273

<https://shadygrove.usmd.edu/student-affairs/counseling-well-being>

### **Confidential Support offsite:**

#### **Montgomery County Trauma Services**

1301 Piccard Drive, Rockville, MD 20850

Montgomery County Trauma Services is a comprehensive center for survivors of domestic violence, sexual assault/rape and general crimes including human trafficking, physical assault, homicide (surviving family), etc. The program provides coordinated support for survivors.

240-777-1355 (weekdays)

240-777-HOPE (4673) (24-hour crisis line)

240-777-1329 (FAX)

TraServ@montgomerycountymd.gov

<https://www.montgomerycountymd.gov/HHS-Program/BHCS/TraumaServices/index.html>

**Adventist HealthCare Shady Grove Medical Center**

9901 Medical Center Drive, Rockville, MD 20850

- Sexual Assault Forensics Exam – SAFE – Provider
- Anonymous “Jane Doe” SAFE exams are available
- 240-826-6225 (Forensic Medical Unit)
- 240-826-6596 (Emergency Department Main Line)
- 240-826-6000 (Hospital Operator)
- Forensic Nurses are available 24/7

<https://www.adventisthealthcare.com/services/emergency/violence-survivors/>

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**C. Criminal Reporting**

In addition to any Partner Institution policy or procedure violation, some forms of discrimination on the basis of sex or gender, for example, all forms of Sexual Assault, may constitute a crime. **If you are in immediate danger and need law enforcement or to summon medical assistance, dial 911.** To otherwise criminally report sexual conduct, contact local law enforcement. Partner Institution Title IX Coordinators or Team Members, or the USG Title IX Liaison, will assist any individual who wishes to report criminal conduct related to this Protocol or any Partner Institution policies to appropriate law enforcement authorities, including the Montgomery County Police Department which has law enforcement jurisdiction for the USG campus and surrounding areas. Contact information for the Montgomery County Police Department is listed in Appendix B.

**VI. Responses to Sex Discrimination****A. Interim Measures**

Partner Institution Title IX Coordinators or Title IX Team Members will coordinate Interim Measures (i.e., reasonably available steps to protect the parties while a Sex Discrimination matter is pending).

[shadygrove.usmd.edu/faculty-and-staff/human-resources/titleix](https://shadygrove.usmd.edu/faculty-and-staff/human-resources/titleix)

Reasonable Interim Measures may include, for example:

- Employment accommodations, including arranging different work shifts.
- Academic accommodations, including assistance with adjusting class schedules.
- “No Contact” letters banning contact between the parties during the pendency of a Sex Discrimination/Sexual Misconduct matter and beyond.
- Campus safety escort services (provided by USG Public Safety).

Other common Interim Measure options that a Partner Institution Title IX Coordinator may deem reasonable and appropriate in a particular case are listed in Partner Institution policies and procedures. A full list of website links to all Partner Institution Sex Discrimination policies and procedures, along with Partner Institution Title IX Coordinator contact information, is attached hereto as Appendix A.

## **B. Investigation and Adjudication**

All investigations and resolutions will be handled by the Title IX Coordinator at the appropriate, and generally a Respondent’s, Home Institution. The USG Title IX Liaison will not investigate or adjudicate any complaint of Sex Discrimination, Sexual Harassment, or Sexual Misconduct, but may assist with related requests as described in section IV.D.

For Sex Discrimination matters that occur in connection with USG, but where Partner Institutions lack jurisdiction over a Respondent, the matter will be referred, as appropriate and as allowed by law, to a proper third party for handling.

Partner institution policies are required by the USM Policy on Sex Discrimination to designate reasonably prompt time frames for conclusion of the investigation and adjudication process—including reasonably prompt time frames for filing and resolving appeals and informal resolution processes (if any)—and a process that allows for the temporary delay of the investigation and adjudication process or the limited extension of time frames for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action.

## **VII. Training, Education & Recordkeeping**

Sex Discrimination related training and education is provided to all faculty, staff and students at USG through their Home Institution. Home Institution training and education initiatives must be compliant with law and the USM Policy on Sex Discrimination. Employees on USG payroll receive training and participate in education initiatives through UMCP and its Office of Civil Rights and Sexual Misconduct.

Each Partner Institution is required by USM policy to maintain records of all actions taken and training provided by the Partner Institution pursuant to the USM Policy on Sex Discrimination.

### Appendix A: USG Partner Institution Sex Discrimination Policies and Title IX Coordinators

USG Notice of Non-Discrimination: USG policy explicitly prohibits Discrimination in education programs and activities on the basis of sex, including sexual orientation, gender identity, and pregnancy or related conditions. Sexual Harassment and Sexual Misconduct are forms of Sex Discrimination prohibited by state and federal laws, including Title IX of the Education Amendments of 1972 as amended (“Title IX”) and Title VII of the Civil Rights Act of 1964 as amended, and also may constitute criminal activity. Inquiries concerning the application of Title IX may be referred to an institution’s Title IX Coordinator or the Office for Civil Rights.

Institution	Title IX Contact Information
<b>USG Title IX Liaison</b>	Michael Wahl, Safety and Security Manager, Title IX Liaison (301) 738-6021 <a href="mailto:mwahl2@umd.edu">mwahl2@umd.edu</a> <a href="https://shadygrove.usmd.edu/faculty-and-staff/human-resources/titleix">https://shadygrove.usmd.edu/faculty-and-staff/human-resources/titleix</a>
<b>Bowie State University</b>	Jasmyn Lucas, Equity Investigator and Title IX Coordinator (301) 860-4511 <a href="mailto:titleixcoordinator@bowiestate.edu">titleixcoordinator@bowiestate.edu</a> <a href="https://bowiestate.edu/about/administration-and-governance/legal-and-government-affairs/office-of-equity-compliance/sexual-misconduct/title-ix.php">https://bowiestate.edu/about/administration-and-governance/legal-and-government-affairs/office-of-equity-compliance/sexual-misconduct/title-ix.php</a>
<b>Salisbury University</b>	Humberto Aristizabal, AVP of Institutional Equity & Title IX Coordinator (410) 548-3508 <a href="mailto:hxaristizabal@salisbury.edu">hxaristizabal@salisbury.edu</a> <a href="http://www.salisbury.edu/administration/institutional-equity">http://www.salisbury.edu/administration/institutional-equity</a>
<b>Towson University</b>	Steven Book, Interim Title IX Coordinator and Civil Rights Investigator (410) 704-2020 <a href="mailto:titleix@towson.edu">titleix@towson.edu</a> <a href="https://www.towson.edu/equity-compliance/title-ix/">https://www.towson.edu/equity-compliance/title-ix/</a>
<b>University of Baltimore (UB)</b>	Pavan Purswani, Title IX Coordinator & Director of Student Support (410) 837-5414 <a href="mailto:ppurswani@ubalt.edu">ppurswani@ubalt.edu</a> <a href="https://www.ubalt.edu/about/offices-and-services/title-ix/index.cfm">https://www.ubalt.edu/about/offices-and-services/title-ix/index.cfm</a>
<b>University of Maryland, Baltimore (UMB)</b>	Tim Koch, Executive Director of Civil Rights Resolutions and Title IX Coordinator (410) 706-1852 <a href="mailto:titleix@umaryland.edu">titleix@umaryland.edu</a> <a href="http://www.umaryland.edu/titleix">www.umaryland.edu/titleix</a>

<b>University of Maryland, Baltimore County (UMBC)</b>	Dr. Leah Reynolds, Interim ECR Director & Title IX Coordinator (410) 455-1717 <a href="mailto:lreynol1@umbc.edu">lreynol1@umbc.edu</a> <a href="https://ecr.umbc.edu/gender-discrimination-sexual-misconduct/">https://ecr.umbc.edu/gender-discrimination-sexual-misconduct/</a>
<b>University of Maryland, College Park (UMCP)</b>	Angela Nastase, JD, Director and Title IX Coordinator (301) 405-1142 <a href="mailto:titleixcoordinator@umd.edu">titleixcoordinator@umd.edu</a> <a href="https://ocrsm.umd.edu">https://ocrsm.umd.edu</a>
<b>University of Maryland, Eastern Shore (UMES)</b>	Jason A. Casares, Title IX Coordinator 410-651-6135 <a href="mailto:TitleIX@umes.edu">TitleIX@umes.edu</a> <a href="https://www.umes.edu/oie/title-ix">https://www.umes.edu/oie/title-ix</a>
<b>University of Maryland Global Campus (UMGC)</b>	Jamie Thayer, Title IX Coordinator (800) 888-8682, ext 17930 <a href="mailto:titleixcoordinator@umgc.edu">titleixcoordinator@umgc.edu</a> <a href="https://www.umgc.edu/administration/policies-and-reporting/sexual-misconduct-title-ix">https://www.umgc.edu/administration/policies-and-reporting/sexual-misconduct-title-ix</a>

USM Policy: <http://www.usmd.edu/regents/bylaws/SectionVI/VII160.pdf>

**U.S. Department of Education, The Office of Civil Rights**

<https://www.ed.gov/laws-and-policy/civil-rights-laws/title-ix-and-sex-discrimination>

[shadygrove.usmd.edu/faculty-and-staff/human-resources/titleix](http://shadygrove.usmd.edu/faculty-and-staff/human-resources/titleix)

## Appendix B: USG and Local Resources

**In all cases where emergency circumstances exist, never hesitate to dial 9-1-1**

### **Onsite Resources – Non-confidential**

#### **USG Title IX Liaison**

Michael Wahl, III-2241A

(301) 738-6021

[mwahl2@umd.edu](mailto:mwahl2@umd.edu)

<https://shadygrove.usmd.edu/faculty-and-staff/human-resources/titleix>

#### **USG Center for Scholarships**

Gloria Kalotra, III-1105

301-738-6089

[gkalotra@umd.edu](mailto:gkalotra@umd.edu)

<https://shadygrove.usmd.edu/student-affairs/scholarships>

#### **USG Human Resources Office**

Nitshu Joshi, III-3155

301-738-6114

[njoshi14@umd.edu](mailto:njoshi14@umd.edu)

<https://shadygrove.usmd.edu/faculty-and-staff/human-resources>

#### **USG Safety and Security Office**

Michael Wahl, III-2241A

301-738-6021

[mwahl2@umd.edu](mailto:mwahl2@umd.edu)

<https://shadygrove.usmd.edu/campus-resources/public-safety>

#### **USG Security Desk**

301-738-6065

#### **USG Staff Directory and Program Contacts**

<https://shadygrove.usmd.edu/directory>

#### **USG Street Address**

9636 Gudelsky Drive, Rockville, MD 20850

**Onsite Resources – Confidential**

**USG Center for Counseling and Well-being**

IV-3139, 301-738-6273

Services provided at the Counseling Center are free, and client confidentiality is protected by law.

<https://shadygrove.usmd.edu/student-affairs/counseling-well-being>

**Offsite Resources – Non-confidential**

**Montgomery County Police 1<sup>st</sup> District Station**

Emergency: 911

Phone: 240-773-6070

Address: 100 Edison Park Drive, Gaithersburg, MD 20878

<https://www.montgomerycountymd.gov/pol/districts/1D/index.html>

**Offsite Resources – Confidential**

**Adventist HealthCare Shady Grove Medical Center**

Sexual Assault Forensics Exam – SAFE – Provider

9901 Medical Center Drive, Rockville, MD 20850

240-826-6596 (Emergency Department Mainline)

240-826-6225 (Forensic Medical Unit Main Line)

240-826-6000 (Hospital Operator)

<https://www.adventisthealthcare.com/services/emergency/violence-survivors/>

**Montgomery County Trauma Services**

240-777-1355 (weekdays)

240-777-HOPE (4673) (24-hour crisis line)

240-777-1329 (FAX)

[TraServ@montgomerycountymd.gov](mailto:TraServ@montgomerycountymd.gov) <https://www.montgomerycountymd.gov/HHS-Program/BHCS/TraumaServices/index.html>

## Appendix C: Steps to Take Following a Sexual Assault

**Get to a safe place and seek emotional support.** Talking with a trusted friend or relative or someone who is professionally trained to deal with sexual assault, such as a mental health professional, can help you make decisions about what to do. Whether you decide to go to law enforcement or not, it is important to take care of your own emotional needs. Professional counseling may be beneficial.

**Preserve evidence.** If possible, consider taking steps to preserve physical evidence - on the body and at the location of an assault. It is important not to shower or bathe, eat or drink, brush teeth or gargle, change clothes, urinate or defecate, brush or comb hair or smoke. Clothing worn at the time of an assault should not be washed but placed in a paper bag “as is” and brought to the hospital. In order to avoid forgetting important details, write down the facts about the accused and the assault.

**Seek medical attention.** It is important to seek medical attention as soon as possible. A medical examination will ensure appropriate medical treatment, including testing for pregnancy or sexually transmitted infections. You may also want to obtain a Sexual Assault Forensic Exam (SAFE). A SAFE exam allows for the collection of evidence and can ensure any physical evidence is preserved in the event of a report to law enforcement. SAFE exams and attention to medical needs are available without having to reveal a person’s identity to the police. A SAFE exam may be obtained within 5 days after an assault at:

### **Adventist HealthCare Shady Grove Medical Center**

9901 Medical Center Drive, Rockville, MD 20850

240-826-6225 (Forensic Medical Unit)

240-826-6596 (Emergency Department Main Line)

Ask for the “Charge Nurse”

Ask the Charge Nurse to page a “Forensic Nurse”

Forensic Nurses are available 24/7

240-826-6000 (Hospital Operator)

<https://www.adventisthealthcare.com/services/emergency/violence-survivors/>



## VI-1.60 - UNIVERSITY SYSTEM OF MARYLAND POLICY ON SEX DISCRIMINATION

(Approved by the Board of Regents, June 27, 2014; Amended June 19, 2015; Amended June 21, 2019; Amended July 22, 2020; Amended July 31, 2024; Amended December 12, 2025).

### PURPOSE AND APPLICABILITY

The University System of Maryland (USM) is committed to providing a working and learning environment free from Sex Discrimination,<sup>1</sup> including Sexual Harassment and Sexual Misconduct, through training, education, prevention programs, and policies and procedures that prohibit Retaliation and promote prompt reporting, timely, fair, and impartial investigation and resolution in a manner that eliminates the Sex Discrimination, prevents its recurrence, and addresses its effects.

All Students, faculty, and staff of USM institutions, as well as regional centers and the USM Office and third parties and contractors, are subject to this Policy. This Policy addresses the obligations of USM institutions,<sup>2</sup> and the USM Office (together, the Institutions) to address Sex Discrimination prohibited by Title IX of the Education Amendments of 1972 (Title IX) and Sex Discrimination prohibited by other federal laws and Maryland law. Federal regulations implementing Title IX require that Institutions implement certain procedures when they have Actual Knowledge of Sexual Harassment occurring within an Education Program or Activity.

### POLICY

#### I. Definitions

For purposes of this Policy, the following definitions apply:

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<sup>1</sup> Capitalized terms are defined in this Policy.

<sup>2</sup> USM regional centers may satisfy their obligations under this Policy by providing notice of the policies of applicable partner or coordinating institutions and referring any complaints received by the regional center to the applicable partner or coordinating institutions.

- A. Actual Knowledge** means notice of Sexual Harassment or allegations of Sexual Harassment to the Institution's Title IX Coordinator or any official of the Institution who has authority to institute corrective measures on behalf of the Institution.
- B. Education Program or Activity** includes all operations of the Institution in the United States, including but not limited to, locations, events, or circumstances over which the Institution exercised substantial control over both the Respondent and the context in which the conduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the Institution.
- C. Dating Violence** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- D. Domestic Violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant, or by any other person against an adult or youth Complainant protected from those acts by domestic or family violence laws of Maryland.
- E. Pregnancy or Related Conditions** means the current, past, or potential presence of any of the following conditions:
1. Pregnancy, childbirth, termination of pregnancy, or lactation.
  2. Recovery from pregnancy, childbirth, termination of pregnancy, or lactation.
  3. Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation.
- F. Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute Sex Discrimination.
- G. Retaliation** means intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX or this Policy, or because an individual has reported information, made a complaint, testified, assisted, participated or refused to participate in any manner in an investigation, proceeding, or hearing related to Sex Discrimination. Retaliation includes initiating a complaint against an individual for violations of other institutional policies that do not involve Sex Discrimination but arise out of the same facts or circumstances as a complaint, for the purpose of interfering with any right or privilege secured by Title IX or this Policy.

**H. Sexual Assault** means an offense classified as a sex offense in the uniform crime reporting system of the Federal Bureau of Investigation. Sex offenses are sexual acts directed against another person and include<sup>3</sup>:

1. **Rape**—Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, or by a sex-related object, without the consent of the victim, including instances where the victim is incapable of giving consent because of temporary or permanent mental or physical incapacity (including due to the influence of drugs or alcohol) or because of age.
2. **Non-Consensual Sexual Contact**—The intentional touching of the clothed or unclothed body parts, without consent of the victim, *or* the forced touching by the victim of the actor's clothed or unclothed body parts, without consent of the victim, for the purpose of sexual degradation, sexual gratification, or sexual humiliation, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical impairment or incapacity.
3. **Incest**—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
4. **Statutory Rape**—Nonforcible sexual intercourse with a person who is under the statutory age of consent.<sup>4</sup>

**I. Sexual Harassment** means conduct on the basis of sex that satisfies one or more of the following:

1. **Quid pro quo harassment**—An employee of the Institution conditioning the provision of an aid, benefit, or service of the Institution on an individual's participation in unwelcome sexual conduct;
2. **Hostile Environment Harassment**—Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the Institution's Education Program or Activity; or
3. **Sexual Assault, Dating Violence, Domestic Violence, or Stalking.**

**J. Sexual Misconduct** means:

1. **Sex-Based Harassment in Employment**<sup>5</sup> means unwelcome and offensive conduct, which need not be severe or pervasive, when the conduct is based on

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<sup>3</sup> These terms encompass the FBI uniform crime reporting system offense definitions. *See* 34 C.F.R. §106.30.

<sup>4</sup> *See* Md. Code Ann., Crim. Law §§ 3-301 through 3-307.

<sup>5</sup> This standard applies to employee conduct subject to Title VII and Md. Code Ann., State Gov't § 20-601. Employee conduct may also be covered by other definitions under this Policy.

sex, sexual orientation, or gender identity or consists of unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature; and

- i. Submission to the conduct is made either explicitly or implicitly a term or condition of the employment of an individual;
  - ii. Submission to or rejection of the conduct is used as a basis for employment decisions affecting the individual; or
  - iii. Based on the totality of the circumstances, the conduct creates a working environment that a reasonable person would perceive to be abusive or hostile or has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
2. Any other unwelcome sex-based conduct prohibited by an Institution's policy that does not meet the definition of Sexual Harassment.

**K. Sex Discrimination** means exclusion from participation in or being denied the benefits of any Education Program or Activity of an Institution on the basis of sex, including sexual orientation, gender identity, and Pregnancy or Related Conditions. Sex Discrimination includes Sexual Harassment and Sexual Misconduct.

**L. Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

**M. Student** means a person who has gained admission to an Institution.

**N. Supportive Measures** are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, and without fee or charge to the parties to:

1. Restore or preserve that party's access to the Institution's Education Program or Activity, including measures that are designed to protect the safety of the parties or the Institution's educational environment; or
2. Deter Sexual Harassment.

Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

## II. Administration of Sex Discrimination Policies

## **A. Oversight of Title IX Compliance**

### **1. Title IX Coordinator**

Each Institution must designate and authorize at least one employee to coordinate its efforts to comply with Title IX and this Policy, and that employee must be referred to as the “Title IX Coordinator.” The Title IX Coordinator is responsible for coordinating the effective implementation of remedies, including Supportive Measures.

### **2. Title IX Team**

Depending on the size and specific needs of the Institution, it may want to identify a Title IX Team, which may include the Title IX Coordinator, Deputy Title IX Coordinators, Title IX investigators, representatives from campus safety, Student Affairs, the Provost’s Office, and Human Resources, and any other employees or third-party contractors, as necessary to fulfill the Institution’s obligations under this Policy.

The Title IX Coordinator shall be responsible for coordinating, delegating, and overseeing the activities of the Title IX Team as they relate to the Institution’s efforts to comply with Title IX and this Policy.

### **3. Reporting**

An institution’s President shall be provided information sufficient to carry out the President’s responsibility to report to the Board of Regents regarding Sex Discrimination matters.

## **B. Training**

### **1. Awareness and Preventive Education<sup>6</sup>**

Each Institution must develop and implement preventive education for all employees and Students, to help identify and reduce the occurrence of Sex Discrimination. At a minimum, these educational initiatives must contain information regarding what constitutes Sexual Harassment, definitions of consent and prohibited conduct, the Institution’s procedures, bystander intervention, risk reduction (to recognize warning signs of abusive behavior and how to avoid potential attacks), and the consequences of engaging in Sexual Harassment. These educational initiatives shall be for all incoming Students and employees. Each

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<sup>6</sup> See 34 C.F.R. § 668.46(j).

Institution also must develop ongoing prevention and awareness campaigns for all Students and employees addressing, at a minimum, the same information.

Educational initiatives for employees shall also comply with Md. Code Ann., State Pers. & Pens. § 2-203.1.

## **2. Resolution Training**

Institutions must ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive annual training on the definition of Sex Discrimination, the scope of the Institution's Education Program or Activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, that protects the safety of individuals and promotes accountability, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Institutions must ensure that decision-makers receive training on any technology to be used at a live hearing and on issues of Irrelevant and Impermissible Evidence (as defined in Section IV). Institutions also must ensure that investigators receive training on issues of relevance to create investigative reports that fairly summarize relevant evidence. Training materials must not rely on sex stereotypes and must promote impartial investigations and adjudications of complaints.

**C. Policies Required.** Each Institution shall adopt and publish a policy (or policies) that:

1. Includes a statement prohibiting Sex Discrimination in its Education Program or Activity;
2. Prohibits any policy, practice, or procedure, or any employment action, concerning the actual or potential parental status, family status, or marital status of a Student, employee, or applicant (for admission or employment), that treats persons differently on the basis of sex;
3. Includes a statement prohibiting Retaliation;
4. Adopts the definitions in this Policy for Sexual Harassment and defines relevant terms not defined in this Policy, such as consent;
5. Provides procedures for the resolution of complaints of Sex Discrimination including the minimum requirements outlined in Section IV of this Policy for Complaints of Sexual Harassment;

6. Provides the following for Students and employees who experience Sexual Assault:
  - a. Information about the right to file criminal charges with the appropriate law enforcement officials;
  - b. The prompt assistance of Institution authorities, if requested, in notifying the appropriate law enforcement officials and the Title IX Coordinator of an incident of Sexual Assault;
  - c. Information about the nearest hospitals equipped with the Maryland Department of State Police Sexual Assault Evidence Collection Kit;
  - d. Information about the importance of preserving evidence as may be necessary to prove criminal conduct or obtain orders of protection;
  - e. Information about the rights of victims and the Institution's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court;
  - f. Full and prompt cooperation from Institution personnel in obtaining appropriate medical attention, including transporting a victim to the nearest designated hospital; and
  - g. Information about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims at the Institution and in the community, including the nearest State-designated rape crisis program.
  
7. Identifies the Institution's amnesty policy for parties or witnesses who violate drug use, alcohol, or other student conduct policies. At a minimum, Institutions must have an amnesty policy that prohibits student conduct action (except for a mandatory intervention for substance abuse) for a violation of alcohol or drug use policies by a Student who reports Sexual Assault to the Institution or law enforcement or participates in a Sexual Assault matter as a witness, if the Institution determines that:
  - a. The violation occurred during or near the time of the alleged Sexual Assault;
  - b. The Student made the report of Sexual Assault, or is participating in an investigation as a witness, in good faith; and
  - c. The violation was not an act that was reasonably likely to place the health or safety of another individual at risk.
  
8. Provides the following for Students experiencing Pregnancy or Related Conditions:
  - a. Provides reasonable accommodations to the Institution's policies, practices, or procedures for Students experiencing Pregnancy or Related Conditions, consistent with the following minimum requirements:

- i. An accommodation that would fundamentally alter the nature of the Institution's Education Program or Activity is not reasonable.
    - ii. If the Institution operates a portion of its Education Program or Activity separately for pregnant Students, the Institution must allow the Student to voluntarily access any separate and comparable portion of the Education Program or Activity, if requested by the Student.
    - iii. If the Institution does not maintain an applicable leave policy, the Institution must allow the Student to take a voluntary leave of absence for a period of time determined to be medically necessary by the Student's medical provider. Upon return from a leave of absence, the Student must be reinstated to the same status (to the extent possible) that the Student held when the leave began.
  - b. Prohibits requiring a Student who is Pregnant or with a Related Condition to provide certification that the Student is physically and emotionally able to participate in a class, program, or activity, unless the Institution requires such certifications of all Students participating in the class, program, or activity for other physical or emotional conditions requiring the attention of a physician.
  - c. Provides for treating Pregnancy or Related Conditions in the same manner and under the same policies as any other temporary disability with respect to medical or hospital benefits, services, or any other policies the Institution operates or participates in with respect to Students in the Institution's Education Program or Activity.
9. Provides the following for employees experiencing Pregnancy or Related Conditions:
  - a. Provides for reasonable accommodations for employees with known limitations related to Pregnancy or Related Conditions.
    - i. Each reasonable accommodation shall be based on the employee's individualized needs, in consultation with the employee.
    - ii. The Institution may request from the employee only the minimum documentation necessary to establish that the employee is experiencing Pregnancy or Related Conditions and what adjustments are needed.

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<sup>7</sup> The Pregnant Workers Fairness Act requires accommodations for employees experiencing Pregnancy or Related Conditions. *See* 42 U.S.C. § 2000gg(3); 29 C.F.R. § 1636 et seq.

- iii. Reasonable accommodations may include temporary relief from essential functions of the employee's job, and, in the case of an employee with insufficient accrued leave or no paid leave, voluntary leave of absence without pay.
  - iv. At the conclusion of any accommodation, the employee shall be reinstated to the same status as before the accommodation without decrease in compensation or loss of promotional opportunities or any other right or privilege of employment.
- b. Provides for treating Pregnancy or Related Conditions in the same manner and under the same policies as any other temporary medical conditions for all job-related purposes, including commencement, duration, and extension of leave, payment of disability income, accrual of seniority and any other benefit or service, reinstatement, and any other fringe benefit offered to employees by virtue of employment.
10. Provides for a lactation space for all Students and employees which may not be a bathroom, that is clean, shielded from view, free of intrusion from others, and may be used for expressing milk or breastfeeding as needed.

**D. Notice of Nondiscrimination.** Each Institution must publish a Notice of Nondiscrimination in the following manner:

### **1. Content**

Each Institution must publish a notice of nondiscrimination that contains the following content:

- a. A statement that the Institution does not discriminate on the basis of sex in its Education Program or Activity, the Institution is required by Title IX not to discriminate in such a manner, and the requirement not to discriminate extends to admission and employment;
- b. A statement that inquiries concerning the application of Title IX may be referred to the Institution's Title IX Coordinator or to the Office for Civil Rights of the U.S. Department of Education, or both; and
- c. The name or title, office address, email address, and telephone number of the employee or employees designated as the Title IX Coordinator(s).

### **2. Dissemination of Notice**

The notice must be widely distributed to all Students, employees, applicants for admission and employment, and other relevant persons (including all unions or professional organizations holding collective bargaining or professional agreements with the Institution). The notice must be prominently displayed on the

Institution's website and in each handbook or catalog that it makes available to persons entitled to a notification.

### III. Requirements for Sex Discrimination Procedures

Each Institution's policies and procedures must provide for the prompt and equitable resolution of complaints alleging Sex Discrimination and Retaliation.<sup>8</sup>

If an Institution adopts procedures that apply to some, but not all, complaints of Sex Discrimination, the procedures must articulate consistent principles for how the Institution will determine which procedures apply.<sup>9</sup> All procedures to address Sexual Harassment<sup>10</sup> must also include, at a minimum, the procedures set forth in Section IV.

### IV. Requirements for Sexual Harassment Procedures

#### A. Equitable Procedures Required

1. **Equitable Treatment.** Institutions' procedures must treat Complainants and Respondents equitably by:
  - a. Providing remedies to a Complainant where a determination of responsibility has been made against the Respondent, and by using procedures that comply with this Policy when investigating and adjudicating allegations before the imposition of any sanctions or other actions that are not Supportive Measures against a Respondent (remedies must be designed to restore or preserve equal access to the Institution's Education Program or Activity);
  - b. Providing an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence; and
  - c. Applying any provisions, rules, or practices used to investigate and adjudicate Complaints under this Policy equally to both parties.
2. **Objective Evaluation of Evidence.** Institutions' procedures must require an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence—and provide that credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness.

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<sup>8</sup> Complaints alleging Retaliation may be investigated in accordance with the grievance procedures for Sex Discrimination or other procedures for addressing retaliation.

<sup>9</sup> For any complaint that alleges conduct that meets the definition of a crime under the Clery Act, the Institution's response must also conform to those requirements. *See* 34 CFR § 668.46.

<sup>10</sup> Institutions may, but are not required to, use the procedures set forth in Section IV to other conduct covered under this Policy.

3. **No Conflict or Bias.** Institutions' procedures must require that any individual designated as a Title IX Coordinator, investigator, or decision-maker; any decision-making body for a hearing or appeal; or any person designated to facilitate an informal resolution process, not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.
4. **Presumption of Non-Responsibility.** Institutions' procedures must include a presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the process.
5. **Confidentiality.** Institutions' procedures must describe any institutional policies governing confidentiality, including that:
  - a. Investigations must not restrict the ability of either party to discuss allegations or gather and present relevant evidence;
  - b. Institutions must maintain as confidential any Supportive Measures provided to the parties, to the extent that maintaining confidentiality would not impair the ability to provide Supportive Measures; and
  - c. Institutions must keep confidential the identity of anyone who has made a report or filed a Complaint, anyone who has been reported as perpetrator, any Respondent, and any witness, except as permitted by FERPA or required by law or to carry out the purposes of the Title IX regulation.
6. **Reasonably Prompt Time Frames.** Institutions' procedures must include reasonably prompt time frames for conclusion of the investigation and adjudication process—including reasonably prompt time frames for filing and resolving appeals and informal resolution processes.
7. **Delay for Good Cause.** The Institution's procedures must allow for the temporary delay of the investigation and adjudication process or the limited extension of time frames for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action. "Good cause" may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

## **B. Initiation of Procedures**

1. **Reporting.** Any person may report possible Sexual Harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute Sexual Harassment) in person, by mail, by telephone, or by email, using the contact information listed for the Title IX Coordinator or by any other means

that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during nonbusiness hours) by using the telephone number or email address or by mail to the office address listed for the Title IX Coordinator.

2. **Filing of Complaint.** A "Complaint" under this Section requires a document or electronic submission, filed by the individual who is alleged to have been subjected to Sexual Harassment (the "Complainant") or filed by the Title IX Coordinator,<sup>11</sup> that alleges Sexual Harassment against a Respondent and requests that the Institution investigate the allegation(s). A Complaint must contain the digital or physical signature of the Complainant or otherwise indicate that the Complainant is the person filing the Complaint.
3. **Notice.** Upon filing of a Complaint, the Institution must provide written notice to known parties of the following:
  - a. The investigation and adjudication process, including any informal process available;
  - b. The allegations, including sufficient details<sup>12</sup> known at the time and with sufficient time to prepare a response before any initial interview;
  - c. That Retaliation is prohibited;
  - d. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the investigation and adjudication process;
  - e. That the parties are entitled to an advisor of their choice, who may be, but is not required to be, an attorney. A party's advisor may inspect and review evidence;
  - f. Of any provision in the Institution's policies that prohibits knowingly making false statements or knowingly submitting false information during the investigation and adjudication process;
  - g. That if the Institution decides to investigate additional allegations not included in the original notice, it must provide notice of the additional allegations to the parties whose identities are known; and
  - h. For parties who are Students, the provisions set forth in *Appendix A* to this Policy.
4. **Consolidation.** An Institution may consolidate Complaints as to allegations against more than one Respondent, or by more than one Complainant against one

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<sup>11</sup> A Title IX Coordinator who files a Complaint is not a "Complainant." The Title IX Coordinator may file a Complaint with an unknown Complainant or with no Complainant.

<sup>12</sup> "Sufficient details" include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Sexual Harassment, and the dates and locations of the alleged incidents, if known.

or more Respondents, or by one party against the other party, where the allegations arise out of the same facts or circumstances.

5. **Dismissal.** Allegations of Sexual Harassment that are dismissed may be investigated as Sex Discrimination, Sexual Misconduct, or any other conduct prohibited under Institution policies. Upon dismissal, an Institution must promptly notify the Complainant of the basis of the dismissal and the opportunity to appeal. If the dismissal occurs after the Respondent has been notified of the allegations, the Institution must promptly notify the Respondent of the basis of the dismissal and the opportunity to appeal. An Institution's procedures must provide for the following bases for dismissal:
  - a. **Permissive.** An Institution's may dismiss a Complaint, or any conduct alleged in the Complaint, for any of the following reasons:
    - i. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Complaint or any allegations therein;
    - ii. The Respondent is no longer enrolled or employed by the Institution; or
    - iii. Specific circumstances prevent the Institution from gathering evidence sufficient to reach a determination as to the Complaint or allegations therein.
  - b. **Mandatory.** The Institution's procedures must require dismissal of a Complaint, or any conduct alleged in the Complaint, if:
    - i. The conduct alleged in a Complaint of Sexual Harassment would not constitute Sexual Harassment, even if proved; or
    - ii. The conduct did not occur in the Institution's Education Program or Activity or did not occur against a person in the United States.
6. **Informal Resolution Process.** At any time after the filing of the Complaint but prior to reaching a determination regarding responsibility, the Institution may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the Institution:
  - a. Obtains the parties' voluntary, written consent to proceed with the informal resolution process.<sup>13</sup>
  - b. May not require the parties to participate in an informal resolution process;
  - c. Provides the parties a written notice disclosing:

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<sup>13</sup> An Institution may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of Complaints of Sexual Harassment.

- i. the allegations;
  - ii. the requirements of the informal resolution process including that at any time prior to the parties' agreement to a resolution, any party may withdraw from the informal resolution process and initiate grievance procedures;
  - iii. that the parties' agreement to a resolution at the conclusion of the informal resolution process precludes the parties from initiating or resuming grievance procedures arising from the same allegations; and
  - iv. any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
- d. Does not offer or facilitate an informal resolution process to resolve allegations of Sexual Assault, sexual coercion, or any allegations by a Student against an employee for Sexual Harassment; and
  - e. Does not use the same facilitator for informal resolution to investigate or decide a matter under the grievance procedures.

### C. Interim Measures

1. **Emergency Removal.** An Institution may remove a Respondent from the Institution's Education Program or Activity on an emergency basis, provided that the Institution:
  - a. Undertakes an individualized safety and risk analysis;
  - b. Determines that an immediate threat to the physical health or safety of a Complainant or any Students, employees, or other persons arising from the allegations of Sexual Harassment justifies removal; and
  - c. Provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.
2. **Supportive Measures.** The Institution must offer and coordinate Supportive Measures for the Complainant, even if no Complaint is filed. The Institution's policy must describe the range of Supportive Measures available to Complainants and Respondents.

### D. Investigation Procedures

1. **Investigation of Complaint.** When investigating a Complaint and throughout the investigation and adjudication process, the Institution must:
  - a. Ensure that the burden is on the Institution—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether Sexual Harassment occurred;

- b. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
  - c. Provide the parties with the same opportunities to have others present during any investigation or adjudication proceeding;
  - d. Review all evidence gathered through the investigation and determine what evidence is relevant; and
  - e. Provide each party with an equal opportunity to access the evidence that is relevant to the allegations.
2. **Advisors.** The Institution must provide the parties with the same opportunities to have others present during any investigation or adjudication proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the Complainant or Respondent in any meeting or proceeding. However, the Institution may establish restrictions regarding the extent to which the advisor may participate in the meetings or proceedings, as long as the restrictions apply equally to both parties.

If a party does not have an advisor present at the live hearing, the Institution must provide, without fee or charge to that party, an advisor of the Institution's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

3. **Notice of Meetings.** Institutions must provide written notice of all hearings, investigative interviews, or other meetings to a party whose participation is invited or expected. Written notice should include the date, time, location, participants, and purpose of the meeting with sufficient time for the party to prepare to participate.
4. **Impermissible Evidence.** An Institution's procedures must prohibit the following, regardless of whether the evidence is relevant:
  - a. Requiring, allowing, relying upon, or otherwise using information protected under a legally recognized privilege, unless the person to whom the privilege is owed has voluntarily waived the privilege or confidentiality.
  - b. Accessing, considering, disclosing, or otherwise using records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional in connection with the treatment of a party, unless the Institution obtains that party's voluntary, written consent to do so.
  - c. The decisionmaker(s) from considering a Student's history of mental health counseling, treatment, or diagnosis, unless the Student consents;

- d. The decisionmaker(s) from considering, with respect to any Student other than the Complainant, evidence of a Student's prior sexual history with an individual other than a party to the proceedings, except:
        - i. To prove prior sexual misconduct;
        - ii. To support a claim that a student has an ulterior motive; or
        - iii. To impeach a Student's credibility after that Student has put their prior sexual conduct at issue.
5. **Irrelevant Evidence.** An Institution's procedures must provide that the following evidence is not relevant:
  - a. Evidence relating to a Complainant's sexual predisposition or prior sexual behavior, except:
    - i. Evidence about the Complainant's prior sexual conduct that is offered to prove that someone other than the Respondent committed the alleged conduct; or
    - ii. Evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent.
6. **Inspection and Review of Evidence.** The parties must have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Complaint, including the evidence upon which the Institution does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation. The investigator must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy prior to the completion of the investigative report. The parties must be given at least 10 days to submit a written response, which the investigator will consider prior to the completion of the investigative report. The investigator may also, but is not required to, provide a preliminary investigative report with the evidence subject to inspection and review.
7. **Investigative Report.** At least 10 days in advance of the hearing, Institutions must provide both parties (and the parties' advisors, if any) with an investigative report that fairly summarizes relevant evidence, for the parties' review and written response. The investigative report and the parties' written responses (if any) must be provided to the decisionmaker(s) in advance of the hearing.

## E. Adjudication and Decision Procedures

1. **Live Hearing.** Institutions must provide for a live hearing for all Complaints of Sexual Harassment. Live hearings should be conducted by the decisionmaker(s), who cannot be the same as the Title IX Coordinator or the investigator(s). Live hearings may be conducted with all parties physically present in the same geographic location or, at the Institution's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other. Institutions must make all evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross examination. Institutions must create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review. Procedures for a live hearing require, at a minimum, the following:
  - a. The opportunity for each party's advisor to ask the other party or witnesses direct questions and cross examination questions, including questions challenging credibility.
  - b. Cross examination of parties and witnesses that occurs directly, orally, and in real time by the parties' advisors and never by the parties personally.
  - c. The exclusion of questions that are not relevant or are otherwise Impermissible Evidence. The decisionmaker should determine if a question is relevant and not otherwise Impermissible Evidence prior to the party or witness answering the question. The decisionmaker must explain the basis for excluding any question.
  - d. The decisionmaker(s) cannot draw an inference regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
2. **Standard of Evidence.** Institutions' procedures must specify either (a) "by a preponderance of the evidence" or (b) "by clear and convincing evidence" as the standard of evidence for all Complaints.
3. **Sanctions and Remedies.** Institutions' procedures must describe the range of, or list, the possible Sanctions that may be imposed on a Respondent and the possible remedies that may be provided to a Complainant that the Institution may implement following any determination of responsibility.
4. **Written Determination Regarding Responsibility.** At the conclusion of the hearing and upon review of all evidence and the final investigative report, the decision-maker(s) shall issue a written determination regarding responsibility.

The written determination must be issued to all parties simultaneously, and must include:

- a. A description of each allegation;
- b. A description of the procedural steps taken from receipt of the Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- c. Findings of fact supporting the determination;
- d. Conclusions regarding the application of the Institution's policy to the facts;
- e. For each allegation: a determination regarding responsibility and the rationales, any sanction(s) imposed, and whether any remedies will be provided to the Complainant;
- f. Procedures and permissible bases for parties to appeal;
- g. Any change to the results that occurs prior to the time that such results become final; and
- h. When the results become final.

## F. Appeal Procedures

1. **Bases for Appeal.** An Institution must offer both parties an appeal from a determination regarding responsibility, and from an Institution's dismissal of a Complaint or any allegations therein, on at least the following bases<sup>14</sup>:
  - a. Procedural irregularity that affected the outcome;
  - b. New evidence that could change the outcome that was not reasonably available when the determination was made;
  - c. The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome.
2. **Procedures.** Once an appeal has been initiated, the Institution must provide appeal procedures that, at a minimum:
  - a. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
  - b. Ensure that the decisionmaker(s) for the appeal is not the Title IX Coordinator, the investigator(s), or same person as the decisionmaker(s) who reached the determination regarding responsibility or dismissal;
  - c. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;

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<sup>14</sup> The Institution may offer additional bases for appeal as long as they are available equally to all parties.

- d. Provide for issuance of a written decision describing the result of the appeal and the rationale for the result; and
  - e. Provide that the written decision will be provided simultaneously to both parties.
3. **Final Decision.** A determination regarding responsibility becomes final either on the date that the Institution provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

## **V. Compliance and Records**

### **A. Other Federal and State Nondiscrimination Laws**

Nothing in this Policy affects Institutions' obligations to address, or employees' rights to report, discrimination and retaliation under other federal and State nondiscrimination laws.

### **B. Clery Act Compliance**

Each Institution remains responsible for complying with the requirements of the Crime Awareness and Campus Security Act of 1990 (Clery Act) and its amendments.

### **C. Agreements with Local Law Enforcement and Rape Crisis Programs<sup>15</sup>**

Each Institution must, at a minimum, pursue formalized agreements with (1) the Institution's local law enforcement agency and (2) a State-designated rape crisis program and/or federally recognized sexual assault coalition. Agreements with law enforcement agencies must comply with Title IX and clearly state when an Institution will refer a matter to a local law enforcement agency. Agreements with rape crisis or sexual assault programs must formalize a commitment to provide trauma-informed services to victims of sexual assault and to improve the Institution's overall response to sexual assault.

### **D. Campus Sexual Assault Climate Survey**

At least every two (2) years, each Institution shall: (1) develop an appropriate Sexual Assault campus climate survey using nationally recognized best practices for research and climate surveys; and (2) administer the Sexual Assault campus climate survey to Students in accordance with the procedures set by the Maryland Higher Education Commission (MHEC). Each Institution shall submit to MHEC a report in accordance with the requirements set forth in Md. Code Ann., Educ. § 11-601(g).

### **E. Recordkeeping for Sexual Harassment Complaints**

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<sup>15</sup> See Md. Code Ann., Educ. § 11-601.

Each Institution must maintain for seven years records of:

1. For each Complaint of Sexual Harassment, records documenting the informal resolution process or grievance procedure (including any recording or transcript required) and the resulting outcome (including any disciplinary sanctions, remedies, and appeals).
2. Any Supportive Measures taken in response to a report of Sexual Harassment.
3. For reports or complaints of Sexual Harassment, the Institution must document:
  - a. the basis for its conclusion that its response was not deliberately indifferent;
  - b. that it has taken measures designed to restore or preserve equal access to the Institution's Education Program or Activity; and
  - c. when Supportive Measures are not provided, why such a response was not clearly unreasonable in light of the known circumstances.
4. All materials used to train Title IX Coordinators, investigators, decisionmakers, and any person who facilitates an informal resolution process. Institutions must make these training materials publicly available on their websites.

This Policy should be cross-referenced with USM BOR VI-1.50 Policy on the Reporting of Child Abuse and Neglect, and USM VI-1.00 Policy on Non-Discrimination and Equal Opportunity.

## APPENDIX A

- I. Statement of Student Rights:** During the procedures, Student Complainants and Respondents have a right to the following:
- A. Treatment with dignity, respect, and sensitivity by Institution officials during all phases of the disciplinary proceedings;
  - B. A fair and impartial investigation;  
Disciplinary proceedings and resolutions that are prompt and equitable and provide an opportunity for the parties to be heard;
  - C. Timely written notice of:
    - 1. The reported violation, including the date, time, and location of the alleged violation, and the range of potential sanctions associated with the alleged violation;
    - 2. The party's rights and responsibilities under the Institution's policies and procedures and information regarding other civil and criminal options;
    - 3. The date, time, and location of each hearing, meeting, or interview that the party is required or permitted to attend;
    - 4. A final determination made by the adjudicating official or body regarding whether a policy violation occurred and the basis for the determination;
    - 5. Any sanction imposed, as permitted by law; and
    - 6. The party's rights to appeal and a description of the appeal process;
  - D. Participation in the disciplinary proceedings, including:
    - 1. Access to the case file and evidence regarding the incident obtained by the Institution during the investigation or considered by the adjudicating official or body, with personally identifiable or other information redacted as required by applicable law;
    - 2. Offering testimony at a hearing, or, if the Institution's process does not include a hearing, to the adjudicating official;
    - 3. Submitting evidence, witness lists, and suggested specific questions to be posed to the other party involved in the disciplinary proceedings by investigators or the adjudicating official or body;
    - 4. Providing and reviewing testimony electronically or in a way in which the parties are not required to be in the physical presence of one another;
    - 5. Reviewing and providing written responses to reports and proposed findings; and
    - 6. Appealing a determination or sanction;

- E. Assistance by a licensed attorney, an advocate supervised by an attorney, or a trained advocate throughout the disciplinary proceedings, including by the attorney or advocate's:
  - 1. Attendance at hearings, meetings, and interviews with the party;
  - 2. Private consultations with the party during hearings, meetings, and interviews, except during questioning of the party at a hearing; and
  - 3. Assistance with the party's exercise of any right during the disciplinary proceedings;
  
- F. Notwithstanding whether a student accesses counsel paid for by the Maryland Higher Education Commission (MHEC), the presence of no more than two people, including a personal supporter of the party's choice, an attorney, or an advocate, at any hearing, meeting, or interview during the disciplinary proceedings;
  
- G. Notice to a student party, presented in an appropriate and sensitive format, before the start of the disciplinary proceedings, of:
  - 1. The student's right to the assistance of an attorney or an advocate;
  - 2. The legal service organizations and referral services available to the student; and
  - 3. The student's right to have a personal supporter of the student's choice at any hearing, meeting, or interview during the disciplinary proceedings.

**II. Access to MHEC Counsel:** Any current or former student who makes a Complaint or responds to a Complaint on which a Sexual Harassment investigation is initiated, and who was enrolled as a student at the Institution at the time of the incident that is the basis of the Complaint, unless the student knowingly and voluntarily chooses not to have counsel. A student shall have access to counsel paid for by MHEC as provided in Md. Code Ann., Educ. § 11-601.








# Title IX Protocol 05.28.26

Final Audit Report

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