



University Senate TRANSMITTAL FORM

Senate Document #:	15-16-30
PCC ID #:	N/A
Title:	Revisions to the University of Maryland Sexual Misconduct Policy
Presenter:	Stacey Sickels Locke, Chair of the Equity, Diversity, & Inclusion (EDI) Committee
Date of SEC Review:	April 19, 2016
Date of Senate Review:	April 28, 2016
Voting (highlight one):	<ol style="list-style-type: none"> 1. On resolutions or recommendations one by one, or 2. In a single vote 3. To endorse entire report 4. For information only
Statement of Issue:	In spring 2016, the University Senate Office received a copy of the University of Maryland Sexual Misconduct Policy (VI-1.60[A]) with revisions, which were approved on an interim basis by the University President effective March 21, 2016. The revisions to the policy were developed based on input from a recent review by the State of Maryland's Attorney General's Office of all sexual misconduct policies and procedures at institutions within the University System of Maryland (USM). On March 25, 2016, the Senate Executive Committee (SEC) charged the Equity, Diversity, & Inclusion (EDI) Committee with review of the revisions to the policy.
Relevant Policy # & URL:	VI-1.60(A) – University of Maryland Sexual Misconduct Policy & Procedures http://umd.edu/policies/2014-VI-160A.html
Recommendation:	The EDI Committee recommends that the Senate approve the recommended revised version of policy VI-1.60(A) University of Maryland Sexual Misconduct Policy.

Committee Work:	The EDI Committee met with the Title IX Officer from the Office of Civil Rights & Sexual Misconduct (OCRSM) and a representative of the Office of General Counsel to discuss the changes to the policy. The committee found the changes to be acceptable. EDI discussed the rationale behind the changes to the policy and identified other minor modifications and technical changes needed. On April 1, 2016, the EDI Committee voted in favor of forwarding its recommended revised version of the Sexual Misconduct Policy to the Senate for consideration.
Alternatives:	To not approve the EDI Committee’s recommended revisions to the University of Maryland Sexual Misconduct Policy.
Risks:	There are no associated risks.
Financial Implications:	There are no financial implications.
Further Approvals Required:	Senate approval, Presidential approval.

Senate Equity, Diversity, & Inclusion (EDI) Committee

Report on Senate Document # 15-16-30

Revisions to the University of Maryland Sexual Misconduct Policy

April 2016

2015-2016 EDI Committee Members

Stacey Sickels Locke, Chair

Shaunna Payne Gold, Ex-Officio, Director of the Office of Diversity & Inclusion Rep

Kumea Shorter-Gooden, Ex-Officio, Provost's Rep

Anne Martens, Ex-Officio, VP Administration & Finance Rep

Steve Petkas, Ex-Officio, VP Student Affairs Rep

Jennifer Dindinger, Faculty

Typhanye Dyer, Faculty

John Stevenson, Faculty

Yukako Tatsumi, Faculty

Wendy Peer, Faculty

Tim Tormoen, Exempt Staff

Syndy Shilling, Exempt Staff

Maya Aduba, Exempt Staff

Jordan Carter-Reich, Non-Exempt Staff

Amir Mojtahedi, Non-Exempt Staff

Rishvi Jayathilake, Graduate Student

Ashlee Wilkins, Graduate Student

Damon King, Undergraduate Student

Sumayyah Milstein, Undergraduate Student

BACKGROUND

In spring 2016, the University Senate Office received a copy of the University of Maryland Sexual Misconduct Policy (VI-1.60[A]) with revisions, which were approved on an interim basis by the University President effective March 21, 2016. The revisions to the policy were developed based on input from a recent review by the State of Maryland's Attorney General's Office of all sexual misconduct policies and procedures at institutions within the University System of Maryland (USM).

On March 25, 2016, the Senate Executive Committee (SEC) charged the Equity, Diversity, & Inclusion (EDI) Committee with review of the revisions to the policy (Appendix 1).

COMMITTEE WORK

The EDI Committee met with the Title IX Officer from the Office of Civil Rights & Sexual Misconduct (OCRSM) and a representative of the Office of General Counsel to discuss the changes to the policy. During the meeting, it was explained that changes had been made to the opening section regarding training for all individuals involved in responding to, investigating, or adjudicating reports of Sexual Misconduct, or who are involved in the Sexual Misconduct complaint investigation and resolution processes. It was also explained that clarifications to the applicability of the policy had been made, as well. The committee learned that the section defining "Responsible University Employee" had been clarified, as well. It was also noted that edits had been made to the Confidential Resources section to show which resources are on-campus and which are off-campus. The committee also discussed how the timeframe for investigation and resolution of complaints had been changed to be ideally within "60 business days" instead of "60 calendar days" from when the complaint was filed. The committee also reviewed clarifying language that had been added to the section on "Amnesty for Students Who Report Sexual Misconduct." The committee found the changes to be acceptable. The committee discussed the rationale behind the changes to the policy and identified other minor modifications and technical changes needed.

On April 1, 2016, the EDI Committee voted in favor of forwarding its recommended revised version of the University of Maryland Sexual Misconduct Policy to the Senate for consideration.

RECOMMENDATIONS

The EDI Committee recommends that the Senate approve the recommended revised version of policy VI-1.60(A) University of Maryland Sexual Misconduct Policy, which immediately follows this report.

APPENDICES

Appendix 1 – Charge from the Senate Executive Committee (SEC), dated March 25, 2016

VI-1.60(A) UNIVERSITY OF MARYLAND SEXUAL MISCONDUCT POLICY & PROCEDURES

(Approved on an interim basis by the President October 13, 2014, Amended May 4, 2015, Amended October 1, 2015, Amended March 21, 2016)

- I. Policy Statement
- II. Applicability
- III. Definitions
- IV. Prohibited Conduct
- V. Sanctions
- VI. Confidential Resources
- VII. Reporting Sexual Misconduct
- VIII. Interim Protective Measures
- IX. Retaliation
- X. Complaint Procedures
- XI. Steps to Take Following a Sexual Assault
- XII. Campus Safety
- XIII. Consensual Relationships and Professional Conduct
- XIV. Government Agencies That Address Complaints of Sexual Misconduct

I. POLICY STATEMENT

Sexual ~~misconduct~~ **Misconduct** is a form of sex discrimination prohibited by federal and state discrimination laws, including Title IX of the Education Amendments of 1972 and Title VII of the Civil Rights Act. In addition, some forms of ~~sexual misconduct~~ **sSexual Misconduct** violate the criminal laws of the State of Maryland. Sexual ~~misconduct~~ **Misconduct** is also a form of sex discrimination in violation of the University of Maryland Non-Discrimination Policy and Procedures: <http://www.president.umd.edu/policies/2014-VI-100b.html>. However, this Policy supersedes the “Non-Discrimination Policy and Procedures” with respect to matters of ~~sexual misconduct~~ **sSexual Misconduct**. The University will respond to complaints of ~~sexual misconduct~~ **sSexual Misconduct** in accordance with the provisions of the Sexual Misconduct Policy and accompanying investigation and adjudication procedures.

The Office of Civil Rights & Sexual Misconduct (OCRSM) shall receive notice of all reports of ~~sexual misconduct~~ **sSexual Misconduct** received by any individual deemed a “Responsible University Employee” under this policy. No employee (other than law enforcement) is authorized to investigate or resolve reports of ~~sexual misconduct~~ **sSexual Misconduct** without the involvement of the Title IX Officer:

Catherine A. Carroll, Director

Title IX Officer

Office of Civil Rights & Sexual Misconduct (**OCRSM**)

University of Maryland

4113 Susquehanna Hall, College Park, MD 20742-~~5031~~**5025**

E-mail: carrollc@umd.edu | titleixcoordinator@umd.edu
Phone: 301-405-1142
Fax: 301-405-2837
<http://www.umd.edu/ocrsm/>

The ~~Office of Civil Rights & Sexual Misconduct~~ **OCRSM** is responsible for overseeing the University's training and educational programs related to **sSexual mMisconduct**. To learn more about various resources, on-going training initiatives, and education programs for students, faculty, and staff, please consult the office's website for more current and up-to-date information.

All persons involved in responding to, investigating, or adjudicating Sexual Misconduct reports, or who are involved in the Sexual Misconduct complaint investigation and resolution processes, will participate in annual training in receiving, investigating, and handling complaints of Sexual Misconduct under the University's policy and procedures.

The University of Maryland is committed to a working and learning environment free from **sSexual mMisconduct**. Sexual **mMisconduct** is a broad term used to describe a range of behavior, including **sSexual hHarassment**, **sSexual aAssault**, **dDomestic vViolence**, **dDating vViolence**, **sSexual vViolence**, **rRelationship vViolence**, **sSexual eExploitation**, **sSexual iIntimidation**, and **sStalking**. Sexual **mMisconduct** will not be tolerated. It corrupts the integrity of the educational process and work environment, and violates the core mission and values of the University.

Creating an environment free from **sSexual mMisconduct** is the responsibility of all members of the University community. The University is committed to fostering a campus climate free from **sSexual mMisconduct** through training, education and prevention programs, and through policies and procedures that promote prompt reporting, prohibit retaliation, and promote timely, fair and impartial investigation and resolution of **sSexual mMisconduct** cases. In responding to complaints of **sSexual mMisconduct**, the University will take appropriate steps to eliminate **the sSexual mMisconduct**, prevent its recurrence, and address its effects.

II. APPLICABILITY

The University has jurisdiction over all Title IX complaints made in connection with University programs and activities, and this policy applies to ~~;~~ all members of the University community, including students, faculty, and staff. It also applies to contractors and other third parties within the University's ~~control~~ **jurisdiction**. This policy applies to **sSexual mMisconduct**:

- ~~O~~**On** University premises, in any University facility, or on University property;
- ~~A~~**At** any University sponsored, recognized, or approved program, visit, or activity, regardless of location;
- ~~T~~**That** impedes equal access to any University education program or activity or that adversely impacts the education or employment of a member of the University community regardless of where the conduct occurred; or

- That otherwise threatens the health and/or safety of a member of the University community.

III. DEFINITIONS

“**Coercion**” includes conduct, intimidation, and express or implied threats of physical or emotional harm; that would reasonably place an individual in fear of immediate or future harm and that is employed to persuade or compel someone to engage in sexual contact. Examples of Coercion include causing the deliberate Incapacitation of another person; conditioning an academic benefit or employment advantage on submission to the sexual contact; threatening to harm oneself if the other party does not engage in sexual contact; or threatening to disclose an individual’s sexual orientation, gender identity, gender expression, or other personal sensitive information if the other party does not engage in the sexual contact.

“**Complainant**” refers to the individual who files a ~~s~~Sexual ~~m~~Misconduct complaint, alleging a violation of this Policy.

“**Confidential**” refers to communications between two parties where one party, based on their professional status, has the ability to ensure the communications between the two parties are legally protected as private.

“**Consent**” means a knowing, voluntary, and affirmatively communicated willingness to participate in a particular sexual activity or behavior. Only a person who has the ability and capacity to exercise free will and make a rational, reasonable judgment can give ~~e~~Consent. Consent may be expressed either by words and/or actions, as long as those words and/or actions create a mutually understandable agreement to engage in specific sexual activity. It is the responsibility of the person who wants to engage in sexual activity to ensure that ~~he/she they has~~ **have** consent from the other party, and that the other party is capable of providing ~~e~~Consent.

- Lack of protest or resistance is not consent. Nor may silence, in and of itself, be interpreted as ~~e~~Consent. For that reason, relying solely on non-verbal communication can lead to misunderstanding.
- Previous relationships, including past sexual relationships, do not imply ~~e~~Consent to future sexual acts.
- Consent to one form of sexual activity cannot automatically imply ~~e~~Consent to other forms of sexual activity.
- Consent must be present throughout sexual activity and may be withdrawn at any time. If there is confusion as to whether there is consent or whether prior consent has been withdrawn, it is essential that the participants stop the activity until the confusion is resolved.
- Consent cannot be obtained by use of physical force, threats, intimidating behavior, or coercion. Coercion is pressuring another person into sexual activity.

It is a violation of this ~~p~~Policy to engage in sexual activity with someone you know, or should know, is ~~i~~Incapacitated. Incapacitated, for purposes of this ~~p~~Policy, means that the person’s decision-making ability is impaired such that they lack the capacity to understand the “who,

what, where, why, or how” of their sexual interaction. Incapacitation may result from: sleep or unconsciousness, temporary or permanent mental or physical disability, involuntary physical restraint, or the influence of alcohol, drugs, medication, or other substances used to facilitate sSexual mMisconduct.

“Incapacitated” An individual who is Incapacitated is unable to give Consent to sexual contact. States of Incapacitation include sleep, unconsciousness, intermittent consciousness, or any other state where the individual is unaware that Ssexual Econtact is occurring. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to Consent to Ssexual Econtact. Alcohol or drug use is one of the prime causes of Incapacitation. Where alcohol or drug use is involved, Incapacitation is a state beyond intoxication, impairment in judgment, or “drunkenness.” Because the impact of alcohol or other drugs varies from person to person, evaluating whether an individual is Incapacitated, and therefore unable to give Consent, requires an assessment of whether the consumption of alcohol or other drugs has rendered the individual physically helpless or substantially incapable of:

- Mmaking decisions about the potential consequences of Ssexual Econtact;
- Appraising the nature of one’s own conduct;
- Communicating Consent to Ssexual Econtact; or
- Communicating unwillingness to engage in Ssexual Econtact.

“Interim Protective Measures” means reasonably available steps the University may take to protect the parties pending a University investigation and adjudication of sSexual mMisconduct.

“Respondent” means the individual accused of engaging in Prohibited Conduct under this Policy.

“Responsible University Employee” includes all University administrators, supervisors in non-confidential roles, faculty members, campus police, coaches, athletic trainers, resident assistants, and non-confidential first responders.

“Title IX Officer” refers to the individual designated by the President of the University to: 1) oversee the University’s response to sSexual mMisconduct reports and complaints and identify and address any patterns or systemic problems revealed by such reports and complaints; 2) conduct sSexual mMisconduct investigations; 3) oversee, review content, and, in collaboration with other University offices, conduct training for students, faculty, and staff on sSexual mMisconduct issues; 4) ensure that appropriate policies and procedures are in place for responding to complaints of sSexual mMisconduct against faculty, staff, and students; and 5) work with local law enforcement to ensure coordinated responses to sSexual mMisconduct cases.

IV. PROHIBITED CONDUCT

“Dating Violence” encompasses a broad range of behaviors, including sSexual aAssault, physical abuse, and other forms of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the eComplainant, considering the length of

the relationship, the type of relationship, and the frequency of interaction between the persons involved.

“Domestic Violence” encompasses a broad range of behaviors, including **sSexual aAssault**, physical abuse and other forms of violence committed by a current or former spouse or intimate partner of the **eComplainant**, by a person with whom the **eComplainant** shares a child in common, by a person who is cohabitating with or has cohabitated with the **eComplainant** as a spouse or intimate partner, by a person similarly situated to a spouse of the **eComplainant**, or by any other person against an adult or youth **eComplainant** protected from those acts by domestic or family violence laws of Maryland.

“Relationship Violence” encompasses a broad range of behaviors, including **sSexual aAssault**, physical abuse and other acts, threats, or a pattern of abusive behavior of a physical or sexual nature by one partner intended to control, intimidate, manipulate, humiliate, frighten, coerce, or injure the other. These acts may be directed toward a spouse, an ex-spouse (also referred to as **dDomestic vViolence**”), or by a current or former intimate partner (also referred to as **dDating vViolence**”).

“Retaliation” means intimidating, threatening, coercing, or discriminating against an individual for the purpose of interfering with any right or privilege secured by law or University policy relating to **sSexual mMisconduct**, or because an individual has made a report, filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding related to **sSexual mMisconduct**. Retaliation includes retaliatory harassment.

“Sexual Assault” is any type of actual or attempted sexual contact with another individual without that person’s **eConsent**, including sexual intercourse (rape) and attempted sexual intercourse (attempted rape).

Sexual Assault I. – Non-Consensual Sexual Intercourse

Any act of sexual intercourse with another individual without **eConsent** (rape). This includes penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person’s **eConsent**.

Sexual Assault II. – Non-Consensual Sexual Contact

Any unwanted intentional touching of the intimate body parts of another person, causing another to touch the intimate parts of oneself or another, or disrobing or exposure of another without **eConsent**. Intimate parts may include genitalia, groin, breast, or buttocks, or clothing covering them, or any other body part (including one’s own) that is touched in a sexual manner. Non-consensual sexual contact includes attempted sexual intercourse without **eConsent** (attempted rape).

“Sexual Exploitation” means taking non-consensual or abusive sexual advantage of another person for one’s own advantage or benefit or for the advantage or benefit of anyone other than the person being exploited.

“Sexual Harassment” means: (a) unwelcome sexual advances; (b) unwelcome requests for sexual favors; or (c) other behavior of a sexual or gender-based nature where: (i) submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, evaluation of academic work, or participation in a **U**niversity-sponsored educational program or activity; (ii) submission to or rejection of such conduct by an individual is used as the basis for an academic, employment, or activity or program participation decision affecting that individual; or (iii) such conduct has the purpose or effect of unreasonably interfering with an individual’s academic or work performance, i.e., it is sufficiently severe or pervasive to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment.

“Sexual Intimidation” means threatening behavior of a sexual nature directed at another person, such as threatening to sexually assault another person or engaging in indecent exposure.

“Sexual Misconduct” is an umbrella term that encompasses **D**ating **V**iolence, **D**omestic **V**iolence, **S**exual **V**iolence, **S**exual **H**arassment, **S**exual **A**ssault, **S**exual **E**xploitation, **S**exual **I**ntimidation, **R**elationship **V**iolence, and **S**talking. Sexual **M**isconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual **M**isconduct can be committed by any person, regardless of gender identity, and can occur between people of the same or different sex, sexual orientation, or gender expression.

“Sexual Violence” means physical sexual acts perpetrated without **C**onsent. Sexual **V**iolence includes but is not limited to **S**exual **H**arassment, sexual **C**oercion, and **S**exual **A**ssault.

“Stalking” means repeated, unwanted attention; physical, verbal, or electronic contact; or any other course of conduct directed at an individual that is sufficiently serious to cause physical, emotional, or psychological fear or to create a hostile, intimidating, or abusive environment for a reasonable person in similar circumstances and with similar identities. Stalking may involve individuals who are known to one another or who have a current or previous relationship or may involve individuals who are strangers.

V. SANCTIONS

Both parties shall be informed of the outcome of any investigative and adjudicative process based on a violation of this policy. The University shall not publically disclose personally identifiable information about either of the parties, except as required by law.

Employees. Employees found in violation of this policy are subject to disciplinary action ranging from a written reprimand up to and including termination of employment, depending on the circumstances.

Students. Students found in violation of this policy are subject to disciplinary action based on the circumstances and nature of the violation. Sanctions include, but are not limited to: dismissal from the University (suspension or expulsion), removal from University housing,

disciplinary probation, and other sanctions such as a community service and mandatory and continuing participation in sSexual mMisconduct education programming.

Persons who commit sSexual mMisconduct in violation of federal, state, or local law may also be subject to criminal charges and penalties.

VI. CONFIDENTIAL RESOURCES

Generally, it is not confidential when a person reports sSexual mMisconduct. If a person desires to keep an incident of sSexual mMisconduct confidential, they should speak with individuals who have professional or legal obligations to keep communications confidential. When seeking advice and support, persons should always consider whether they want to discuss their concerns with a confidential resource. Unless there is an imminent threat to health or safety or other basis for disclosure, such as child abuse, confidentiality applies when persons seek services from the following resources:

A. ON-CAMPUS

Campus Advocates Respond and Educate (CARE) to Stop Violence

University Health Center Office 301-314-2222

24/7 Help Line (call/text) 301-741-3442

www.health.umd.edu/care or care@health.umd.edu

This service is a free and confidential resource that provides support, assistance, and advocacy to any member of the University community impacted by sSexual mMisconduct. Its mission is to respond to incidents of sSexual mMisconduct, including sSexual aAssault, fRelationship vViolence, sStalking, and sSexual hHarassment.

Faculty Staff Assistance Program (FSAP) 301-314-8170 or 301-314-8099

This program is a confidential assessment, referral, and counseling service staffed by trained mental health professionals. FSAP is available to all University of Maryland employees and their family members at no charge. Faculty and staff may consult with a counselor for many different reasons, including sSexual mMisconduct.

University Counseling Center 301-314-7651

www.counseling.umd.edu

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

University Health Center, Mental Health Service 301-314-8106

www.health.umd.edu/mentalhealth/services

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

Student Legal Aid Office

Undergraduates 301-314-7756; Graduate Students 301-405-5807

~~The Student Legal Aid Office, located in South Campus Dining Hall, provides free, confidential legal advice to any University student.~~

Campus Chaplains 301-405-8450 or 301-314-9866

http://thestamp.umd.edu/engagement/memorial_chapel/chaplains

The Campus Chaplains represent 14 faith communities and work collectively to serve the spiritual needs of all members of the University community.

B. OFF-CAMPUS

Prince George’s Hospital Domestic Violence and Sexual Assault Center

301-618-3154 - 24 hours (3001 Hospital Drive, Cheverly, MD 20785)

Persons who experience sexual assault can access a Sexual Assault Forensic Exam (SAFE) within 72 hours of an assault. Each Maryland County has a hospital that provides SAFE exams. A SAFE exam is available at Prince George’s Hospital Center. To find a SAFE provider in other counties call 1-800-656-4653. SAFE exams and attention to medical needs are available without having to reveal a person’s identity to the police.

Maryland Coalition Against Sexual Assault (MCASA)

Statewide Sexual Assault Information and Referral help line 1-800-983-RAPE

MCASA is a statewide coalition of 17 rape crisis and recovery centers that serve all of Maryland’s jurisdictions. MCASA works to help prevent sSexual aAssault, advocate for accessible, compassionate care for survivors of sSexual vViolence, and works to hold offenders accountable.

Maryland Network against Domestic Violence

1-800-MD-HELPS

The Maryland Network Against Domestic Violence is the state eDomestic vViolence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence. The Network accomplishes this goal by providing education, training resources, and advocacy to advance victim safety and abuser accountability.

Disclosures or reports made to any other entities except those listed above are *not* confidential. For instance, if you discuss an incident of sSexual mMisconduct with your supervisor, a resident assistant, a coach, or faculty member, those persons are “Responsible University Employees” and, as such, are obligated pursuant to this policy to report the sSexual mMisconduct to the Title IX Officer.

The University recognizes that sSexual mMisconduct is a sensitive issue for all parties involved and is committed to operating with discretion, and maintaining the privacy of individuals to the greatest extent possible under applicable law.

VII. REPORTING SEXUAL MISCONDUCT

Obligations of “Responsible University Employee.” A “Responsible University Employee” (see Definitions) must promptly notify the Title IX Officer in the **Office of Civil Rights & Sexual Misconduct OCRSM** of any report of **sSexual mMisconduct** brought to their attention, including campus law enforcement. The Title IX Officer works collaboratively with the reporting entity, making every effort to operate with discretion and maintain the privacy of the individuals involved.

Prompt reporting is encouraged. Persons are encouraged to report **sSexual mMisconduct** promptly in order to maximize the University’s ability to obtain evidence, identify potential witnesses, and conduct a thorough, prompt, and impartial investigation. While there are no time limits to reporting **sSexual mMisconduct**, if too much time has passed since the incident occurred, the delay may result in loss of relevant evidence and witness testimony, impairing the University’s ability to respond and take appropriate action.

All reports of **sSexual mMisconduct** will be responded to immediately and appropriate action will be taken in accordance with the University’s Sexual Misconduct **Investigation & Adjudication Complaint** Procedures (see *Appendices A, B, C*). If the University determines that **sSexual mMisconduct** has occurred, it will take prompt and effective steps to eliminate the **sSexual mMisconduct**, prevent its recurrence, and address its effects.

The University strives to take appropriate action, including investigation and resolution of complaints, within sixty (60) business days from when the complaint was filed. The University may extend the time frames set forth in this policy for good cause, with written notice to both parties of the delay and the reason for the delay. Exceptions to this timeframe may vary depending on the complexity of the investigation, access to relevant parties, and the severity and extent of the misconduct.

Sexual **mMisconduct** by students, faculty, staff, and third parties should be reported to:

Office of Civil Rights & Sexual Misconduct (OCRSM) 301-405-1142

<http://www.umd.edu/ocrsm/> | titleixcoordinator@umd.edu

The mission of the Office of Civil Rights & Sexual Misconduct (**OCRSM**) is to support the University’s commitment to a working and learning environment free from **sSexual mMisconduct** and **fRelationship vViolence**. The core services of the **Office OCRSM** include: oversight for all institutional responses to **sSexual mMisconduct** and **fRelationship vViolence**, ensuring University compliance with federal statutory and regulatory requirements, promoting best practices in responding to victims of **sSexual vViolence** and holding respondents accountable, receiving and investigating reports of **sSexual mMisconduct** and **fRelationship vViolence**, and increasing access to information and available resources to the **campus University** community. The office seeks to work collaboratively across all **campus University** constituent groups and create a climate where diversity, inclusion, and respect inform all processes.

Sexual **mMisconduct** committed by students may also be reported to:

Office of Student Conduct (OSC), Division of Student Affairs 301-314-8204

www.studentconduct.umd.edu | studentconduct@umd.edu

The Office of Student Conduct (**OSC**) administers adjudicative processes involving students who commit violations of the University of Maryland Code of Student Conduct and can provide assistance to students who wish to report incidents of **sSexual mMisconduct**.

Office of Rights and Responsibilities, Department of Resident Life 301-314-7598

www.reslife.umd.edu/rights | drl-rr@umd.edu

The Office of Rights and Responsibilities administers adjudicative processes involving students who commit conduct violations of the Residence Hall Rules and the University of Maryland Code of Student Conduct in on-campus residence halls and can provide assistance to students who wish to report incidents of **sSexual mMisconduct**.

Reporting a crime. Sexual **mMisconduct**, particularly **sSexual vViolence**, may be a crime. The University will assist **eComplainants** who wish to report **sSexual mMisconduct** to law enforcement authorities, including campus police. Representatives of the ~~Office of Civil Rights & Sexual Misconduct~~ **OCRSM**, ~~Office of Student Conduct~~ **OSC**, Office of Rights & Responsibilities, and Campus Advocates Respond and Educate (CARE) to Stop Violence Office in the University Health Center are available to assist students in reporting to campus police. Campus police will also assist **eComplainants** in notifying other law enforcement authorities in other jurisdictions, as appropriate. To report to the University of Maryland Police, please call 301-405-3555.

Because the standards for a violation of criminal law are different from the standards for a violation of this policy, criminal investigations and proceedings are not determinative of whether a violation of this **pPolicy** has occurred. In other words, conduct may violate this **pPolicy** even if law enforcement agencies or local prosecutors decline to prosecute. Complaints of **sSexual mMisconduct** and related internal University processes may occur prior to, concurrent with, or following criminal proceedings off campus.

Upon receipt of a report of **sSexual mMisconduct** that may constitute a crime, campus police will advise the student that in addition to making a criminal report, they also have the right to file a complaint with the University and engage the University's investigation and adjudicative processes under this **pPolicy**. In addition, as Responsible University Employees under this policy, campus police who receive any type of report of **sSexual mMisconduct**, whether it rises to the level of a crime or not, shall promptly notify the Title IX Officer at titleixcoordinator@umd.edu.

Co-Occurring Criminal Action. Proceeding with a University investigation and adjudication of a complaint of **sSexual mMisconduct** under this policy is independent of any criminal investigation or proceeding. Reporting to law enforcement does not preclude a person from proceeding with a complaint of **sSexual mMisconduct** under this policy. The University is required to conduct an investigation in a timely manner, which means, in most cases, the University will not wait until a criminal investigation or proceeding is concluded before conducting its own investigation, implementing **iInterim pProtective mMeasures**, and taking appropriate action. However, *at the request of law enforcement*, the Title IX Officer may defer its fact gathering until the initial stages of a criminal investigation are complete. If such a

request is made, University of Maryland Police will submit the request in writing and the eComplainant will be notified. In addition, when possible, in cases where there is a co-occurring criminal investigation by University of Maryland Police, Prince George's County Police, or the local prosecutor's office, the ~~Office of Civil Rights & Sexual Misconduct~~ OCRSM will work collaboratively and supportively with each respective agency within the parameters outlined above. The ~~Office of Civil Rights & Sexual Misconduct~~ OCRSM will communicate any necessary delays in the University's investigative process to both parties in the event of a deferral.

The ~~Office of Civil Rights & Sexual Misconduct~~ OCRSM shall not disclose information about sSexual mMisconduct complaints to third parties (persons other than those in the University community with a need to know) except as may be required or permitted by federal or state law. If a report of sSexual mMisconduct discloses a serious and on-going threat to the eampus University community, the University of Maryland Police may issue a timely warning of the conduct under the Clery Act in the interests of the health and safety of the eampus University community. This notice will not contain any personally identifying information related to the eComplainant.

Amnesty for Students Who Report Sexual Misconduct

The University recognizes that a student who is under the influence of alcohol and/or drugs when an incident of sSexual mMisconduct occurs, may be reluctant to report the sSexual mMisconduct out of concern they may face disciplinary sanctions for engaging in prohibited alcohol or drug use. As such, a student who reports sSexual mMisconduct to the University or law enforcement, or who participates in a sSexual mMisconduct investigation either as a eComplainant or third party witness, will not face disciplinary action for violating University drug and alcohol policies. This amnesty provision applies only when the University determines that: (1) the drug/alcohol violation occurred during or near the time of the reported sSexual mMisconduct; (2) the student acted in good faith in reporting or participating as a witness; and (3) the violation was not likely to place the health or safety of another individual at risk.

Requests for Confidentiality

If a eComplainant requests that their name not be disclosed or that the University not investigate or take action against the respondent, the Title IX Officer or designee will determine whether or not it can honor such a request while still providing a safe and non-discriminatory environment for all students, faculty, and staff, including the eComplainant. The Title IX Officer shall make a determination as to whether the eComplainant's request can be honored, by considering the following factors:

- ~~C~~ircumstances that suggest there is an increased risk of the respondent committing additional acts of sSexual mMisconduct or other violence (e.g., whether there have been other sSexual mMisconduct complaints about the same respondent);
- ~~W~~hether the respondent has any documented history of violence known to the University;
- ~~W~~hether the respondent threatened further sSexual mMisconduct or other violence against the eComplainant or others that is known to the University;
- ~~W~~hether the sSexual mMisconduct was committed by multiple persons;

- Whether the sSexual mMisconduct was perpetrated with a weapon;
- The age of the eComplainant subjected to the sSexual mMisconduct; and
- Whether the University possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence).

VIII. INTERIM PROTECTIVE MEASURES

Reports of sSexual mMisconduct in violation of this pPolicy may require immediate protective measures to protect the safety and well-being of the parties and/or the campus University community pending the outcome of the investigative and adjudicative processes. Interim protective measures may include the following:

No Contact Order. A no contact order is an official University directive that serves as notice to an individual that they must not have verbal, electronic, written, or third party communications with another individual.

For Students:

- *Academic accommodations*, such as, assistance in transferring to another section of a lecture or laboratory, assistance in arranging for incompletes, leaves or withdrawal from campus, or rearranging class schedules, and
- *Housing accommodations*, such as, facilitating changes in on-campus housing location to alternate housing, assistance in exploring alternative housing off-campus, and
- *Employment accommodations*, such as, arranging for alternate University employment, different work shifts, etc., and
- *Transportation and parking accommodations*.

For Employees:

- *Employment accommodations*, such as, temporary assignment, if appropriate, to other work duties and responsibilities, or other work locations, or other work groups/teams or alternative supervision/management, and
- *Transportation and parking accommodations*.

IX. RETALIATION

Complaints of Retaliation. Individuals who engage in retaliatory behavior against a reporting party or party participating in an investigation are in violation of this policy and will be subject to appropriate disciplinary action pursuant to the procedures for this policy. Individuals who believe they have experienced retaliation in violation of this policy should immediately report such conduct to the Title IX Officer at titleixcoordinator@umd.edu.

X. COMPLAINT PROCEDURES

Complaints Against Students. Complaints against students based on a violation of this policy will be reviewed in accordance with the procedures set forth in *Appendix A*.

Complaints Against Staff. Complaints against staff based on a violation of this policy will be reviewed in accordance with the procedures set forth in *Appendix B*.

Complaints Against Faculty. Complaints against faculty members based on a violation of this policy will be reviewed in accordance with the procedures set forth in *Appendix C*.

Complaints Against Third Parties Not Affiliated With the University. If a member of the University community (student, faculty, or staff) is subjected to **sSexual mMisconduct** by a third party not affiliated with the University on University premises or during University sponsored activities, the matter should be reported to the Title IX Officer. The University will take available and reasonable steps to address the Sexual Misconduct, prevent its recurrence, and address its effects at the University.

XI. STEPS TO TAKE FOLLOWING A SEXUAL ASSAULT

Stay Warm. Persons who experience **sSexual aAssault** may be in a state of shock. It is important to stay warm by wrapping up in a blanket or coat. This will help recovery from shock and make it less likely that physical evidence is disturbed.

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 like a confidential CARE advocate or mental health professional at the University Health Center 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. A SAFE exam may be obtained within 72 hours after an assault at:

Prince George’s Hospital Domestic Violence and Sexual Assault Center (DV/SAC)
301-618-3154

<http://www.dimensionshealth.org/index.php/dimensions-healthcare-facilities/prince-georges-hospital-center/domestic-violence-and-sexual-assault-center-dvsac/>

XII. CAMPUS SAFETY

The health and safety of all members of the **campus University** community are the University's primary concern. The University makes the following services available:

Emergency Phones

University of Maryland Police Emergency Response Telephones (PERT), recognized by a blue light affixed to each station, are available throughout campus. By activating the phone, an individual will be automatically connected to a campus police dispatcher who is immediately alerted to the location of the phone.

24 Hour Walking Escort Service/Student Police Auxiliary Foot Patrol **301-405-3555 or blue light emergency PERT phone**

The University of Maryland Police Department provides a walking escort service 24 hours a day for anyone who feels unsafe while walking on campus. The Student Police Auxiliary foot patrol program provides walking escorts, conducted by University of Maryland Police officers when the foot patrol program is out of service or if requested and available.

University Department of Public Safety

301-405-3555 (non-emergency) or 301-405-3333 (emergency)
Local Police in ANY location - 911

Persons who experience **sSexual mMisconduct** are strongly encouraged to contact the University of Maryland Police. If a person is not certain whether criminal conduct is involved, an officer can assist in determining whether a crime has occurred. If **sSexual mMisconduct** occurred off campus, an officer can assist in contacting the appropriate law enforcement agency. A student can request and receive the assistance of campus police without making a criminal complaint. Campus police can also assist in accompanying the student to a hospital that can provide a Sexual Assault Forensic Exam (SAFE) to both ensure appropriate medical treatment and the timely collection of physical evidence in the event the person seeks to make a criminal complaint.

XIII. CONSENSUAL RELATIONSHIPS AND PROFESSIONAL CONDUCT

Sexual relationships that occur in the context of educational or employment supervision and evaluation present potential conflicts of interest. Relationships in which one party maintains a supervisory or evaluative responsibility over the other also reflect an imbalance of power, leading to doubt as to whether such relationships are truly consensual. For these reasons, the University *strongly* discourages such relationships.

Because of the potential conflicts of interest, persons involved in consensual sexual relationships with anyone over whom they have supervisory and/or evaluative responsibilities *must inform their supervisor(s)* of the relationship(s). Supervisory or evaluative responsibilities may be reassigned, as appropriate. While no relationships are expressly prohibited by this policy, failure to self-report such relationships in a timely manner, as required by this policy, may result in disciplinary action.

XIV. EXTERNAL GOVERNMENT AGENCIES THAT ADDRESS COMPLAINTS OF SEXUAL MISCONDUCT

Employee complaints relating to **sSexual mMisconduct** may also be filed with:

Equal Employment Opportunity Commission

City Crescent Building
10 S. Howard Street, Third Floor
Baltimore, MD 21201
Phone: 1-800-669-4000
Fax: 410-962-4270
TTY: 1-800-669-6820
Website: <https://egov.eeoc.gov/eas/>

Maryland Commission on Civil Rights

William Donald Schaefer Tower
6 Saint Paul Street, Ninth Floor
Baltimore, MD 21202-1631
Phone: 410-767-8600
Fax: 410-333-1841
TTY: 410-333-1737
Website: <http://mccr.maryland.gov/>
E-mail: jcole@mccr.state.md.us

It is important to note that in order to protect the legal rights and remedies available to a **eComplainant**, a **eComplainant** must comply with certain time limits and deadlines. Affected persons should contact the relevant agencies to verify the time limits. Failure to meet required deadlines may result in a loss of rights to seek a legal remedy.

Student or employee complaints relating to **sSexual mMisconduct** may be directed to:

Office for Civil Rights

U.S. Department of Education
The Wanamaker Building
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Phone: 215-656-8541
Fax: 215-656-8605
TDD: 800-877-8339
E-mail: OCR.Philadelphia@ed.gov
Website: http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html


Replacement for:

VI-1.20(A) University of Maryland Policy and Procedures on Sexual Harassment
VI-1.30(A) University of Maryland Procedures on Sexual Assault and Misconduct

Appendix 1 - Charge from the SEC



University Senate CHARGE

Date:	March 25, 2016
To:	Stacey Locke Chair, Equity, Diversity, and Inclusion (EDI) Committee
From:	Willie Brown Chair, University Senate 
Subject:	Revisions to the University of Maryland Sexual Misconduct Policy
Senate Document #:	15-16-30
Deadline:	April 11, 2016

The Senate Executive Committee (SEC) requests that the Equity, Diversity, and Inclusion (EDI) Committee review the attached revisions to the University of Maryland Sexual Misconduct Policy (VI-1.60[A]), which were approved on an interim basis by the President on March 21, 2016.

Specifically, we ask that you:

1. Review the revised interim University of Maryland Sexual Misconduct Policy (VI-1.60[A]).
2. Consult with the University's Office of General Counsel.
3. If appropriate, recommend whether the interim policy should be revised.

We ask that you submit your report and recommendations to the Senate Office no later than April 11, 2016. If you have questions or need assistance, please contact Reka Montfort in the Senate Office, extension 5-5804.

Attachment

WB/rm



VI-1.60(A) UNIVERSITY OF MARYLAND SEXUAL MISCONDUCT POLICY & PROCEDURES

(Approved on an interim basis by the President October 13, 2014, Amended May 4, 2015, Amended October 1, 2015, [Amended \[date\]](#))

- I. Policy Statement
- II. Applicability
- III. Definitions
- IV. Prohibited Conduct
- V. Sanctions
- VI. Confidential Resources
- VII. Reporting Sexual Misconduct
- VIII. Interim Protective Measures
- IX. Retaliation
- X. Complaint Procedures
- XI. Steps to Take Following a Sexual Assault
- XII. Campus Safety
- XIII. Consensual Relationships and Professional Conduct
- XIV. Government Agencies That Address Complaints of Sexual Misconduct

I. POLICY STATEMENT

Sexual misconduct is a form of sex discrimination prohibited by federal and state discrimination laws, including Title IX of the Education Amendments of 1972 and Title VII of the Civil Rights Act. In addition, some forms of sexual misconduct violate the criminal laws of the State of Maryland. Sexual misconduct is also a form of sex discrimination in violation of the University of Maryland Non-Discrimination Policy and Procedures:

<http://www.president.umd.edu/policies/2014-VI-100b.html>. However, this Policy supersedes the “Non-Discrimination Policy and Procedures” with respect to matters of sexual misconduct. The University will respond to complaints of sexual misconduct in accordance with the provisions of the Sexual Misconduct Policy and accompanying investigation and adjudication procedures.

The Office of Civil Rights & Sexual Misconduct (OCRSM) shall receive notice of all reports of sexual misconduct received by any individual deemed a “Responsible University Employee” under this policy. No employee (other than law enforcement) is authorized to investigate or resolve reports of sexual misconduct without the involvement of the Title IX Officer:

Catherine A. Carroll, Director

Title IX Officer

Office of Civil Rights & Sexual Misconduct

University of Maryland

[4113 Susquehanna Hall](#), College Park, MD 20742-5031

E-mail: carrolle@umd.edu | titleixcoordinator@umd.edu
Phone: 301-405-1142
Fax: 301-405-2837
<http://www.umd.edu/ocrsm/>

The Office of Civil Rights & Sexual Misconduct is responsible for overseeing the University's training and educational programs related to sexual misconduct. To learn more about various resources, on-going training initiatives, and education programs for students, faculty and staff, please consult the office's website for more current and up-to-date information.

All persons involved in responding to, investigating, or adjudicating Sexual Misconduct reports, or who are involved in the Sexual Misconduct complaint investigation and resolution processes, will participate in annual training in receiving, investigating and handling complaints of Sexual Misconduct under the University's policy and procedures.

The University of Maryland is committed to a working and learning environment free from sexual misconduct. Sexual misconduct is a broad term used to describe a range of behavior, including sexual harassment, sexual assault, domestic violence, dating violence, sexual violence, relationship violence, sexual exploitation, sexual intimidation, and stalking. Sexual misconduct will not be tolerated. It corrupts the integrity of the educational process and work environment, and violates the core mission and values of the University.

Creating an environment free from sexual misconduct is the responsibility of all members of the University community. The University is committed to fostering a campus climate free from sexual misconduct through training, education and prevention programs, and through policies and procedures that promote prompt reporting, prohibit retaliation, and promote timely, fair and impartial investigation and resolution of sexual misconduct cases. In responding to complaints of sexual misconduct, the University will take appropriate steps to eliminate sexual misconduct, prevent its recurrence and address its effects.

II. APPLICABILITY

The University has jurisdiction over all Title IX complaints made in connection with University programs and activities, and this policy applies to all members of the University community, including students, faculty, and staff. It also applies to contractors and other third parties within the University's control. This policy applies to sexual misconduct:

- On University premises, in any University facility or on University property;
- At any University sponsored, recognized or approved program, visit or activity, regardless of location;
- That impedes equal access to any University education program or activity or that adversely impacts the education or employment of a member of the University community regardless of where the conduct occurred; or
- That otherwise threatens the health and/or safety of a member of the University community.

III. DEFINITIONS

“Coercion” includes conduct, intimidation, and express or implied threats of physical or emotional harm, that would reasonably place an individual in fear of immediate or future harm and that is employed to persuade or compel someone to engage in sexual contact. Examples of Coercion include causing the deliberate Incapacitation of another person; conditioning an academic benefit or employment advantage on submission to the sexual contact; threatening to harm oneself if the other party does not engage in sexual contact; or threatening to disclose an individual’s sexual orientation, gender identity, gender expression, or other personal sensitive information if the other party does not engage in the sexual contact.

“Complainant” refers to the individual who files a sexual misconduct complaint, alleging a violation of this Policy.

“Confidential” refers to communications between two parties where one party, based on their professional status, has the ability to ensure the communications between the two parties are legally protected as private.

“Consent” means a knowing, voluntary and affirmatively communicated willingness to participate in a particular sexual activity or behavior. Only a person who has the ability and capacity to exercise free will and make a rational, reasonable judgment can give consent. Consent may be expressed either by words and/or actions, as long as those words and/or actions create a mutually understandable agreement to engage in specific sexual activity. It is the responsibility of the person who wants to engage in sexual activity to ensure that he/she has consent from the other party, and that the other party is capable of providing consent.

- Lack of protest or resistance is not consent. Nor may silence, in and of itself, be interpreted as consent. For that reason, relying solely on non-verbal communication can lead to misunderstanding.
- Previous relationships, including past sexual relationships, do not imply consent to future sexual acts.
- Consent to one form of sexual activity cannot automatically imply consent to other forms of sexual activity.
- Consent must be present throughout sexual activity and may be withdrawn at any time. If there is confusion as to whether there is consent or whether prior consent has been withdrawn, it is essential that the participants stop the activity until the confusion is resolved.
- Consent cannot be obtained by use of physical force, threats, intimidating behavior, or coercion. Coercion is pressuring another person into sexual activity.

It is a violation of this policy to engage in sexual activity with someone you know, or should know, is incapacitated. Incapacitated, for purposes of this policy, means that the person’s decision-making ability is impaired such that they lack the capacity to understand the “who, what, where, why or how” of their sexual interaction. Incapacitation may result from: sleep or unconsciousness, temporary or permanent mental or physical disability, involuntary physical restraint, or the influence of alcohol, drugs, medication, or other substances used to facilitate

sexual misconduct.

“Incapacitated” An individual who is Incapacitated is unable to give Consent to sexual contact. States of Incapacitation include sleep, unconsciousness, intermittent consciousness, or any other state where the individual is unaware that Sexual Contact is occurring. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to Consent to Sexual Contact. Alcohol or drug use is one of the prime causes of Incapacitation. Where alcohol or drug use is involved, Incapacitation is a state beyond intoxication, impairment in judgment, or “drunkenness.” Because the impact of alcohol or other drugs varies from person to person, evaluating whether an individual is Incapacitated, and therefore unable to give Consent, requires an assessment of whether the consumption of alcohol or other drugs has rendered the individual physically helpless or substantially incapable of:

- Making decisions about the potential consequences of Sexual Contact;
- Appraising the nature of one’s own conduct;
- Communicating Consent to Sexual Contact; or
- Communicating unwillingness to engage in Sexual Contact.

“Interim Protective Measures” means reasonably available steps the University may take to protect the parties pending a University investigation and adjudication of sexual misconduct.

“Respondent” means the individual accused of engaging in Prohibited Conduct under this Policy.

“Responsible University Employee” includes all University administrators, supervisors in non-confidential roles, faculty members, campus police, coaches, athletic trainers, resident assistants, and non-confidential first responders.

“Title IX Officer” refers to the individual designated by the President of the University to: 1) oversee the University’s response to sexual misconduct reports and complaints and identify and address any patterns or systemic problems revealed by such reports and complaints; 2) conduct sexual misconduct investigations; 3) oversee, review content, and, in collaboration with other University offices, conduct training for students, faculty, and staff on sexual misconduct issues; 4) ensure that appropriate policies and procedures are in place for responding to complaints of sexual misconduct against faculty, staff, and students; and 5) work with local law enforcement to ensure coordinated responses to sexual misconduct cases.

IV. PROHIBITED CONDUCT

“Dating Violence” encompasses a broad range of behaviors, including sexual assault, physical abuse and other forms of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant, considering the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved.

“Domestic Violence” encompasses a broad range of behaviors, including sexual assault, physical abuse and other forms 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.

“Relationship Violence” encompasses a broad range of behaviors, including sexual assault, physical abuse and other acts, threats or a pattern of abusive behavior of a physical or sexual nature by one partner intended to control, intimidate, manipulate, humiliate, frighten, coerce, or injure the other. These acts may be directed toward a spouse, an ex-spouse (also referred to as “domestic violence”), or by a current or former intimate partner (also referred to as “dating violence”).

“Retaliation” means intimidating, threatening, coercing, or discriminating against an individual for the purpose of interfering with any right or privilege secured by law or University policy relating to sexual misconduct, or because an individual has made a report, filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding related to sexual misconduct. Retaliation includes retaliatory harassment.

“Sexual Assault” is any type of actual or attempted sexual contact with another individual without that person’s consent, including sexual intercourse (rape) and attempted sexual intercourse (attempted rape).

Sexual Assault I. – Non-Consensual Sexual Intercourse

Any act of sexual intercourse with another individual without consent (rape). This includes penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person’s consent.

Sexual Assault II. – Non-Consensual Sexual Contact

Any unwanted intentional touching of the intimate body parts of another person, causing another to touch the intimate parts of oneself or another, or disrobing or exposure of another without consent. Intimate parts may include genitalia, groin, breast, or buttocks, or clothing covering them, or any other body part (including one’s own) that is touched in a sexual manner. Non-consensual sexual contact includes attempted sexual intercourse without consent (attempted rape).

“Sexual Exploitation” means taking non-consensual or abusive sexual advantage of another person for one’s own advantage or benefit or for the advantage or benefit of anyone other than the person being exploited.

“Sexual Harassment” means: (a) unwelcome sexual advances; (b) unwelcome requests for sexual favors; or (c) other behavior of a sexual or gender-based nature where: (i) submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an

individual's employment, evaluation of academic work, or participation in a university-sponsored educational program or activity; (ii) submission to or rejection of such conduct by an individual is used as the basis for an academic, employment, or activity or program participation decision affecting that individual; or (iii) such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance, i.e., it is sufficiently severe or pervasive to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment.

“Sexual Intimidation” means threatening behavior of a sexual nature directed at another person, such as threatening to sexually assault another person or engaging in indecent exposure.

“Sexual Misconduct” is an umbrella term that encompasses dating violence, domestic violence, sexual violence, sexual harassment, sexual assault, sexual exploitation, sexual intimidation, relationship violence, and stalking. Sexual misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual misconduct can be committed by any person, regardless of gender identity, and can occur between people of the same or different sex, sexual orientation, or gender expression.

“Sexual Violence” means physical sexual acts perpetrated without consent. Sexual violence includes but is not limited to sexual harassment, sexual coercion, and sexual assault.

“Stalking” means repeated, unwanted attention; physical, verbal, or electronic contact; or any other course of conduct directed at an individual that is sufficiently serious to cause physical, emotional, or psychological fear or to create a hostile, intimidating, or abusive environment for a reasonable person in similar circumstances and with similar identities. Stalking may involve individuals who are known to one another or who have a current or previous relationship or may involve individuals who are strangers.

V. SANCTIONS

Both parties shall be informed of the outcome of any investigative and adjudicative process based on a violation of this policy. The University shall not publically disclose personally identifiable information about either of the parties, except as required by law.

Employees. Employees found in violation of this policy are subject to disciplinary action ranging from a written reprimand up to and including termination of employment, depending on the circumstances.

Students. Students found in violation of this policy are subject to disciplinary action based on the circumstances and nature of the violation. Sanctions include, but are not limited to: dismissal from the University (suspension or expulsion), removal from University housing, disciplinary probation, and other sanctions such as a community service and mandatory and continuing participation in sexual misconduct education programming.

Persons who commit sexual misconduct in violation of federal, state, or local law may also be subject to criminal charges and penalties.

VI. CONFIDENTIAL RESOURCES

Generally, it is not confidential when a person reports sexual misconduct. If a person desires to keep an incident of sexual misconduct confidential, they should speak with individuals who have professional or legal obligations to keep communications confidential. When seeking advice and support, persons should always consider whether they want to discuss their concerns with a confidential resource. Unless there is an imminent threat to health or safety or other basis for disclosure, such as child abuse, confidentiality applies when persons seek services from the following resources:

A. ON-CAMPUS

Campus Advocates Respond and Educate (CARE) to Stop Violence

University Health Center Office 301-314-2222

24/7 Help Line (call/text) 301-741-3442

www.health.umd.edu/care or care@health.umd.edu

This service is a free and confidential resource that provides support, assistance and advocacy to any member of the University community impacted by sexual misconduct. Its mission is to respond to incidents of sexual misconduct, including sexual assault, relationship violence, stalking, and sexual harassment.

Faculty Staff Assistance Program (FSAP) 301-314-8170 or 301-314-8099

This program is a confidential assessment, referral, and counseling service staffed by trained mental health professionals. FSAP is available to all University of Maryland employees and their family members at no charge. Faculty and staff may consult with a counselor for many different reasons, including sexual misconduct.

University Counseling Center 301-314-7651

www.counseling.umd.edu

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

University Health Center, Mental Health Service 301-314-8106

www.health.umd.edu/mentalhealth/services

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

Student Legal Aid Office

Undergraduates 301-314-7756; Graduate Students 301-405-5807

The Student Legal Aid Office, located in South Campus Dining Hall, provides free, confidential legal advice to any University student.

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Campus Chaplains 301-405-8450 or 301-314-9866

http://thestamp.umd.edu/engagement/memorial_chapel/chaplains

The Campus Chaplains represent 14 faith communities and work collectively to serve the spiritual needs of all members of the University community.

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B. OFF-CAMPUS

Prince George’s Hospital Domestic Violence and Sexual Assault Center

301-618-3154 - 24 hours (3001 Hospital Drive, Cheverly, MD 20785)

Persons who experience sexual assault can access a Sexual Assault Forensic Exam (SAFE) within 72 hours of an assault. Each Maryland County has a hospital that provides SAFE exams. A SAFE exam is available at Prince George’s Hospital Center. To find a SAFE provider in other counties call 1-800-656-4653. SAFE exams and attention to medical needs are available without having to reveal a person’s identity to the police.

Maryland Coalition Against Sexual Assault (MCASA)

Statewide Sexual Assault Information and Referral help line 1-800-983-RAPE

MCASA is a statewide coalition of 17 rape crisis and recovery centers that serve all of Maryland’s jurisdictions. MCASA works to help prevent sexual assault, advocate for accessible, compassionate care for survivors of sexual violence, and works to hold offenders accountable.

Maryland Network against Domestic Violence

1-800-MD-HELPS

The Maryland Network Against Domestic Violence is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence. The Network accomplishes this goal by providing education, training resources, and advocacy to advance victim safety and abuser accountability.

Disclosures or reports made to any other entities except those listed above are *not* confidential. For instance, if you discuss an incident of sexual misconduct with your supervisor, a resident assistant, a coach, or faculty member, those persons are “Responsible University Employees” and, as such, are obligated pursuant to this policy to report the sexual misconduct to the Title IX Officer.

The University recognizes that sexual misconduct is a sensitive issue for all parties involved and is committed to operating with discretion, and maintaining the privacy of individuals to the greatest extent possible under applicable law.

VII. REPORTING SEXUAL MISCONDUCT

Obligations of “Responsible University Employee.” A “Responsible University Employee” (see Definitions) must promptly notify the Title IX Officer in the Office of Civil Rights & Sexual Misconduct of any report of sexual misconduct brought to their attention, including campus law enforcement. The Title IX Officer works collaboratively with the reporting entity, making every effort to operate with discretion and maintain the privacy of the individuals involved.

Prompt reporting is encouraged. Persons are encouraged to report sexual misconduct promptly in order to maximize the University's ability to obtain evidence, identify potential witnesses, and conduct a thorough, prompt, and impartial investigation. While there are no time limits to reporting sexual misconduct, if too much time has passed since the incident occurred, the delay may result in loss of relevant evidence and witness testimony, impairing the University's ability to respond and take appropriate action.

All reports of sexual misconduct will be responded to immediately and appropriate action will be taken in accordance with the University's Sexual Misconduct Investigation & Adjudication Procedures (see *Appendices A, B, C*). If the University determines that sexual misconduct has occurred, it will take prompt and effective steps to eliminate the sexual misconduct, prevent its recurrence, and address its effects.

The University strives to take appropriate action, including investigation and resolution of complaints within sixty (60) **business** days from when the complaint was filed. The University may extend the time frames set forth in this policy for good cause, with written notice to both parties of the delay and the reason for the delay. Exceptions to this timeframe may vary depending on the complexity of the investigation, access to relevant parties, and the severity and extent of the misconduct.

Sexual misconduct by students, faculty, staff, and third parties should be reported to:

Office of Civil Rights & Sexual Misconduct 301-405-1142

<http://www.umd.edu/ocrsm/> | titleixcoordinator@umd.edu

The mission of the Office of Civil Rights & Sexual Misconduct is to support the University's commitment to a working and learning environment free from sexual misconduct and relationship violence. The core services of the Office include: oversight for all institutional responses to sexual misconduct and relationship violence, ensuring University compliance with federal statutory and regulatory requirements, promoting best practices in responding to victims of sexual violence and holding respondents accountable, receiving and investigating reports of sexual misconduct and relationship violence, and increasing access to information and available resources to the campus community. The office seeks to work collaboratively across all campus constituent groups and create a climate where diversity, inclusion, and respect inform all processes.

Sexual misconduct committed by students may also be reported to:

Office of Student Conduct, Division of Student Affairs 301-314-8204

www.studentconduct.umd.edu | studentconduct@umd.edu

The Office of Student Conduct administers adjudicative processes involving students who commit violations of the University of Maryland Code of Student Conduct and can provide assistance to students who wish to report incidents of sexual misconduct.

Office of Rights and Responsibilities, Department of Resident Life 301-314-7598

www.reslife.umd.edu/rights | drl-rr@umd.edu

The Office of Rights and Responsibilities administers adjudicative processes involving students who commit conduct violations of the Residence Hall Rules and the University of Maryland Code of Student Conduct in on-campus residence halls and can provide assistance to students who wish to report incidents of sexual misconduct.

Reporting a crime. Sexual misconduct, particularly sexual violence, may be a crime. The University will assist complainants who wish to report sexual misconduct to law enforcement authorities, including campus police. Representatives of the Office of Civil Rights & Sexual Misconduct, Office of Student Conduct, Office of Rights & Responsibilities, and Campus Advocates Respond and Educate (CARE) to Stop Violence Office in the University Health Center are available to assist students in reporting to campus police. Campus police will also assist complainants in notifying other law enforcement authorities in other jurisdictions, as appropriate. To report to the University of Maryland Police, please call 301-405-3555.

Because the standards for a violation of criminal law are different from the standards for a violation of this policy, criminal investigations and proceedings are not determinative of whether a violation of this policy has occurred. In other words, conduct may violate this policy even if law enforcement agencies or local prosecutors decline to prosecute. Complaints of sexual misconduct and related internal University processes may occur prior to, concurrent with, or following criminal proceedings off campus.

Upon receipt of a report of sexual misconduct that may constitute a crime, campus police will advise the student that in addition to making a criminal report, they also have the right to file a complaint with the University and engage the University's investigation and adjudicative processes under this policy. In addition, as Responsible University Employees under this policy, campus police who receive any type of report of sexual misconduct, whether it rises to the level of a crime or not, shall promptly notify the Title IX Officer at titleixcoordinator@umd.edu.

Co-Occurring Criminal Action. Proceeding with a University investigation and adjudication of a complaint of sexual misconduct under this policy is independent of any criminal investigation or proceeding. Reporting to law enforcement does not preclude a person from proceeding with a complaint of sexual misconduct under this policy. The University is required to conduct an investigation in a timely manner, which means, in most cases, the University will not wait until a criminal investigation or proceeding is concluded before conducting its own investigation, implementing interim protective measures, and taking appropriate action. However, *at the request of law enforcement*, the Title IX Officer may defer its fact gathering until the initial stages of a criminal investigation are complete. If such a request is made, University of Maryland Police will submit the request in writing and the complainant will be notified. In addition, when possible, in cases where there is a co-occurring criminal investigation by University of Maryland Police, Prince George's County Police, or the local prosecutor's office, the Office of Civil Rights & Sexual Misconduct will work collaboratively and supportively with each respective agency within the parameters outlined above. The Office of Civil Rights & Sexual Misconduct will communicate any necessary delays in the University's investigative process to both parties in the event of a deferral.

The Office of Civil Rights & Sexual Misconduct shall not disclose information about sexual misconduct complaints to third parties (persons other than those in the University community

with a need to know) except as may be required or permitted by federal or state law. If a report of sexual misconduct discloses a serious and on-going threat to the campus community, the University of Maryland Police may issue a timely warning of the conduct under the Clery Act in the interests of the health and safety of the campus community. This notice will not contain any personally identifying information related to the complainant.

Amnesty for Students Who Report Sexual Misconduct

The University recognizes that a student who is under the influence of alcohol and/or drugs when an incident of sexual misconduct occurs, may be reluctant to report the sexual misconduct out of concern they may face disciplinary sanctions for engaging in prohibited alcohol or drug use. As such, a student who reports sexual misconduct to the University or law enforcement, or who participates in a sexual misconduct investigation either as a complainant or third party witness, will not face disciplinary action for violating University drug and alcohol policies. This amnesty provision applies only when the University determines that: (1) the drug/alcohol violation occurred during or near the time of the reported sexual misconduct; (2) the student acted in good faith in reporting or participating as a witness; and (3) the violation was not likely to place the health or safety of another individual at risk.

Requests for Confidentiality

If a complainant requests that their name not be disclosed or that the University not investigate or take action against the respondent, the Title IX Officer or designee will determine whether or not it can honor such a request while still providing a safe and nondiscriminatory environment for all students, faculty, and staff, including the complainant. The Title IX Officer shall make a determination as to whether the complainant's request can be honored, by considering the following factors:

- Circumstances that suggest there is an increased risk of the respondent committing additional acts of sexual misconduct or other violence (e.g., whether there have been other sexual misconduct complaints about the same respondent);
- Whether the respondent has any documented history of violence known to the University;
- Whether the respondent threatened further sexual misconduct or other violence against the complainant or others that is known to the University;
- Whether the sexual misconduct was committed by multiple persons;
- Whether the sexual misconduct was perpetrated with a weapon;
- The age of the complainant subjected to the sexual misconduct; and
- Whether the University possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence).

VIII. INTERIM PROTECTIVE MEASURES

Reports of sexual misconduct in violation of this policy may require immediate protective measures to protect the safety and well-being of the parties and/or the campus community pending the outcome of the investigative and adjudicative processes. Interim protective measures may include the following:

No Contact Order. A no contact order is an official University directive that serves as notice to an individual that they must not have verbal, electronic, written, or third party communications with another individual.

For Students:

- *Academic accommodations*, such as, assistance in transferring to another section of a lecture or laboratory, assistance in arranging for incompletes, leaves or withdrawal from campus, or rearranging class schedules, and
- *Housing accommodations*, such as, facilitating changes in on-campus housing location to alternate housing, assistance in exploring alternative housing off-campus, and
- *Employment accommodations*, such as, arranging for alternate University employment, different work shifts, etc., and
- *Transportation and parking accommodations*.

For Employees:

- *Employment accommodations*, such as, temporary assignment, if appropriate, to other work duties and responsibilities, or other work locations, or other work groups/teams or alternative supervision/management, and
- *Transportation and parking accommodations*.

IX. RETALIATION

Complaints of Retaliation. Individuals who engage in retaliatory behavior against a reporting party or party participating in an investigation are in violation of this policy and will be subject to appropriate disciplinary action pursuant to the procedures for this policy. Individuals who believe they have experienced retaliation in violation of this policy should immediately report such conduct to the Title IX Officer at titleixcoordinator@umd.edu.

X. COMPLAINT PROCEDURES

Complaints Against Students. Complaints against students based on a violation of this policy will be reviewed in accordance with the procedures set forth in *Appendix A*.

Complaints Against Staff. Complaints against staff based on a violation of this policy will be reviewed in accordance with the procedures set forth in *Appendix B*.

Complaints Against Faculty. Complaints against faculty members based on a violation of this policy will be reviewed in accordance with the procedures set forth in *Appendix C*.

Complaints Against Third Parties Not Affiliated With the University. If a member of the University community (student, faculty, or staff) is subjected to sexual misconduct by a third party not affiliated with the University on University premises or during University sponsored activities, the matter should be reported to the Title IX Officer. [The University will take](#)

available and reasonable steps to address the Sexual Misconduct, prevent its recurrence, and address its effects at the University.

XI. STEPS TO TAKE FOLLOWING A SEXUAL ASSAULT

Stay Warm. Persons who experience sexual assault may be in a state of shock. It is important to stay warm by wrapping up in a blanket or coat. This will help recovery from shock and make it less likely that physical evidence is disturbed.

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 like a confidential CARE advocate or mental health professional at the University Health Center 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. A SAFE exam may be obtained within 72 hours after an assault at:

Prince George’s Hospital Domestic Violence and Sexual Assault Center (DV/SAC)
301-618-3154

<http://www.dimensionshealth.org/index.php/dimensions-healthcare-facilities/prince-georges-hospital-center/domestic-violence-and-sexual-assault-center-dvsac/>

XII. CAMPUS SAFETY

The health and safety of all members of the campus community are the University’s primary concern. The University makes the following services available:

Emergency Phones

University of Maryland Police Emergency Response Telephones (PERT), recognized by a blue light affixed to each station, are available throughout campus. By activating the phone, an individual will be automatically connected to a campus police dispatcher who is immediately alerted to the location of the phone.

24 Hour Walking Escort Service/Student Police Auxiliary Foot Patrol

301-405-3555 or blue light emergency PERT phone

The University of Maryland Police Department provides a walking escort service 24 hours a day for anyone who feels unsafe while walking on campus. [The Student Police Auxiliary foot patrol program provides](#) walking escorts, conducted by University of Maryland Police officers when the foot patrol program is out of service or if requested and available.

University Department of Public Safety
301-405-3555 (non-emergency) or 301-405-3333 (emergency)
Local Police in ANY location - 911

Persons who experience sexual misconduct are strongly encouraged to contact the University of Maryland Police. If a person is not certain whether criminal conduct is involved, an officer can assist in determining whether a crime has occurred. If sexual misconduct occurred off campus, an officer can assist in contacting the appropriate law enforcement agency. A student can request and receive the assistance of campus police without making a criminal complaint. Campus police can also assist in accompanying the student to a hospital that can provide a Sexual Assault Forensic Exam (SAFE) to both ensure appropriate medical treatment and the timely collection of physical evidence in the event the person seeks to make a criminal complaint.

XIII. CONSENSUAL RELATIONSHIPS AND PROFESSIONAL CONDUCT

Sexual relationships that occur in the context of educational or employment supervision and evaluation present potential conflicts of interest. Relationships in which one party maintains a supervisory or evaluative responsibility over the other also reflect an imbalance of power, leading to doubt as to whether such relationships are truly consensual. For these reasons, the University *strongly* discourages such relationships.

Because of the potential conflicts of interest, persons involved in consensual sexual relationships with anyone over whom they have supervisory and/or evaluative responsibilities *must inform their supervisor(s)* of the relationship(s). Supervisory or evaluative responsibilities may be reassigned, as appropriate. While no relationships are expressly prohibited by this policy, failure to self-report such relationships in a timely manner, as required by this policy, may result in disciplinary action.

XIV. EXTERNAL GOVERNMENT AGENCIES THAT ADDRESS COMPLAINTS OF SEXUAL MISCONDUCT

[Employee](#) complaints [relating to](#) sexual misconduct may also be filed with:

Equal Employment Opportunity Commission
City Crescent Building
10 S. Howard Street, Third Floor
Baltimore, MD 21201
Phone: 1-800-669-4000
Fax: 410-962-4270
TTY: 1-800-669-6820

Website: <https://egov.eeoc.gov/eas/>

Maryland Commission on Civil Rights

William Donald Schaefer Tower

6 Saint Paul Street, Ninth Floor

Baltimore, MD 21202-1631

Phone: 410-767-8600

Fax: 410-333-1841

TTY: 410-333-1737

Website: <http://mccr.maryland.gov/>

E-mail: jcole@mccr.state.md.us

It is important to note that in order to protect the legal rights and remedies available to a complainant, a complainant must comply with certain time limits and deadlines. Affected persons should contact the relevant agencies to verify the time limits. Failure to meet required deadlines may result in a loss of rights to seek a legal remedy.

| [Student or employee complaints relating to sexual misconduct may](#) be directed to:

Office for Civil Rights

U.S. Department of Education

The Wanamaker Building

100 Penn Square East, Suite 515

Philadelphia, PA 19107-3323

Phone: 215-656-8541

Fax: 215-656-8605

TDD: 800-877-8339

E-mail: OCR.Philadelphia@ed.gov

Website: http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html

Replacement for:

VI-1.20(A) University of Maryland Policy and Procedures on Sexual Harassment

VI-1.30(A) University of Maryland Procedures on Sexual Assault and Misconduct