



The Universities

AT SHADY GROVE

**The Universities at Shady Grove:
Protocol Prohibiting Sexual Misconduct &
For Addressing USG Related Sexual Misconduct Matters**

Approved: *Anne Khademian* Date: June 26, 2024

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The Universities at Shady Grove: Protocol Prohibiting Sexual Misconduct & For Addressing USG Related 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 Sexual Misconduct. Sexual Misconduct is a form of sex discrimination that is 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. Sexual Misconduct may also constitute criminal activity.

USG and its Partner Institutions prohibit Sexual Misconduct and promote prompt reporting, timely, fair, and impartial investigation and resolution of Sexual Misconduct cases, as well as prohibit retaliation in connection with Sexual Misconduct matters. This Protocol is designed to assist USG Community members to know the process by which USG related Sexual Misconduct 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

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 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. As of 2024, USG, which opened in Fall 2000, 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.

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 Sexual Harassment (USM Policy on Sexual Harassment). Under the USM Policy on Sexual Harassment, Sexual Harassment means conduct on the basis of sex that satisfies one or more of the following:

- An employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct;
- 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 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 Sexual Misconduct.¹

Pursuant to the USM Policy on Sexual Harassment, each Partner Institution has its own policies and procedures geared to eliminate Sexual Misconduct, prevent its recurrence, and address its effects. Partner Institution policies addressing Sexual Misconduct (as informed by the USM Policy on Sexual Harassment) will govern how USG related Sexual Misconduct 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 Sexual Misconduct 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

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

Institution's efforts to comply with and carry out its responsibilities under Title IX and the USM Policy on Sexual Harassment. A full list of Partner Institution Title IX Coordinators and website links to all Partner Institution Sexual Misconduct policies and procedures, along with Partner Institution Title IX Coordinator contact information, 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 of Sexual Misconduct to 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, athletic coaches, institution law enforcement, and all other non-confidential first responders. See Partner Institution Sexual Misconduct 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 Sexual Misconduct cases, the party reporting and/or having experienced the Sexual Misconduct is typically referred to as the "Complainant." The party accused of Sexual Misconduct 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 Sexual Misconduct.

C. Title IX Coordinator

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

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 Sexual Misconduct 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.

USG Title IX Liaison

Michael Wahl, Safety & Security Manager, Title IX Liaison

301-738-6021

mwahl2@umd.edu

Building III-2241A

9636 Gudelsky Drive, Rockville, MD 20850

V. Reporting Sexual Misconduct

Complaints or inquiries regarding Sexual Misconduct 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 Sexual Misconduct, may be made to the US Department of Education, Office for Civil Rights (OCR)²

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 Sexual Misconduct. As stated above, Responsible Employees are not

² OCR Contact information is as follows: U.S. Department of Education, Office for Civil Rights, 400 Maryland Avenue, SW Washington, D.C. 20202-1328; (800) 421-3481; http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html

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 and Appendix C for steps to take following a sexual assault.

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.

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 incidents of Sexual Misconduct in a general way (nature, date, time and general location) for Clery Act statistical purposes and legal compliance. A report of an incident of Sexual Misconduct to any Partner Institution confidential resource or the USG Center for Counseling and Consultation does not constitute notice to USG or any Partner Institution of the reported Sexual Misconduct.

Confidential on-site support at USG

USG Center for Counseling and Well-being

Building IV-3139

301-738-6273

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

Confidential support offsite:

The Montgomery County Victim Assistance and Sexual Assault Program (VASAP)

240-777-1355 (weekdays)

240-777-4357 (24-hour crisis line)

240-777-1329 (FAX)

vasap@montgomerycountymd.gov

<https://www.montgomerycountymd.gov/HHS-Program/BHCS/VASAP/VASAPIndex.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/>

C. Criminal Reporting

In addition to any Partner Institution Sexual Misconduct policy or procedure violation, some forms of discrimination on the basis of sex or gender, for example, all forms of Sexual Violence, may constitute a crime. **If you are in immediate danger and need law enforcement or to summon medical assistance relating to Sexual Misconduct, dial 911.** To otherwise criminally report Sexual Misconduct, 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 Policy is listed in Appendix B.

VI. Responses to Sexual Misconduct

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 Sexual Misconduct matter is pending).

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 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 and website links to all Partner Institution Sexual Misconduct

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 Sexual Misconduct, but may assist with related requests as described in section IV.D.

For Sexual Misconduct that occurs 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 Sexual Harassment to designate timeframes for the institution to conduct a full investigation, for the parties to receive notice of the outcome, and for the parties to file an appeal. Partner institution policies generally provide a 60-day timeframe for the investigation and resolution of reports, as well as explain procedures and/or circumstances for extending the time beyond the 60-day period.

VII. Training, Education & Recordkeeping

Sexual Misconduct 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 Sexual Harassment. 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 Sexual Harassment.

Appendix A: USG Title IX Liaison & Partner Institution Title IX Coordinators

USG Notice of Non-Discrimination: USG policy explicitly prohibits Sexual Misconduct, Retaliation, and discrimination on the basis of sex in education programs and activities. Sexual Misconduct is a form 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
USG Title IX Liaison	Michael Wahl, Safety and Security Manager, Title IX Liaison (301) 738-6021 Mwahl2@umd.edu http://www.shadygrove.umd.edu/titleix
Bowie State University	Jasmyn Lucas, Equity Investigator and Title IX Coordinator (301) 860-4511 TitleIXCoordinator@bowiestate.edu https://bowiestate.edu/about/administration-and-governance/legal-and-government-affairs/office-of-equity-compliance/sexual-misconduct/title-ix.php
Salisbury University	Humberto Aristizabal, Fair Practices Officer/ Title IX Coordinator (410) 548-3508 hxaristizabal@salisbury.edu http://www.salisbury.edu/administration/institutional-equity
Towson University	Anthony Davis, Title IX and Civil Rights Investigator (410) 704-0203 titleix@towson.edu http://www.towson.edu/inclusionequity/titleix
University of Baltimore (UB)	Tiwana Barnes. Title IX Coordinator and Director of DEI (410) 837-5020 tbarnes@ubalt.edu https://www.ubalt.edu/about-ub/offices-and-services/government-relations/titleix.cfm
University of Maryland, Baltimore (UMB)	Stephanie Suerth, Acting Title IX Coordinator, Director (410) 706-5212 ssuerthj@umaryland.edu www.umaryland.edu/titleix
University of Maryland, Baltimore County (UMBC)	Dr. Leah Reynolds, Interim ECR Director & Title IX Coordinator (410) 455-1717 lreynol1@umbc.edu https://ecr.umbc.edu/gender-discrimination-sexual-misconduct/

University of Maryland, College Park (UMCP)	Angela Nastase, JD, Director and Title IX Coordinator (301) 405-1142 titleixcoordinator@umd.edu https://ocrsm.umd.edu
University of Maryland, Eastern Shore (UMES)	Jason A. Casares, Title IX Coordinator 410-651-6135 TitleIX@umes.edu https://www.umes.edu/oie/title-ix
University of Maryland Global Campus (UMGC)	Steven R. Alfred, Title IX Coordinator (800) 888-8682, ext 17930 (301) 887-7295 (Cell/Text) titleixcoordinator@umgc.edu https://www.umgc.edu/administration/policies-and-reporting/sexual-misconduct-title-ix

USM Policy: <http://www.usmd.edu/regents/bylaws/SectionVI/VI160.pdf>

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

The Wanamaker Building, 100 Penn Square East, Suite 515, Philadelphia, PA 19107-3323

- 215-656-8541 (Phone)
- 215-656-8605 (Fax)
- 800-877-8339 (TDD)
- OCR.Philadelphia@ed.gov
- http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html

Appendix B: USG and Local Sexual Misconduct 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

<http://www.shadygrove.umd.edu/titleix>

USG Center for Scholarships

Gloria Kalotra, III-1105

301-738-6089

gkalotra@umd.edu

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

USG Human Resources Office

Nitshu Joshi, III-3155

301-738-6114

njoshi14@umd.edu

<https://shadygrove.umd.edu/faculty-and-staff/humanresour>

USG Safety and Security Office

Michael Wahl, III-2241A

301-738-6021

mwahl2@umd.edu

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

USG Security Desk

301-738-6065

USG Staff Directory and Program Contacts

<http://www.shadygrove.umd.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.umd.edu/student-affairs/counseling-well-being>

shadygrove.umd.edu/titleix

Offsite Resources – Non-confidential

Montgomery County Police 1st District Station

Emergency: 911

Phone:

240-773-6070

Address: 100 Edison Park Drive, Gaithersburg, MD, 20878

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/>

The Montgomery County Victim Assistance and Sexual Assault Program (VASAP)

240-777-1355 (weekdays)

240-777-4357 (24-hour crisis line)

240-777-1329 (FAX)

vasap@montgomerycountymd.gov

<https://www.montgomerycountymd.gov/HHS-Program/BHCS/VASAP/VASAPIndex.html>

Appendix C: 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, 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. **Anonymous “Jane Doe” SAFE exams are available.**

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 Main Line)
 - 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/>

Appendix D: University System of Maryland Policy on Sexual Harassment



VI-1.60 - UNIVERSITY SYSTEM OF MARYLAND POLICY ON SEXUAL

HARASSMENT (Approved by the Board of Regents, June 27, 2014; Amended June 19, 2015; Amended June 21, 2019; Amended July 22, 2020³)

PURPOSE AND APPLICABILITY

The University System of Maryland (USM) is committed to providing a working and learning environment free from Sexual Harassment⁴ through training, education, prevention programs, and policies and procedures that promote prompt reporting, prohibit Retaliation, and promote timely, fair, and impartial investigation and resolution in a manner that eliminates the Sexual Harassment, prevents its recurrence, and addresses its effects.

All students, faculty, and staff of USM institutions (including USM regional centers), as well as the USM Office and third parties and contractors under USM or USM constituent institution control, are subject to this Policy.

Federal regulations implementing Title IX of the Education Amendments of 1972 (Title IX) require that USM institutions implement certain procedures when an institution obtains Actual Knowledge of Sexual Harassment in its Education Program or Activity against a person in the United States. Actual Knowledge means notice of Sexual Harassment or allegations of Sexual Harassment to a USM institution's Title IX Coordinator or any official of the institution who has authority to institute corrective measures on behalf of the institution. A USM institution's Education Program or Activity includes locations, events, or circumstances over which a USM institution exercised substantial control over both the Respondent and the context in which the Sexual Harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a USM institution.

³ This amendment is effective August 14, 2020. On May 6, 2020, the United States Department of Education released new Title IX regulations, effective August 14, 2020 (the "2020 Title IX Regulations"). The 2020 Title IX Regulations require some modifications to this Policy. Several plaintiffs have filed lawsuits seeking to block some of the provisions in the 2020 Title IX Regulations. Should a court strike down, either temporarily or permanently, any portion of the 2020 Title IX Regulations, USM shall make any necessary modifications to this Policy, which will become effective immediately. USM may also revert back to the June 21, 2019, version of this Policy.

⁴ Capitalized terms are defined in this Policy.

This Policy addresses USM institutions' obligations under Title IX and state law. Institutions should additionally prohibit other forms of sexual misconduct under their respective institutional policies, and should implement fair and equitable procedures to address such allegations.

I. Definitions

For purposes of this Policy, the following definitions apply.

- A. Actual Knowledge** means notice of Sexual Harassment or allegations of Sexual Harassment to a USM institution's Title IX Coordinator or any official of a USM institution who has authority to institute corrective measures on behalf of the USM institution.
- B. Complainant** is an individual who is alleged to be the victim of Sexual Harassment.
- C. Education Program or Activity** of a USM institution includes locations, events, or circumstances over which a USM institution exercised substantial control over both the Respondent and the context in which the Sexual Harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a USM institution.
- D. 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.
- E. 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.
- F. Formal Complaint** means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that the institution investigate the allegation. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the Education Program or Activity of the institution with which the Formal Complaint is filed. A Formal Complaint may be filed with the Title IX

Coordinator in person, by mail, by e-mail, or any additional method designated by the institution.

1. “**Document filed by a Complainant**” means a document or electronic submission that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party.

G. Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.

H. 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 because an individual has made a report or complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing related to Sexual Harassment. Retaliation includes bringing charges against an individual for violations of other institutional policies that do not involve Sexual Harassment, but arise out of the same facts or circumstances as a report or Formal Complaint of Sexual Harassment, for the purpose of interfering with any right or privilege secured by Title IX.

I. 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 any sexual act including Rape, Sodomy, Sexual Assault With An Object, or Fondling directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent; also, unlawful sexual intercourse.

1. **Rape—(Except Statutory Rape)** The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
2. **Sodomy**—Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
3. **Sexual Assault With An Object**—To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
4. **Fondling**—The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her

age or because of his/her temporary or permanent mental or physical incapacity.

5. **Incest**—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
6. **Statutory Rape**—Nonforcible sexual intercourse with a person who is under the statutory age of consent.⁵

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

1. An employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct;
2. 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 Education Program or Activity; or
3. Sexual Assault, Dating Violence, Domestic Violence, or Stalking.

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

L. Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the Education Program or Activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the institution's educational environment, or 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. Institutional Obligations

A. Response

An institution with Actual Knowledge of Sexual Harassment in its Education Program or Activity against a person in the United States must respond promptly in a manner that is not deliberately indifferent. A response is "deliberately indifferent" if it is clearly unreasonable in light of the known circumstances.

⁵ The age of consent in Maryland is 16. See Md. Code Ann., Crim. Law §§ 3-301 through 307.

B. Title IX Compliance Oversight

1. Title IX Coordinator

Each USM 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, the institution 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 institution 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 the activities of the Title IX Team.

C. Notice of Nondiscrimination

- 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 the Education Program or Activity that it operates, 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 Assistant Secretary for Civil Rights of the U.S. Department of Education, or both; and
 - c. The name or title, office address, electronic mail 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 included in publications of general distribution that provide information to students and employees about the institution's services and policies, including each handbook or catalog that it makes available to persons entitled to a notification.

D. Each institution shall adopt and publish a policy that:

1. Includes a statement prohibiting Sexual Harassment in its Education Program or Activity;
2. Includes a statement prohibiting Retaliation;
3. Adopts the definitions in this Policy for Title IX Sexual Harassment and defines relevant terms not defined in this Policy, such as consent;
4. Informs victims of a Sexual Assault of the right to file criminal charges with the appropriate law enforcement officials;
5. Provides for the prompt assistance of institution authorities, at the request of the victim, in notifying the appropriate law enforcement officials and the Title IX Coordinator of an incident of Sexual Assault;
6. Designates the nearest hospitals equipped with the Maryland Department of State Police Sexual Assault Evidence Collection Kit;
7. Informs victims of the importance of preserving evidence as may be necessary to prove criminal conduct or obtain orders of protection;
8. Provides for full and prompt cooperation from institution personnel in obtaining appropriate medical attention, including transporting a victim to the nearest designated hospital;
9. Offers counseling to a victim of Sexual Assault from mental health services provided by the institution, other victim service entities, or the nearest State designated rape crisis program;
10. Provides for, after a Sexual Assault has been reported, and upon the request of the alleged victim, the transfer of the alleged victim to alternative classes or housing, if such alternatives are available and feasible;

11. 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 Harassment to the institution or law enforcement or participates in a Sexual Harassment matter as a witness, if the institution determines that:
 - a. the violation occurred during or near the time of the alleged Sexual Harassment;
 - b. the student made the report of Sexual Harassment, 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.

E. Each institution shall adopt and publish procedures that include the following provisions:

1. Require that, when an institution has Actual Knowledge of Sexual Harassment, the Title IX Coordinator promptly contact the Complainant to:
 - a. Explain the process for filing a Formal Complaint;
 - b. Discuss the availability of Supportive Measures;
 - c. Consider the Complainant's wishes with respect to Supportive Measures; and
 - d. Inform Complainant of the availability of Supportive Measures with or without the filing of a Formal Complaint.
2. **Supportive Measures.** Describe the range of Supportive Measures available to Complainants and Respondents.
3. **How to Report Sexual Harassment or Retaliation:**
 - a. Any person may report 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 electronic mail, 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;
 - b. Such a report may be made at any time (including during nonbusiness hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.

- 4. Equitable Treatment.** Treat Complainants and Respondents equitably by:

 - a. Providing remedies to a Complainant where a determination of responsibility for Sexual Harassment has been made against the Respondent, and by using procedures that comply with Title IX when investigating and adjudicating allegations of Sexual Harassment 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 Title IX equally to both parties.

- 5. Objective Evaluation of Evidence.** 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.

- 6. No Conflict or Bias.** 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.

- 7. Presumption of Non-Responsibility.** 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.

- 8. Reasonably Prompt Time Frames.** 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 (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.

 - a. “**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.

- 9. Sanctions and Remedies.** 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.
- 10. Standard of Evidence.** Specify the “preponderance of the evidence” as the standard of evidence, which shall be the same standard of evidence for Formal Complaints against students as for Formal Complaints against employees (including faculty), and apply the same standard of evidence to all Formal Complaints of Sexual Harassment and for all allegations of institutional policy violations involving discrimination or harm to another individual.
- 11. Restrictions on Consideration of Certain Evidence.**
- a. The institution shall not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege;
 - b. The institution cannot access, consider, disclose, or otherwise use a party’s records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional’s or paraprofessional’s capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the institution obtains that party’s voluntary, written consent to do so.
 - i. An adjudicating official or decision-making body is prohibited from considering evidence about a student’s history of mental health counseling, treatment, or diagnosis, unless the student consents.
- 12. Notice.** Upon receipt of a Formal Complaint, the institution must provide written notice to known parties:
- a. Of the investigation and adjudication process, including any informal process;
 - b. Of the allegations of Sexual Harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview;
 - i. “**Sufficient details**” include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Sexual Harassment, and the date and location of the alleged incident, if known;
 - c. Of 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;
- d. That the parties may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence;
 - e. 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; and
 - f. 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.

13. Dismissal of Formal Complaints.

- a. **Mandatory Dismissal.** If the conduct alleged in the Formal Complaint would not constitute Sexual Harassment, even if proved, did not occur in the institution's Education Program or Activity, or did not occur against a person in the United States, then the institution must dismiss the Formal Complaint with regard to that conduct for the purposes of Sexual Harassment under Title IX; such a dismissal does not preclude action under another provision of the institution's policies.
- b. **Permissive Dismissal.** The institution may dismiss the Formal Complaint or any allegations therein, if at any time during the investigation or hearing:
 - i. a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal 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 Formal Complaint or allegations therein.
- c. Upon dismissal, the institution must promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.

14. Consolidation of Formal Complaints. An institution may consolidate Formal Complaints as to allegations of Sexual Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Sexual Harassment arise out of the same facts or circumstances.

15. Investigation of a Formal Complaint. When investigating a Formal Complaint and throughout the investigation and adjudication process, the institution must:

- a. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the institution and not on the parties,
- 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, 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;
- d. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;
- e. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal 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.
 - i. Prior to completion of the investigative report, the institution 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, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report.
 - ii. The institution must make all such 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; and
- f. Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to the hearing, send to each

party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

16. Live Hearing with Cross-Examination for Formal Complaints.

- a. Institutions must provide for a live hearing for Formal Complaints.
- b. At the live hearing, the decision-maker(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.
- c. Cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally
- d. At the request of either party, the institution must provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions.
- e. Only relevant cross-examination and other questions may be asked of a party or witness.
- f. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
- g. 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.
- h. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
- i. An adjudicating official or body is prohibited from considering a student Respondent's prior sexual history with an individual other than a party to the proceedings, except to:
 - i. Prove prior sexual misconduct;
 - ii. Support a claim that a student has an ulterior motive; or
 - iii. Impeach a student's credibility after that student has put his or her own prior sexual conduct at issue.

- j. If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination 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.
- k. 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.
- l. 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.

17. Determination Regarding Responsibility. The decision-maker(s), who cannot be the same as the Title IX Coordinator or the investigator(s), must issue, simultaneously, a written determination regarding responsibility, which must include:

- a. Identification of the allegations potentially constituting Sexual Harassment;
- b. A description of the procedural steps taken from receipt of the Formal 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. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any sanctions the institution imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the Education Program or Activity will be provided to the Complainant; and
- f. Procedures and permissible bases for parties to appeal.

18. Appeals. Provide an appeal process that is equally available to the parties and include the procedures and permissible bases for the Complainant and Respondent to appeal;

- a. An institution must offer both parties an appeal from a determination regarding responsibility, and from an institution's dismissal of a Formal Complaint or any allegations therein, on the following bases:

- i. Procedural irregularity that affected the outcome of the matter;
 - ii. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
 - iii. The Title IX Coordinator, investigator(s), or decisionmaker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter;
- b. An institution may offer an appeal equally to both parties on additional bases.
- c. As to all appeals, the institution must:
- i. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
 - ii. Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
 - iii. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
 - iv. Issue a written decision describing the result of the appeal and the rationale for the result; and
 - v. Provide the written decision simultaneously to both parties.

19. Final Decision. The 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.

20. Informal Resolution Process. Permit the use of mediation or other informal resolution process for resolving allegations of Sexual Harassment subject to the following conditions:

- a. 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 Formal Complaints of Sexual Harassment.
- b. An institution may not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a Formal Complaint is filed.

- c. At any time 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:
 - i. Provides to the parties a written notice disclosing:
 - 1) the allegations,
 - 2) the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the investigation and adjudication process with respect to the Formal Complaint, and
 - 3) any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
 - ii. Obtains the parties' voluntary, written consent to the informal resolution process; and
 - iii. Does not offer or facilitate an informal resolution process to resolve allegations of Sexual Assault, sexual coercion, or allegations that an employee sexually harassed a student.

21. Confidentiality. Describe any institutional policies governing confidentiality, including that:

- a. Formal 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 measures; and
- c. Institutions must keep confidential the identity of anyone who has made a report or filed a Formal Complaint of Sexual Harassment, 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 regulations.

22. Prohibited Content. In addition to other prohibitions, an institution's policies and procedures must not:

- a. Require the institution to wait until a concurrent law enforcement proceeding concludes to begin any investigation, Supportive Measures, or hearing; and
- b. Discourage a student from retaining an attorney.

- 23. Student Rights.** Each Institution's investigation and adjudication procedures shall include a description of the rights of student Complainants and Respondents, including:
- a. Treatment with dignity, respect, and sensitivity by institution officials during all phases of the disciplinary proceedings;
 - b. A fair and impartial investigation;
 - c. Disciplinary proceedings and resolutions that are prompt and equitable and provide an opportunity for the parties to be heard;
 - d. Timely written notice of:
 - i. The reported violation, including the date, time, and location of the alleged violation, and the range of potential sanctions associated with the alleged violation;
 - ii. The party's rights and responsibilities under the institution's policies and procedures and information regarding other civil and criminal options;
 - iii. The date, time, and location of each hearing, meeting, or interview that the party is required or permitted to attend;
 - iv. A final determination made by the adjudicating official or body regarding whether a policy violation occurred and the basis for the determination;
 - v. Any sanction imposed, as permitted by law; and
 - vi. The party's rights to appeal and a description of the appeal process;
 - e. Participation in the disciplinary proceedings, including:
 - i. 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;
 - ii. Offering testimony at a hearing;
 - iii. 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;
 - iv. 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;
 - v. Reviewing and providing written responses to reports and proposed findings; and
 - vi. Appealing a determination or sanction.
 - f. 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:

- i. Attendance at hearings, meetings, and interviews with the party;
 - ii. Private consultations with the party during hearings, meetings, and interviews, except during questioning of the party at a hearing; and
 - iii. Assistance with the party's exercise of any right during the disciplinary proceedings; and
- g. 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;
- h. Provide a student party with notice, presented in an appropriate and sensitive format, before the start of the disciplinary proceedings, of:
 - i. The student's right to the assistance of an attorney or an advocate;
 - ii. The legal service organizations and referral services available to the student; and
 - iii. The student's right to have a personal supporter of the student's choice at any hearing, meeting, or interview during the disciplinary proceedings;
- i. Permit a current or former student who makes a complaint or responds to a complaint on which a formal Title IX 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, to access counsel paid for by MHEC, unless the student knowingly and voluntarily chooses not to have counsel, and provide that in accordance with COMAR 13B.09.01:
 - i. A student may select and retain an attorney before the conclusion of the formal Title IX proceedings;
 - ii. A student may obtain from MHEC, through MHEC's website, a list of licensed attorneys who have indicated that they will represent such students in Title IX proceedings on a pro bono basis or for reduced legal fees; and
 - iii. A student's attorney may seek reimbursement of certain legal costs and fees from MHEC's Legal Representation Fund for Title IX proceedings, subject to the availability of funding.

III. Other Federal and State Nondiscrimination Laws

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

IV. Clery Act Compliance

In handling Sexual Harassment reports, each institution remains responsible for complying with the requirements of the Crime Awareness and Campus Security Act of 1990 ("Clery Act") and its amendments. Institutions must comply with Clery Act requirements, including crime recording and reporting requirements, where compliance is not otherwise reached by actions under this policy.

V. Agreements with Local Law Enforcement and Rape Crisis Programs

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.

VI. Training

A. Prevention and Awareness Education

Each institution must develop and implement preventive education, directed toward both employees and students, to help reduce the occurrence of Sexual Harassment. 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, and the consequences of engaging in Sexual Harassment. These educational initiatives shall be for all incoming students and new employees. Each 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 comply with Md. Code Ann., State Pers. & Pens. § 2-203.1.

B. Training for Persons Involved in Sexual Harassment Cases

Institutions must ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the definition of Sexual Harassment, 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, 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 relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant.

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 Formal Complaints of Sexual Harassment.

VII. Campus Sexual Assault Climate Survey

On or before March 1, 2016, and at least every two (2) years thereafter, 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 MHEC. On or before June 1, 2016, and at least every two (2) years thereafter, each institution shall submit to MHEC a report in accordance with the requirements set forth in Md. Code Ann., Educ. § 11-601(g).

VIII. Recordkeeping for Sexual Harassment Cases

Each institution must maintain, for seven years, records of:

1. Each Sexual Harassment investigation, including any determination regarding responsibility and any audio or audiovisual recording or transcript required, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to the Education Program or Activity;
2. Any appeal and the result thereof;
3. Any informal resolution and the result therefrom; and
4. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

Each institution must make these training materials publicly available on its website.

Each institution must create and maintain for seven years records of any actions, including any Supportive Measures, taken in response to a report or Formal Complaint of Sexual Harassment. In each instance, the institution must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to its Education Program or Activity. If an institution does not provide a Complainant with Supportive Measures, then it must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the institution in the future from providing additional explanations or detailing additional measures taken.

This policy should be cross-referenced with USM BOR VI-1.50 Policy on the Reporting of Child Abuse & Neglect.

Record of Changes

Change Number	Date	Changed by	Description of Change
1	09/21/16	J. Nardi	Contact information on page 9 updated.
2	01/27/17	J. Nardi	Contact information on pages 9-10 updated.
3	02/02/17	J. Nardi	Contact information on pages 9-10 updated.
4	04/17/17	J. Nardi	Contact information on pages 6, 10-11 updated.
5	04/23/24	M. Wahl	Formatting revisions and general updates throughout the document, updated contact information, updated USM policy.