


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

Approved:  9/20/16  
Stewart Edelstein, Ph.D. Date  
Associate Vice Chancellor for Academic Affairs, USM  
Executive Director, Universities at Shady Grove

Updated 9/8/16

**Technical Updates: 2/2/17**

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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 2016, 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 University College (UMUC)

### 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 Misconduct* (USM Policy on Sexual Misconduct). Under the USM Policy on Sexual Misconduct, Sexual Misconduct includes Dating Violence, Domestic Violence, Sexual Exploitation, Sexual Harassment, Sexual Intimidation, Sexual Violence, and Stalking, all of which are more fully defined in the USM Policy on Sexual Misconduct<sup>1</sup>.

Pursuant to the USM Policy on Sexual Misconduct, 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 Misconduct) 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 Institution’s efforts to comply with and carry out its responsibilities under Title IX and the USM Policy on 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.

### 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.**

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<sup>1</sup> 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/>.

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**

- John Brandt, Safety & Security Manager,  
Title IX Liaison
- 301-738-6021
- [jbrandt@umd.edu](mailto:jbrandt@umd.edu)
- III-2121, 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).<sup>2</sup>

### A. Requests for Confidentiality

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

### B. Confidential Reporting

Unless otherwise noted, Responsible Employees at all Partner Institutions must report information regarding Sexual Misconduct. As stated above, Responsible Employees are **not** confidential resources. Confidential reporting options at all Partner Institutions are listed in the Partner Institution policies and procedures linked to in Appendix A. In addition, see Appendix B for a full list of additional USG on and off-site confidential reporting options 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 Consultation. 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 Consultation**

III-1134 (enter through Priddy Library)

301-738-6273

<https://www.shadygrove.umd.edu/student-services/center-for-counseling-and-consultation>

#### Confidential support offsite:

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

240-777-1355 (weekdays)

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

240-777-1347 (TTY)

240-777-1329 (FAX)

[vasap@montgomerycountymd.gov](mailto:vasap@montgomerycountymd.gov)

[www.vasap.org](http://www.vasap.org)

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

Sexual Assault Forensics Exam – SAFE – Provider

Anonymous “Jane Doe” SAFE exams available

9901 Medical Center Drive, Rockville, MD 20850

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

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

formerly the Sexual Abuse and Assault Center)

240-826-6000 (Hospital Operator)

<http://www.adventisthealthcare.com/services/emergency/forensic-medical-unit/>

<sup>2</sup> OCR Contact information is as follows: U.S. Department of Education, Office for Civil Rights, Wannamaker Building, 100 Penn Square Street East, Room 6300, Suite 515, Philadelphia, PA 19107-3323; (215)656-8541; [http://www2.ed.gov/about/offices/list/ocr/docs/tix\\_dis.html](http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html)

### 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 security services).

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 Misconduct 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 Misconduct. Employees on USG payroll receive training and participate in education initiatives through UMCP and its Office of Sexual Misconduct & Relationship Violence.

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 Misconduct.



## 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
<b>USG Title IX Liaison</b>	John Brandt, Safety and Security Manager, Title IX Liaison (301) 738-6021 <a href="mailto:jbrandt@umd.edu">jbrandt@umd.edu</a> <a href="http://www.shadygrove.umd.edu/titleix">http://www.shadygrove.umd.edu/titleix</a>
<b>Bowie State University</b>	Alanna Dennis, Equity Compliance Officer/Title IX Coordinator (301) 860-3442 <a href="mailto:TitleIXCoordinator@bowiestate.edu">TitleIXCoordinator@bowiestate.edu</a> <a href="https://www.bowiestate.edu/about/admin-and-governance/adminfin/human-resources/equal-employment-opportunity/">https://www.bowiestate.edu/about/admin-and-governance/adminfin/human-resources/equal-employment-opportunity/</a>
<b>Salisbury University</b>	Humberto Aristizabal, Associate Vice President of Institutional Equity and Title IX Coordinator (410) 548-3508 <a href="mailto:hxaristizabal@salisbury.edu">hxaristizabal@salisbury.edu</a> <a href="http://www.salisbury.edu/equity/titleix-coordinator.html">http://www.salisbury.edu/equity/titleix-coordinator.html</a>
<b>Towson University</b>	Dan Leonard, Assistant Vice President of Institutional Equity, Title IX Coordinator & ADA Coordinator (410) 704-0203 <a href="mailto:titleix@towson.edu">titleix@towson.edu</a> <a href="http://www.towson.edu/equity/titleix/index.html">http://www.towson.edu/equity/titleix/index.html</a>
<b>University of Baltimore(UB)</b>	Anita Harewood, Vice President, Government and Community Relations (410) 837-4533 <a href="mailto:aharewood@ubalt.edu">aharewood@ubalt.edu</a> <a href="http://www.ubalt.edu/about-ub/offices-and-services/government-and-public-affairs/titleix.cfm">http://www.ubalt.edu/about-ub/offices-and-services/government-and-public-affairs/titleix.cfm</a>
<b>University of Maryland, Baltimore (UMB)</b>	Mikheil A Kushner, Executive Director, Diversity and Inclusion, Title IX Coordinator (410) 706-1852 <a href="mailto:mikheil.kushner@umaryland.edu">mikheil.kushner@umaryland.edu</a> <a href="http://www.umaryland.edu/titleix">www.umaryland.edu/titleix</a>
<b>University of Maryland, Baltimore County (UMBC)</b>	Bobbie L. Hoye, Title IX Coordinator, Human Relations Officer (410) 455-1606 <a href="mailto:bhoye@umbc.edu">bhoye@umbc.edu</a> <a href="http://humanrelations.umbc.edu/sexual-misconduct/">http://humanrelations.umbc.edu/sexual-misconduct/</a>
<b>University of Maryland, College Park(UMCP)</b>	Catherine Carroll, Title IX Officer (301) 405-1142 <a href="mailto:titleixcoordinator@umd.edu">titleixcoordinator@umd.edu</a> <a href="mailto:civilrights@umd.edu">civilrights@umd.edu</a> <a href="https://ocrsm.umd.edu/sexual-misconduct/index.html">https://ocrsm.umd.edu/sexual-misconduct/index.html</a>
<b>University of Maryland, Eastern Shore(UMES)</b>	R Hardy Rudasill, Title IX Coordinator 410-651-7848 <a href="mailto:rhudasill@umes.edu">rhudasill@umes.edu</a> <a href="https://www.umes.edu/TitleIX/">https://www.umes.edu/TitleIX/</a>
<b>University of Maryland University College (UMUC)</b>	Steven R. Alfred, Title IX Coordinator (301) 985-7930 (301) 887-7295 (Cell/Text) <a href="mailto:titleixcoordinator@umuc.edu">titleixcoordinator@umuc.edu</a> <a href="https://www.umuc.edu/policies/adminpolicies/admin04100.cfm">https://www.umuc.edu/policies/adminpolicies/admin04100.cfm</a>

**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](mailto:OCR.Philadelphia@ed.gov)

[http://www2.ed.gov/about/offices/list/ocr/docs/tix\\_dis.html](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**

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**USG Title IX Liaison**

John Brandt, III-2121

(301) 738-6021

[jbrandt@umd.edu](mailto:jbrandt@umd.edu)<http://www.shadygrove.umd.edu/titleix>**USG Office of Student Services**

Andrea Milo, III-1104

301-738-6217

[amilo@umd.edu](mailto:amilo@umd.edu)<https://www.shadygrove.umd.edu/student-services/office-of-student-services>**USG Human Resources Office**

Jessica Nardi, III-3137

301-738-6324

[jnardi@umd.edu](mailto:jnardi@umd.edu)<http://www.shadygrove.umd.edu/hr>**USG Safety and Security Office**

John Brandt, III-3155

301-738-6021

[jbrandt@umd.edu](mailto:jbrandt@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**

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**USG Center for Counseling and Consultation (CCC)**

III-1134 (enter through Priddy Library)

301-738-6273

Services provided at the CCC are free, and client confidentiality is protected by law

<https://www.shadygrove.umd.edu/student-services/center-for-counseling-and-consultation>**Offsite resources – Non-confidential**

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

Emergency: 911

Phone: 240-773-6070

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

**Offsite resources – Confidential**

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**Adventist HealthCare Shady Grove Medical Center**

Sexual Assault Forensics Exam – SAFE – Provider

Anonymous “Jane Doe” SAFE exams are available

9901 Medical Center Drive, Rockville, MD 20850

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

240-826-6225 (Forensic Medical Unit Main Line, formerly the Sexual Abuse and Assault Center)

240-826-6000 (Hospital Operator)

<http://www.adventisthealthcare.com/services/emergency/forensic-medical-unit/>**The Montgomery County Victim Assistance and Sexual Assault Program (VASAP)**

240-777-1355 (weekdays)

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

240-777-1347 (TTY)

240-777-1329 (FAX)

[vasap@montgomerycountymd.gov](mailto:vasap@montgomerycountymd.gov)[www.vasap.org](http://www.vasap.org)

### 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
  - 240-826-6596 (Emergency Department Main Line)
    - Ask for the “Charge Nurse”
    - Ask the Charge Nurse to page a “Forensic Nurse”
    - Forensic Nurses are available 24/7
  - 240-826-6225 (Forensic Medical Unit Main Line, formerly the Sexual Abuse and Assault Center)
  - 240-826-6000 (Hospital Operator)
  - <http://www.adventisthealthcare.com/services/emergency/forensic-medical-unit/>

## Appendix D: USM Bylaws, Policies and Procedures of the Board of Regents



# UNIVERSITY SYSTEM OF MARYLAND

## VI-1.60 – POLICY ON SEXUAL MISCONDUCT (Approved by the Board of Regents, June 27, 2014)

### PURPOSE & APPLICABILITY

The University System of Maryland (USM) is committed to providing a working and learning environment free from Sexual Misconduct, including sexual and gender-based harassment, sexual violence, dating violence, domestic violence, sexual exploitation, and sexual intimidation. USM prohibits and will not tolerate Sexual Misconduct. 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.

USM endeavors to foster a System-wide climate free from Sexual Misconduct through training, education, 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 a manner that eliminates the Sexual Misconduct, prevents its recurrence, and addresses its effects. All USM community members are subject to this policy, regardless of sex, sexual orientation, gender identity and gender expression. This includes all students, faculty, and staff of USM institutions (including USM offices and regional centers), as well as third parties and contractors under USM or USM constituent institution control. This Policy applies to Sexual Misconduct in connection with any USM institution, office or regional center education programs or activities, including Sexual Misconduct: (1) in any USM institution facility or on any USM institution property; (2) in connection with any USM or USM institution sponsored, recognized or approved program, visit or activity, regardless of location; (3) that impedes equal access to any USM institution education program or activity or adversely impacts the employment of a member of the USM community; or (4) that otherwise threatens the health or safety of a member of the USM community. Nothing in this policy is intended to supersede or conflict with any federal compliance obligation.

### I. Definitions

For purposes of this Policy, the following definitions apply. While institutions may adopt their own definitions that do not conflict with the language below, institutions are strongly encouraged, at a minimum, to adopt the elements of these definitions in institution policies/procedures:

- A. **Consent** means a knowing, voluntary, and affirmatively communicated willingness to mutually participate in a particular sexual activity or behavior. It must be given by a person with the ability and capacity to exercise free will and make a rational

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**USM Bylaws, Policies and Procedures of the Board of Regents**

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and reasonable judgment. Consent may be expressed either by affirmative words or actions, as long as those words or actions create a mutually understandable permission regarding the conditions of sexual activity. Consent may be withdrawn at any time. Consent cannot be obtained by force, threat, coercion, fraud, manipulation, reasonable fear of injury, intimidation, or through the use of one's mental or physical helplessness or incapacity. Consent cannot be implied based upon the mere fact of a previous consensual dating or sexual relationship. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.

- B. 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.
- C. Domestic Violence** means 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.
- D. Interim Measures** means reasonably available steps an institution may take to protect the parties while a Sexual Misconduct investigation is pending.
- E. Responsible Employee** includes any employee who (1) has the authority to take action regarding Sexual Misconduct; (2) is an employee who has been given the duty of reporting Sexual Misconduct; or (3) is someone another individual could reasonably believe has this authority or duty. At a minimum, Responsible Employees must include: the Title IX Coordinator and any Title IX Team members, all institution administrators, all non-confidential employees in their supervisory roles, all faculty, all athletic coaches, institution law enforcement, and all other non-confidential firstresponders.
- F. Retaliation** means intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or USM policy relating to Sexual Misconduct, or because an individual has made a report, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing related to Sexual Misconduct. Retaliation includes retaliatory harassment.

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**G. Sexual Assault**

***Sexual Assault I. – Non-Consensual Sexual Intercourse***

Any act of sexual intercourse with another individual without Consent. Sexual intercourse includes vaginal or anal penetration, however slight, with any body part or object, or oral penetration involving mouth to genital contact.

***Sexual Assault II. – Non-Consensual Sexual Contact***

Any intentional touching of the intimate parts of another person, causing another to touch one's intimate parts, 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 that is touched in a sexual manner. Sexual contact also includes attempted sexual intercourse.

- H. 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.
- I. Sexual Harassment** is any unwelcome sexual advance, unwelcome request for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature when: (1) 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 any aspect of a USM or USM institution program or activity; (2) Submission to or rejection of such conduct by an individual is used as the basis for academic, employment, or activity or program participation related decisions affecting an individual; or (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic 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.
- J. Sexual Intimidation** means (1) threatening to sexually assault another person; (2) gender or sex-based Stalking, including cyber-Stalking; or (3) engaging in indecent exposure.
- K. Sexual Misconduct** is an umbrella term that includes Dating Violence, Domestic Violence, Sexual Exploitation, Sexual Harassment, Sexual Intimidation, Sexual Violence, and Stalking.
- L. Sexual Violence** is a form of Sexual Harassment and refers to physical sexual acts perpetrated without Consent. Sexual Violence includes rape, Sexual Assault, sexual battery, and sexual coercion. Sexual Violence, in any form, is a criminal act.

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**M. 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.

## **II. Institutional Obligations**

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

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

Each Chief Executive Officer of a USM institution shall designate a Title IX Coordinator responsible for coordinating the institution's efforts to comply with and carry out its responsibilities under Title IX.

The Title IX Coordinator must have adequate training on the requirements of Title IX, including what constitutes Sexual Misconduct, Consent, credibility assessments, and counter-intuitive behaviors resulting from Sexual Misconduct. The Coordinator must understand how relevant institution procedures operate and must receive notice of all reports raising Title IX issues at the institution.

#### **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, and representatives from campus safety, Student Affairs, the Provost's Office, and Human Resources. The Title IX Coordinator shall be responsible for coordinating the activities of the Title IX Team.

### **B. Notice of Nondiscrimination**

#### **1. Content**

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

- a. Title IX prohibits the institution from discriminating on the basis of sex in its education program and activities;
- b. Inquiries concerning the application of Title IX may be referred to the institution's Title IX Coordinator or the Office for Civil Rights; and
- c. The Title IX Coordinator and any Title IX Team Member's title, office address, telephone number and email address.

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**2. Dissemination of Notice**

The notice must be widely distributed to all students, employees, applicants for admission and employment, and other relevant persons. The notice must be prominently displayed on the institution's web site and at various locations throughout the campus, and must be included in publications of general distribution that provide information to students and employees about the institution's services and policies. The notice should be available and easily accessible on an ongoing basis.

**C. Prompt Investigation and Resolution****1. Investigation**

Once an institution knows or reasonably should know of possible Sexual Misconduct, it must take immediate and appropriate action, in accordance with its internal procedures, to investigate or otherwise determine what occurred. This obligation applies to Sexual Misconduct covered by this Policy regardless of where the Sexual Misconduct allegedly occurred, regardless of whether a parallel law enforcement investigation or action is pending, and regardless of whether a formal complaint is filed.

**2. Prompt Resolution**

If the institution determines that Sexual Misconduct has occurred, the institution must take prompt and effective steps to eliminate the Sexual Misconduct, prevent its recurrence, and address its effects.

- a. In this subsection, "prompt" generally means within 60 calendar days from the time a report is brought to the institution's attention until an initial decision is rendered.
- b. There may be circumstances that prevent an institution from meeting the 60-day timeline. When an institution is unable to meet the 60-day timeline, the institution should document the reasons why it was unable to meet the 60-day timeline.

**3. Notice of Outcome**

As permitted by law, the institution must notify the parties concurrently, in writing, about the outcome of the complaint and whether or not Sexual Misconduct was found to have occurred. The institution must also concurrently inform the parties of any change to the results or outcome that occurs before the results or outcome become final, and the institution must inform the parties when the results or outcome become final.



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**D. Policy & Procedures****1. General**

- a. Each institution shall adopt and publish policies and procedures, as needed, that:
  - i. Prohibit Sexual Misconduct;
  - ii. Prohibit Retaliation against any individual who reports, testifies, assists, or participates in any manner in a Sexual Misconduct investigation, hearing, or proceeding;
  - iii. Maintain employee and student procedures that provide for the prompt and equitable reporting, investigation, and adjudication of Sexual Misconduct and/or Retaliation cases;
  - iv. Require prompt Interim Measures be implemented, as necessary, to protect the parties during the investigation and adjudication processes;
  - v. Apprise the institution community of various USM institution resources and education programs, as well as other community resources and programs, geared to promote the awareness of and eliminate Sexual Misconduct, prevent its recurrence; and, as appropriate, remedy its effects; and
  - vi. Are easily understood, easily located, and widely distributed.
- b. Each institution shall ensure that Sexual Misconduct cases undergo an appropriate legal sufficiency review by counsel prior to any decision.

**2. Required Content**

At a minimum, policies and procedures must:

- a. Include a statement prohibiting Sexual Misconduct and Retaliation;
- b. Define Consent, Dating Violence, Domestic Violence, Retaliation, Sexual Harassment, Sexual Exploitation, Sexual Intimidation, Sexual Misconduct, Stalking, and Sexual Violence;

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- c. Identify Responsible Employees required to report any knowledge of Sexual Misconduct to the Title IX Coordinator;
- d. Identify confidential and non-confidential medical, counseling and advocacy resources on and off campus to assist individuals affected by Sexual Misconduct, including sexual assault centers, victim advocacy offices, women's centers, and health centers;
- e. Identify options and procedures for immediate and ongoing assistance following an incident of Sexual Misconduct, including encouragement to obtain immediate medical help and notify law enforcement as appropriate (especially to receive guidance in the preservation of evidence needed for proof of criminal assaults and the apprehension and prosecution of assailants), institution resources available to help obtain such medical or law enforcement assistance, and available Interim Measures; and
- f. Detail the following:
  - i. Identify who can file a complaint of Sexual Misconduct with the institution (to include students, institution employees, and third parties);
  - ii. Explain how to file a complaint;
  - iii. Identify to whom such complaints should be directed;
  - iv. Describe any institutional policies governing confidentiality;
  - v. Identify any USM or institution policies that may grant amnesty to a party or witness for a violation of drug, alcohol and other student conduct policies;
  - vi. Inform the parties about Interim Measures and how to request them. Each institution must provide notice, in writing, to the parties about options for, and available assistance in, obtaining no contact or protective orders, enforcing existing and lawful no contact or protective orders, and changing academic, transportation, residential, and working situations, if such an accommodation is reasonably available. The institution also must advise the parties of existing options for counseling, health, mental health, victim advocacy, legal assistance, and other services available on and off campus;

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- vii. Explain the parties' options and rights, as well as institution responsibilities, regarding notification of law enforcement and campus authorities, as well as student conduct options;
- viii. Afford an investigative process and adjudicative process that provides the parties equal opportunity to present relevant witnesses and evidence throughout the process, and affords the parties similar and timely access to information to be used during any process;
- ix. Explain that the parties are entitled to the same opportunities to have others present during an institution disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an adviser of their choice, and explain the scope of any adviser's role or potential involvement;
- x. Specify "preponderance of the evidence" as the standard of review;
- xi. Identify the range of possible employment and student sanctions for those found responsible for Sexual Misconduct, up to and including suspension, dismissal, expulsion and termination of employment;
- xii. Provide an appeal process that is equally available to the parties;
- xiii. Require the institution, after a legal sufficiency review, to inform the parties, concurrently and in writing, as permitted by law, about the outcome of any investigation, adjudication, and appeal conducted under this policy;
- xiv. Designate reasonably prompt timeframes for the major stages of the process, and set forth the procedure for extending such timeframes, to include the timeframes within which (1) the institution will conduct a full investigation, (2) the parties will receive a notice of outcome, and (3) the parties may file an appeal;
- xv. Provide an affirmative statement to the institution community that the institution will take steps to prevent the occurrence of any Sexual Misconduct and remedy its discriminatory effects;

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- xvi. Advise the community of institutional programs that endeavor to promote the awareness of Sexual Misconduct and prevent its occurrence; and
- xvii. Advise the community of external options for reporting Sexual Misconduct, including local law enforcement, the Equal Employment Opportunity Commission and the U.S. Department of Education Office for Civil Rights.

**3. Prohibited Content**

Policies and procedures may not include any of the following content:

- a. Requirement that the parties attempt to resolve any Sexual Misconduct matter informally;
- b. Requirement for or allowance of mediation in Sexual Assault cases;
- c. Allowing a party to personally cross-examine the other party, if an institution allows cross-examination;
- d. Allowing or requiring the institution to wait until a concurrent law enforcement proceeding concludes to begin any Sexual Misconduct investigation, Interim Measures or adjudication;
- e. Allowing questioning or evidence about the complainant's sexual history with anyone other than the respondent during any adjudication proceeding (in a proceeding where such evidence or questioning may be appropriate); and
- f. Discouraging a reporter from notifying local law enforcement of alleged Sexual Misconduct.

**III. Clery Act Compliance**

In handling Sexual Misconduct 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.

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**IV. MOU with Local Law Enforcement**

Each institution must review any Memoranda of Understanding (“MOU”) with local police forces to ensure that the terms of any MOU allow the institution to meet its legal obligations.

**V. 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 Misconduct. At a minimum, these educational initiatives must contain information regarding what constitutes Sexual Misconduct, definitions of consent and prohibited conduct, the institution’s procedures, bystander intervention, risk reduction, and the consequences of engaging in Sexual Misconduct. 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.

**B. Training for Persons Involved in Sexual Misconduct Cases**

All persons involved in any way in responding to, investigating, or adjudicating Sexual Misconduct reports, including but not limited to, the Title IX Team, Responsible Employees, law enforcement, pastors, counselors, health professionals, resident advisers, and complainant advocates, must have annual training in receiving, reporting and handling complaints of Sexual Misconduct; must be familiar with the institution’s procedures; and must understand the parameters of confidentiality.

**VI. Record Keeping**

Each institution must keep records of actions taken under this policy, including, but not limited to, records of any reports of Sexual Misconduct, records of any proceedings or resolutions, and records of any Sexual Misconduct trainings (including, but not limited to, lists of trainees, dates of training, and training content), and must maintain such records in accordance with the institution’s Records Retention Schedule.

**VII. Implementation**

Each Chief Executive Officer shall promptly communicate this policy and applicable procedures to his/her institutional community after the Board of Regents approves the policy. Each Chief Executive Officer also shall promptly identify his/her Title IX Coordinator and other designee(s), as appropriate for this policy. No later than December 31, 2014, each institution must develop procedures as necessary to implement this policy; and shall forward a copy of its Title IX designations and

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procedures, and any subsequent changes in such designations and procedures, to the Chancellor.

Replacement for: USM Policy on Sexual Harassment (VI-1.20) and USM Policy on Sexual Assault (VI-1.30) in their entirety

Cross-reference with: USM Policy on the Reporting of Child Abuse & Neglect (VI-1.50)

Update log:

- 09/21/16 - Contact information on page 9 updated
- 1/26/17 - Contact information on pages 9-10 updated
- 2/2/17 - Contact information on pages 9-10 updated
- 4/17/17 - Contact information on pages 6, 10-11 updated