



# UMBC

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## INTERIM

### Policy on Sexual Misconduct, Sexual Harassment and Gender Discrimination

The University is dedicated to fostering an inclusive and welcoming environment for all members of the

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Policy Effective Date:	<b>August 14, 2020<sup>1</sup></b>
Policy Previously Amended:	August 26, 2015, August 30, 2017, August 28, 2019
Version:	Policy Version No. IV
Responsible Offices:	Office of Equity and Inclusion Office of the General Counsel
Replacement for:	UMBC Policy on Sexual Misconduct, Interpersonal Violence, and Other Related Misconduct

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<sup>1</sup> 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 new 2020 Federal Title IX Regulations require modification of the USM Policy as well as this policy. However, there are several lawsuits pending which seek to stay, delay or block implementation of some or all of the provisions in the 2020 Title IX Regulations. Should a court delay, stay or strike down, either temporarily or permanently, any portion of the 2020 Title IX Regulations, UMBC shall make any necessary modifications to this Policy, which will become effective immediately, or may revert back or retain the August 2019 version of this Policy.

## I. Policy Statement

campus community and recognizes its responsibility to maintain a campus environment which is free from Discrimination on the basis of Sex, Sexual Harassment (including Sexual Assault, Domestic Violence, Dating Violence and Stalking), Sexual Exploitation and Retaliation, and to preserving or restoring equal access to the UMBC's educational programs and activities.

This Policy embodies the University's commitment to increasing awareness of this conduct and promoting prevention and educational programs for community members in an effort to eliminate occurrence, prevent reoccurrence through education, supportive measures, investigation, alternative resolution, adjudication, and sanctions. The University's commitment is consistent with the values and standards of an intellectual community of distinction, as well as applicable federal, state and local laws and USM policies.

The University is also committed to the principles of free inquiry and expression. This Policy is not intended to abridge teaching methods, freedom of expression, or the University's educational mission.

This Policy expressly prohibits all forms of Discrimination on the Basis of Sex, which includes discrimination on the basis of pregnancy, gender, sexual orientation and gender identity or expression, in UMBC educational programs and activities, including the terms and conditions of employment.

It also expressly prohibits Sexual Assault, Sexual Exploitation and Sexual Harassment, including Domestic Violence, Dating Violence and Stalking.

Finally, this Policy also expressly prohibits Retaliation against a UMBC community member because the person made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing.

Pursuant to Title IX of the Education Amendments of 1972 and the U.S. Department of Education's implementing regulations at 34 C.F.R. Part 106, the University's Title IX Coordinator has primary responsibility for coordinating UMBC's efforts to comply with and carry out the University's responsibilities under Title IX.

The Title IX Coordinator oversees the University's response to reports and complaints that relate to Prohibited Conduct, monitors outcomes, identifies and addresses any patterns, and assesses effects on the campus climate, so the University can address issues that impact the wider campus community.

### **Reports of Prohibited Conduct must be sent to the University's Title IX Coordinator:**

Mikhel Kushner, Esq.  
Office of Equity and Inclusion  
University of Maryland, Baltimore County  
9<sup>th</sup> Floor, Administration Building  
Baltimore, MD 21202  
Email: [titleixcoordinator@umbc.edu](mailto:titleixcoordinator@umbc.edu)  
Phone: 410.455.1250  
Website: [www.oci.umbc.edu](http://www.oci.umbc.edu)

## **II. Scope and Applicability**

### **1. Conflict with other Policies**

To the extent of a conflict between this Policy and any other policies covering the same conduct, this Policy shall govern.

### **2. Who is Covered by This Policy**

This Policy applies to the conduct of and protects all UMBC students, faculty and staff, as well as third parties and contractors under UMBC's control (including but not limited to, admitted students, undergraduate, graduate, exchange, visiting, professional, doctoral, and post-doctoral students, and temporary and contingent faculty and staff) who are attempting to participate or participating in a program, activity or employment. The policy also protects third parties such as guests, visitors, volunteers, invitees, and campers.

The individuals covered by this Policy, shall be collectively hereafter referred to as "member/s of the UMBC community" or "UMBC community member/s."

When there is an allegation of Prohibited Conduct by a member of the UMBC community, a complaint, investigation, resolution and/or hearing process may be available even if the person making the complaint is not a member of the UMBC community.

The procedures below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy at the discretion of the University.

The University also has the discretion to apply this Policy to Prohibited Conduct by a student, faculty and/or staff member that occurred during a time when a Complainant was attempting to participate or participating in a program, activity or employment, even if the conduct is not reported, or an investigation or sanction is not undertaken until after the person has withdrawn or left the University's program, activities and/or employment.

### **3. What is Covered by this Policy: Jurisdiction**

The University has jurisdiction over all reports of Prohibited Conduct under this Policy, in connection with University educational programs and activities.

Education Program or Activity includes: all University operations, as well as locations, events, or circumstances over which the University exercises substantial control over both the person who engages in Prohibited Conduct and the context in which the Prohibited conduct occurs.

This includes, but is not limited to:

- a. University premises, or at facility, office, regional center education program or activity, or property owned and controlled by the University;

- b. Any on or off-campus UMBC sponsored, recognized, or approved employment or educational program or activity, in the United States;<sup>2</sup> or
- c. Any building owned or controlled by a student organization that is officially recognized by a postsecondary institution, whether such a building is on campus or off campus.

The University also reserves the discretion to address any Prohibited Conduct, on or off-campus, that threatens the health or safety of the UMBC Community or a member of the UMBC community under this Policy, or the UMBC Discrimination and Equal Opportunity Policy or the UMBC Code of Student Conduct.

### **III. Effective Date**

The effective date of these Procedures is August 14, 2020.

For Prohibited Conduct that occurred prior to August 14, 2020, and was reported prior to August 14, 2020, the definitions, policies and procedures in existence prior to August 14, 2020 will be used through conclusion of the matter, including any appeal, and enforcement of any sanctions.

For Prohibited Conduct that occurred prior to August 14, 2020, but is reported on or after August 14, 2020, the definitions of Prohibited Conduct in the former policy will apply, but the procedures referenced in this new policy will be used to investigate and resolve any formal complaints through conclusion of the matter, including any appeal, and enforcement of any sanctions.

Where Prohibited Conduct occurs on or after August 14, 2020, the new definitions, policies and procedures will apply, except when the Prohibited Conduct is sufficiently related to and arises out of a matter already under review as of August 14, 2020, but not yet completed.

“Reported” under this provision, means information reported to OEI, the Title IX Coordinator, a quasi-confidential source or a Responsible Employer.

### **IV. Definitions**

For purposes of this Policy and the applicable Procedures, the following definitions apply.

A. Actual Knowledge means notice of Prohibited Conduct or allegations of Sexual Harassment to the University’s Title IX Coordinator or any official of the University who has authority to institute corrective measures on behalf of the institution.

B. Administrative leave is placement of any employee on leave pending resolution of an investigation, resolution or hearing process.

C. Advisor means a person who may, but is not required to be an attorney, who is chosen by a Party or appointed by the institution to conduct cross-examination for the party at a Formal Hearing.

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<sup>2</sup> The University has discretion to address Prohibited Conduct that occurs outside the United States under its Policy on Discrimination and Equal Opportunity, or Code of Student Conduct.

D. Amnesty Amnesty means that an individual who makes a report of Prohibited Conduct to the University or law enforcement, or participates as a witness in good faith, will not be subject to disciplinary action *for their own personal consumption of alcohol or drugs* taken/used at or near the time of the incident of Prohibited Conduct, provided that any such violation was not an act that was reasonably likely to place the health or safety of any other person at risk.

E. Complainant is an individual who is alleged to be the victim or subject of Prohibited Conduct.

F. Conditions are non-disciplinary actions which may include requirements, educational, remedial or Supportive Measures that may be imposed by the University upon any party who is subject to this Policy. The University may impose Conditions even where no formal complaint has been filed, and no finding of a violation has been made. Conditions are not disciplinary actions or sanctions.

G. Confidential Resource means means an employee who is not a mandatory reporter or Responsible employee with respect to reports of sexual assault, sexual harassment and/or retaliation (irrespective of Clery Act Campus Security Authority status). Community Members may report Prohibited Conduct to a Confidential Resource, and that Confidential Resources does not have an obligation to report to the Title IX Coordinator or Office of Equity and Inclusion.

Conversations with Confidential Resources will remain confidential, except, when there is an imminent or continuing threat to health or safety (as determined in the sole discretion of the University), where there is a disclosure of apparent or suspected abuse of a child or dependent adult, or other legal obligation to reveal such information.

H. Consent is defined as 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 and reasonable judgment without Incapacity, Coercion, Force or threat of Force.

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 or behavior. Under this definition, consent must be given at each stage of the sexual activity or behavior and can never be assumed.

Consent to one form of sexual activity or behavior does not automatically imply consent to engage in other forms of sexual activity or behavior. Consent to one sexual act does not constitute or imply consent to another act.

For purposes of this Policy, Consent is not inferred or assumed from silence, passivity or a lack of objection or resistance. 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. The absence of a negative response, such as silence or a failure to physically resist does not equal consent.

Consent cannot be obtained by Sexual Coercion. Sexual Coercion is the use of unreasonable pressure in an effort to compel another individual to initiate or continue sexual activity against the individual's will. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another

individuals' freedom of will and ability to choose whether or not to engage in sexual activity. Coercion includes but is not limited to intimidation, manipulation, threats of emotional or physical harm, and blackmail. Examples of coercion include threatening to disclose another individuals' private sexual information, or threatening to harm oneself if the other party does not engage in the sexual activity.

Some behaviors and comments that do not indicate consent include (but are not limited to): Silence; "I don't know;" "Maybe;" A head shake; Lack of objection; Not fighting back; Ambiguous responses such as "uh huh" or "mm hmm" without more; and A verbal "no," even if it may sound indecisive or insincere.

It is the responsibility of the person initiating sexual activity or behavior to make sure that they have received consent at each of those stages from all person(s) engaged in the sexual activity or behavior. If a person is not sure they have received consent or has received an unclear response, they have an obligation to seek additional information to make sure that they have received consent. Failure to do so could violate this Policy and lead to disciplinary action or sanctions. Consent cannot be based on assumptions.

Consent must be present throughout the entire sexual activity or behavior and may be withdrawn at any time. Once consent is withdrawn, the sexual activity or behavior must cease immediately. If there is confusion as to whether there is consent or whether prior consent has been withdrawn, it is essential that the sexual activity or behavior cease until the confusion is resolved.

Consent cannot be implied based upon a previous or existing consensual dating or sexual relationship. In the context of a current relationship, consent for future sexual activity or behavior cannot be implied.

Alcohol and Drugs may complicate sexual activity as they impair judgment, affect ability to read and interpret others' communication, and affect a person's ability to communicate consent.

The use of alcohol, drugs, or other intoxicating substances does not excuse the person initiating sexual activity from making sure that they have obtained consent before initiating and/or engaging in sexual activity or behavior.

A person can give consent even if they have been drinking or using other drugs.

Where alcohol and/or drugs were involved, the University will examine whether or not the person initiating sexual activity or behavior knew or a sober and reasonable person in the same situation should have known whether the other person was capable of giving consent or gave consent.

I. 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.

J. Days means business days. Days when the University is closed for inclement weather, emergency closure, and/or officially designated holidays (observed), shall not be counted.

K. Discrimination on the Basis of Sex is defined as disparate treatment of a UMBC community member based on their sex, gender, pregnancy, sexual orientation, gender identity or expression, that unreasonably interferes with or limit a community member's access to employment or conditions and benefits of employment; ability to participate in, access, or benefit from educational programs, services, or activities; or ability to participate in, access, or benefit from the University's extracurricular programs.

**Complaints of Discrimination on the Basis of Sex are not resolved under the Title IX Hearing Process.**

L. Domestic Violence includes conduct which could be felony or misdemeanor crime of violence<sup>3</sup> 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.

M. Education Program or Activity includes all incidents occurring on campus or in University Operations as well as locations, events, or circumstances over which the University exercised substantial control over both the person who engaged in Prohibited Conduct and the context in which the Prohibited Conduct occurs, and any building owned or controlled by a student organization that is officially recognized by the University. Conduct by or impacting employees is covered.

N. Emergency Removal the decision to remove a student, staff or faculty member or third-party from the University's campus, or education program or activity on an emergency basis, after an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student, staff or faculty member or third-party arising from the allegations of sexual harassment justifies removal.

O. Force is the use of overt physical force or strength or other modes of coercion to compel participation in sexual activity without consent. Force includes but is not limited to physical violence, physical imposition, actual or implied threats, intimidation, and coercion that is intended to overcome resistance or refusal to participate in sexual activity.

P. Formal Complaint means a document filed by a Complainant or signed by the Title IX Coordinator alleging Prohibited Conduct 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 University.

R. Incapacitation is a state in which a person's decision-making ability is impaired such that the person lacks the ability to understand the "who, what, where, why, or how" of their sexual activity or behavior.

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<sup>3</sup> Crimes of Violence include: the use or attempted use of physical force, or the threatened use or actual use of a deadly weapon. You do not need to contact the police or show that criminal charges have been filed, or that an arrest has been made, or that there has been a conviction in order to make a Domestic Violence complaint under our policy.

Incapacity is a state in which someone cannot make a decision because they lack the ability to fully understand what is happening and therefore cannot consent even if they appear to be a willing participant.

Incapacitation may result from a number of causes. A person can be incapacitated through the use of drugs, alcohol or any other intoxicating substance, or when they are unconscious, asleep or otherwise unaware the sexual activity or behavior is occurring. Further, mental or physical disabilities or cognitive impairments can cause an individual to lack the capacity to consent to sexual activity or behavior. Incapacitation may also occur when a person is physically restrained against their will, so the person is physically unable to resist or consent to sexual activity or behavior.

Incapacitation due to alcohol and/or drugs is a state beyond intoxication, impair in judgment, or “drunkenness.” Because the impact of alcohol and/or drug use varies from person to person, when evaluating whether an individual (Complainant) is/was Incapacitated, and therefore unable to give Consent, the University will assess relevant factors, which may include but are not limited to:

- loss of control over physical movements such as lack of coordination or inability to walk unassisted
- slurred or disorganized speech and other indications of inability to communicate
- loss of inhibitions
- increased risk taking
- outrageous or unusual behavior
- intermittent or complete loss of consciousness
- other observed changes to a persons physical presentation and demeanor reflective of an altered state.

Factors indicating that a person is/was consuming alcohol may also be considered. These include but are not limited to:

- witness observations related to the amount of alcohol consumed
- vomiting
- blood shot eyes
- the smell of alcohol on the breath

Further, for the purposes of determining Consent, the University will consider whether the Responding Party “knew” or “should have known” that the Complainant was Incapacitated. The University will make this determination by assessing whether, based on the totality of the circumstances and context, a sober, reasonable person in the same situation (as the Respondant) “knew” and/or “should have known” that the Complainant was Incapacitated.

S. Informal Resolution Process is a process that can be used to address Prohibited Conduct instead of a Title IX Hearing or Review Meeting. An Informal or Alternative Resolution Process cannot be used for Sexual Assault or for Sexual Harassment of a student by an employee. Informal Resolution may be used for Sexual Harassment, Sexual Miconduct, Discrimination, Sexual Exploitation and Hostile Environment Harassment if: (1) a formal complaint has been filed, (2) notice has been given to the parties; and (3) all/both parties agree. During the Informal Resolution Process, no formal investigation will take place, and no formal report of findings will be issued.



T. Prohibited Conduct under this Policy includes Discrimination, Sexual Harassment (including Sexual Assault, Domestic Violence, Dating Violence, Stalking and Retaliation), Sexual Exploitation and Retaliation.

UMBC also prohibits Discrimination on the basis of sex, Sexual Harassment II, Sexual Exploitation, and Retaliation. **Those forms of Prohibited Conduct are not resolved under the Title IX Hearing Process.**

U. Quasi-Confidential Resource means someone who is available to provide crisis support and/or advocacy services for UMBC community members impacted by an incident of Prohibited Conduct. Conversations with these Quasi-Confidential Resources can remain confidential, except, when there is an imminent or continuing threat to health or safety (as determined in the sole discretion of the University), there a disclosure of apparent or suspected abuse of a child or dependent adult, or other basis for disclosure, such as a legal obligation to reveal such information under enforceable court order.

V. Review Meeting means the process used to adjudicate a Complaint of Sexual Misconduct, Sexual Exploitation or Discrimination, or other matters that must be dismissed as a Title IX matter.

W. Respondent means an individual who has been reported to be the perpetrator of Prohibited Conduct under this Policy.

X. Responsible Employee is defined as including any UMBC community member who (1) has the authority to take action regarding Prohibited Conduct covered under this Policy; (2) is an employee who has been given the duty of reporting/referring Prohibited Conduct under this Policy; or (3) is someone another UMBC community member could reasonably believe has this authority or duty.

Responsible Employees are required to immediately report the known details of an incident of Prohibited Conduct (date, time, location, names of parties involved, description of the incident, etc.), to the Title IX Coordinator, or Office of Equity Inclusion.

Y. Retaliation means behavior or speech that is intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX, or this Policy or because an individual has made a report or complaint, testified, been interviewed as a witness, assisted, or participated in any manner in an investigation, proceeding, or hearing related to a matter covered by this Policy.

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.

**Retaliation Complaints are not resolved under the Title IX Hearing Process.**

Z. Sanction means a consequence imposed on a Respondent who is found to have violated this policy.

AA. Sexual Assault means an offense classified as a sex offense in the Uniform Crime Reporting System of the Federal Bureau of Investigation.<sup>4</sup> Sex offenses are any sexual act including Rape, Sodomy, Sexual Assault With An Object, Fondling, or unlawful sexual intercourse, directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

1. Rape—(Except Statutory Rape) Sexual intercourse with or sexual penetration of a person, without their consent, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.

2. Oral or Anal Intercourse—(Sodomy) with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their 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 their age or because of their temporary or permanent mental or physical incapacity.

4. Sexual Touching (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 their age or because of their 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.<sup>5</sup>

6. Statutory Rape—Nonforcible sexual intercourse with a person who is under the statutory age of consent.<sup>6</sup>

BB. Sexual Exploitation is when a person(s) takes non-consensual sexual advantage of another, for their own advantage or benefit, or for the benefit or advantage of anyone other than the person being exploited. Non-consensual sexual advantage refers to any action and/or conduct taken without consent in furtherance to benefit from, to take advantage of, or to attain sexual opportunity.

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<sup>4</sup> See Uniform Crime Reporting Program, National Incident-Based Reporting System (NIBRS) Offense Definitions: [https://ucr.fbi.gov/nibrs/2018/resource-pages/nibrs\\_offense\\_definitions-2018.pdf](https://ucr.fbi.gov/nibrs/2018/resource-pages/nibrs_offense_definitions-2018.pdf).

<sup>5</sup> Incest under Maryland law is defined as knowingly engage in vaginal intercourse with anyone the person may not marry under § 2-202 of the Family Law Article. Maryland Code, Criminal Law, §3-323, Incest. Section 2-202 says that the following marriages are invalid: with a grandparent; parent; child; sibling; grandchild; grandparent's spouse; spouse's grandparent; parent's sibling; stepparent; spouse's parent; spouse's child; child's spouse; grandchild's spouse; spouse's grandchild; or sibling's child.

<sup>6</sup> The age of consent in Maryland is sixteen (16). See Md. Code Ann., Crim. Law §§ 3-301 - 307.

**Sexual Exploitation Complaints are not resolved under the Title IX Hearing Process.**

Sexual Exploitation may include: Intentionally observing, spying on, or listening to person(s) involved in sexual activity or behavior or in any state of undress, without their consent; allowing others to observe sexual activity or behavior of another person or allows others to observe another person in any state of undress, without the consent of all the person(s) involved; Photographing or recording someone (via audio, video or otherwise) involved in sexual activity or behavior, or in any state of undress, without their consent.; Sharing or posting images such as photographs or video/audio of someone involved in sexual activity or behavior or in a state of undress, without their consent. This is applicable to anyone in possession of the images/audio, even if the individual in possession of the images/audio was not responsible for the creation of the original images/audio and was not engaged in the recorded sexual activity or behavior; Removing a condom during sexual intercourse without the consent of the other person; or the act of intentionally misleading another person to believe a condom is being used during sexual intercourse; Prostituting another person, including the use of threat, coercion, or abduction to force another person to perform sexual acts with others in exchange for payment; Inducing Incapacitation of another by providing drugs, alcohol, or other substances—with or without their knowledge—with the intent to impair their ability to withhold consent or their ability to knowingly consent to sexual activity or behavior, regardless of whether sexual activity or behavior actually occurs. If sexual activity or behavior does occur, such conduct may also constitute Sexual Assault; Indecent Exposure which is exposing one's intimate parts, such as genitalia, groin, breast and/or buttocks to someone without their consent. This behavior is the deliberate showing of intimate parts of the body and may, but does not necessarily have to, include a sexual act. Engaging in sexual activity in public, witnessed by non-consenting person(s), is also a form of Indecent Exposure.

CC. Sexual Misconduct includes Sexual Exploitation, Sexual Harassment II, and Retaliation.

**Sexual Misconduct Complaints are not resolved under the Title IX Hearing Process.**

DD. Sexual Harassment I means conduct in the United States, in an Education Program or Activity, 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; or
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.

EE. Sexual Harassment II. Sexual Harassment II is defined as any unwelcome sexual advance, unwelcome request for sexual favors, unwelcome verbal, physical, electronic or other conduct of a sexual nature, that targets a UMBC community member because of their gender, when 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 a working, academic, residential, or social environment, that a reasonable person in similar circumstances would find intimidating, hostile, humiliating, demeaning, or sexually offensive.

Sexual Harassment II is also defined as harassment for exhibiting what is perceived as a stereotypical characteristic for one's sex or gender or for failing to conform to stereotypical notions of masculinity and femininity, regardless of the individual's actual or perceived sex, gender, sexual orientation, or gender identity or expression.

An isolated incident, unless sufficiently severe or pervasive, generally does not amount to Sexual Harassment II. However, a single incident, if sufficiently severe, may constitute Sexual Harassment II.

### **Sexual Harassment II Complaints are not resolved under the Title IX Hearing Process.**

FF. Stalking means engaging in a course of conduct on the basis of sex, which is 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.

GG. 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 the parties, the safety of the community or the institution's educational environment, deter Sexual Harassment or to ensure the integrity of the investigative and/or adjudicative processes.

HH. Title IX Hearing Process means a method of formal adjudication process designated by UMBC to address Complaints of Sexual Harassment I which complies with the requirements of the Title IX regulations, at 34 CFR §106.45.

## **V. University Response to Prohibited Conduct**

### **A. Response**

Once the University has Actual Knowledge of Prohibited Conduct 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.

#### **1. Actual Knowledge**

Actual Knowledge is receipt of notice of allegations of Prohibited Conduct to the University's Title IX Coordinator, Office of Equity and Inclusion, or an official of the recipient who has authority to institute corrective measures; constructive notice is insufficient to constitute actual knowledge.

#### **2. Public Disclosures and Research-Based Disclosures are Not Actual Knowledge**

Disclosures in the following categories shall not be considered notice to the University of Prohibited Conduct for the purpose of triggering its obligation to address and/or investigate any particular incident(s):

Public Disclosures, including disclosures include disclosures of incidents of alleged Sexual Misconduct during or in connection with public awareness events such as “Take Back the Night,” candlelight vigils, protests, “survivor speak-outs,” or other forums. Although such disclosures do not constitute notice to the University of Sexual Misconduct for purposes of triggering its obligation to investigate any particular incident(s), such disclosures may inform the need for campus-wide education and prevention efforts, and the University will provide information at these events about UMBC community members’ Title IX rights and about available University and community resources and support services.

Certain Research-Based Disclosures, including disclosures include disclosures of incidents of alleged Sexual Misconduct made by a University student during such student’s participation as a subject in an Institutional Review Board-approved human subject’s research protocol. Institutional Review Boards may, however, in appropriate cases, require researchers to provide information to all subjects of a study about their Title IX rights and about available University and community resources and support services.

## **B. Compliance**

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

UMBC has designated and authorized its Title IX Coordinator who is responsible for coordinating 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. Office of Equity and Inclusion (OEI)**

The Title IX Coordinator is part of the University’s Office of Equity and Inclusion, which is responsible for addressing a broad range of civil rights issues including but not limited to Title IX. Members of OEI work with the Title IX Coordinator to assure prompt, equitable response to reported concerns. The Title IX Coordinator and OEI designees also work closely with representatives from the University Police Department, Student Affairs, the Provost’s Office, and Human Resources, and other departments/offices, as well as third-party contractors or affiliates, as necessary to fulfill the University’s obligations under this Policy.

The Title IX Coordinator shall be responsible for coordinating the activities when a collaborative response is necessary.

## **C. Notice of Nondiscrimination Policy**

### **1. Distribution**

The University will publish a notice of nondiscrimination which will 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 will be prominently displayed on the institution's website and included in publications of general distribution that provide information to students and employees about the University's services and USM Bylaws, Policies and Procedures of the Board of Regents policies, including each handbook or catalog that it makes available to persons entitled to a notification.

## **2. Contents**

The Notice will:

- a. Confirm that the University does not discriminate on the basis of sex in the Education Program or Activity that it operates, that the University is required by Title IX not to discriminate in such a manner, and that obligation extends to admission and employment;
- b. Provide that matters covered by Title IX should be referred to the Title IX Coordinator or to the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.

## **VI. Preservation of Evidence of Prohibited Conduct**

Preserving evidence is important and may be necessary to prove criminal conduct or obtain an order of protection.

You should take steps to preserve *physical evidence* by refraining from showering, bathing, eating or drinking, brushing teeth or gargling, changing clothes, urinating or defecating, brushing or combing hair, or smoking. Clothing worn at the time of the incident should not be washed and should be placed in a paper bag "as is" and taken to the hospital.

You should also preserve *other kinds of evidence* such as text messages, records of phone calls, email messages, social media posts, photos, notes, gifts, and electronic payment records for car services like Uber and Lyft as they may all be relevant evidence.

## **VII. Where to Obtain a Sexual Assault Forensic Examination (SAFE)**

If you are in danger or need immediate medical care – CALL 911. If possible, quickly get to a safe place.

You can go to any emergency room to get a SAFE, or you can go to a Hospital with a SAFE program.

A SAFE allows for the collection of evidence, documenting injuries, and can ensure physical evidence is preserved in the event of a report to law enforcement. A SAFE should occur within 120 hours (5 days) after the incident.

Completing a SAFE does not require that you contact the police, and does not require that you report the assault to the University.

If needed, free transportation to obtain a SAFE can be arranged through contacting the Title IX Coordinator at 410.455.1250, University Health Services at 410.455.2542, or the Women's Center at 410.455.2714. For after-hours requests, free transportation can be provided by calling the UMBC Police at 410.455.5555 (no charges/reports need to be filed with the UMBC Police to access this free SAFE transportation service).

**The nearest hospital to UMBC's campus:**

Saint Agnes Hospital (approx. 3.6 miles)  
900 South Caton Avenue  
Baltimore, MD 21229  
24/7 Emergency Department 667.234.6000

Note: While this facility can and will coordinate an exam, a comprehensive SAFE Program is not established at this location (See below for nearby options with SAFE Programs)

**The nearest hospital(s) to UMBC's campus with a SAFE Program:**

Mercy Medical Center (9.4 miles)  
345 St Paul Pl.  
Baltimore, MD 21202  
Forensic Nurse Examiner Program 410.332.9494  
[www.bmoresafemercy.org](http://www.bmoresafemercy.org)

Howard General Hospital (approx. 16 miles)  
5755 Cedar Lane Hospital  
Columbia MD, 21044  
Emergency Room and SAFE Program: 410.740.7778

Greater Baltimore Medical Center (approx. 20 miles)  
6701 N. Charles Street  
Towson, MD 21204  
24/7 Emergency Department: 443.849.2225  
[www.gbmc.org/safe](http://www.gbmc.org/safe)

**The nearest hospital to Universities at Shady Grove campus with a SAFE Program:**

Adventist Healthcare Shady Grove Medical Center (approx. 1 mile)  
9901 Medical Center Drive  
Rockville, MD 20850  
Forensic Medical Unit: 240.826.6000

**VIII. Reporting Prohibited Conduct**

**A. Right to Report to Law Enforcement**

Victims of Sexual Assault have the right to file criminal charges with the appropriate law enforcement officials, which may include the UMBC Police, or local law enforcement officers the state, city or county where the Prohibited Conduct occurs.

The University will assist members of the community who wish to report Prohibited Conduct to law enforcement authorities, including University Police, Title IX Coordinator, Representatives of the Office of Equity and Inclusion, Women's Center, and Student Conduct are available to assist students, faculty, and staff in reporting to law enforcement.

Complainants also have the right to decide not to notify or contact law enforcement.

If the UMBC Police receive a report that includes information regarding Prohibited Conduct that may constitute a crime, University Police will advise the person reporting that in addition to making a criminal report, they also have the right to make a report with the University and engage the University's informal and/or formal processes under this Policy and applicable Procedures.

In addition, as Responsible Employees under this Policy, University Police who receive any type of report of Prohibited Conduct, whether it rises to the level of a crime or not, shall promptly notify the University's Title IX Coordinator.

## **B. Reporting to the University**

The University has a variety of welcoming and accessible ways for UMBC community members to raise concerns and report instances of Prohibited Conduct.

### **1. Amnesty while Reporting**

An individual who makes a report of Prohibited Conduct to the University or law enforcement, or participates as a witness in good faith, will not be subject to disciplinary action for their own personal consumption of alcohol or drugs taken/used at or near the time of the incident of Prohibited Conduct, provided that any such violation was not an act that was reasonably likely to place the health or safety of any other person at risk.

The University may, however, initiate an educational discussion or pursue other interventions/assessments for substance abuse. Amnesty will not be extended for any violations of University policy other than alcohol/drug use. In addition, Amnesty does not preclude or prevent action by police or other legal authorities.

In addition, the use of alcohol, drugs, and/or legally prescribed medication does not justify or excuse behavior that constitutes Prohibited Conduct under this Policy.

### **2. Who may Report**

Any person may report Prohibited Conduct (whether or not the person reporting is the person alleged to be the victim of conduct).



### **3. How to Report**

Members of the community are encouraged to report directly to the Title IX Coordinator and/or Office of Equity and Inclusion.

Reports may be made in person, by mail, by telephone, by electronic mail, [or online](#) to the Office of Equity and Inclusion or the Title IX Coordinator. Reports may also be made verbally to the Title IX Coordinator.

Reports may be made at any time (including during non-business hours) by using the telephone number or e-mail address, mail or online.

### **4. What Happens after you Report**

Reporting does not require that a person file a formal complaint, or request that the University take any action or investigate the conduct.

Persons reporting to the Title IX Coordinator and/or OEI are entitled to Supportive Measures, whether or not they chose to file a Formal Complaint.

The University recognizes that the decision whether or not to make a report of Prohibited Conduct is personal, and that there are many factors that may impact someone's decision to report, both individual and societal, to reporting.

If a person who reports wants to file a Formal Complaint they must agree to have the University provide the Respondent with a Notice of Complaint. The University may not proceed with a Formal Complaint without issuing a Notice of Investigation to the Respondent.

### **5. Anonymous Reporting**

You may also report conduct Anonymously. Anonymous reports of Prohibited Conduct can be made with the University without disclosing one's name and without identifying the Responding Party or requesting any action in writing, or via the [online reporting form](#).

Based upon the amount of information provided about the incident and the UMBC community members involved, the University's response to an anonymous report may be limited.

### **6. Request by Complainant for No University Action/ University Complaint**

Supportive measures are available with or without the filing of a Formal Complaint.

When Prohibited Conduct is reported, the Title IX Coordinator will promptly contact the Complainant or reporting party to discuss the availability of Supportive Measures and explain the process for filing a formal complaint. The Title IX Coordinator will consider the complainant's preferences and stated needs with respect to both Supportive Measures and any decision regarding a formal complaint.

A person reporting Prohibited Conduct may request that their identity not be disclosed to anyone else. A person may also disclose the Respondent's identity, but ask that the University not investigate, issue a Notice of Investigation or take any action.

Even where the person reporting does not seek any action, the Title IX Coordinator may prepare and sign a Formal Complaint if they determine, in their sole discretion, that the University wants to move forward, when doing so is not clearly unreasonable in light of the known circumstances, for example, where there appears to be a continuing threat to an individual or the UMBC community.

If the Title IX Coordinator determines that the University has an obligation to move forward, the University shall communicate with the person who reported the conduct and explain the reasons why the University must proceed, and offer Supportive Measures.

In determining whether to file a Formal Complaint on behalf of the University, (a "University Complaint"), the Title IX Coordinator will consider the totality of the circumstances, by considering factors, including but not limited to:

- The complainant's wishes regarding how the University should respond to the allegations.
- The nature and scope of the alleged Prohibited Conduct, including, but not limited to, whether the reported Prohibited Conduct involved the use of a weapon or force;
- The risk posed to any individual or to the members of the UMBC community by not proceeding, including the risk of violence;
- A pattern of alleged Prohibited Conduct by a particular Respondent or Group, or at a particular location;
- Whether the University possesses other means to obtain relevant evidence;
- Considerations of fundamental fairness, equity and due process; and
- The University's obligation to provide a safe and non-discriminatory environment.

## **IX. Mandatory Reporting Obligations**

Certain UMBC community members have specific reporting obligations.

### **A. Responsible Employees Reporting/Referral Obligations**

The University recognizes that some UMBC community members may be most comfortable disclosing information about an incident of Prohibited Conduct to someone they know. Many University employees have been designated as Responsible Employees.

### **B. Failure of a Responsible Employee to Report (Make Referral)**

It is imperative that all Responsible Employees abide by their reporting/referral obligations in order to ensure that those who report are provided with prompt notice of the Complaint Process and the Supportive Measures available to them.

Any Responsible Employee who is found to have knowingly failed to make a report/referral to the Title IX Coordinator, regarding alleged Prohibited Conduct that was reported to them, is in violation of this Policy and may be subject to sanctions including disciplinary action.

### **C. Responsible Employees Identified**

For purposes of this Policy, a Responsible Employee is defined as including any UMBC community member who (1) is an employee who has been given the duty of reporting/referring Prohibited Conduct under this Policy; or (2) is someone another UMBC community member could reasonably believe has this authority or duty.

Responsible Employees are *Non-Confidential* which means they will safeguard the UMBC community member's privacy, however **they are required to immediately share the known details** of an incident of Prohibited Conduct (date, time, location, names of parties involved, description of the incident, etc.), to the Title IX Coordinator and other need-to-know University officials. Responsible Employees will try to ensure that any UMBC community member making a disclosure to a Responsible Employee, understands the Responsible Employee's reporting/referral obligations. Those identified below have been designated as Responsible Employees

- Title IX Coordinator;
- All employees the Office of Equity and Inclusion;
- All employees in Human Resources;
- All employees in the Office of the General Counsel;
- All employees in the Office of Disability and Accessibility;
- All University Police Department employees;
- All UMBC Administrators (President, Provost, Vice Presidents, Vice Provosts, Deans, Associate Deans, Directors, Chairs);
- All UMBC Supervisors (excluding Supervisory Confidential Resources);
- All UMBC Faculty (including Adjunct and Part-time);
- All UMBC Graduate Assistant and Teaching Assistants;
- All UMBC Academic Advisors;
- All UMBC Athletic Coaches (including Volunteer Coaches) and Advisors;
- All UMBC Resident Assistants and all employees in Residence Life; and
- All UMBC First Responders (excluding First Responders who are Confidential Resources).

### **D. Confidential Resources**

The University understands that some individuals may not be prepared to make a report to law enforcement or to the University. Therefore, the University has Confidential Resources available to provide confidential counseling, crisis support, medical care, and/or advocacy services for UMBC community members affected by an incident of Prohibited Conduct. Conversations with these Confidential Resources will remain confidential, except, when there is an imminent or continuing threat to health or safety (as determined in the sole discretion of the University), there a disclosure of apparent or suspected abuse of a child or dependent adult, or other basis for disclosure, such as a legal obligation to reveal such information under enforceable court order.

1. Pastoral Counselors: Professional, licensed, or ordained clergy, who provide pastoral counseling to members of the UMBC community at the University, are Confidential Resources.
2. Professional Licensed Mental Health Providers: Professional, licensed mental health providers who provide mental-health counseling to members of the UMBC community, and also those who act in roles under the supervision of a licensed counselor, through the UMBC Counseling Center (for students) and the Employee Assistance Program (for employees) are Confidential Resources.
3. Professional Licensed Healthcare Providers: Professional, licensed healthcare providers who provide medical care to members of the UMBC community, and other health providers who act in roles under the supervision of a licensed healthcare provider, through the University's Health Services, are Confidential Resources.

Note of Caution: A Confidential Resource Employee may also function in a different capacity, such as a Non-Confidential Employee. For instance, a Professional Licensed Mental Health Provider may also administer a course at UMBC, functioning as a faculty member. In such instances, the employee's responsibility is dictated by their functioning job title at the time the report is received.

So a Professional Licensed Mental Health Provider will be considered as a Confidential Resource so long as they are functioning as a Professional Licensed Mental Health Provider, when receiving the report. If the professional is administering a class on campus when the report is received, they will be considered a Non-Confidential Employee while they function as a faculty member.

#### **E. Quasi-Confidential Resources**

In addition to Confidential Resources, the University has Quasi-Confidential Resources available to provide crisis support and/or advocacy services for UMBC community members affected by an incident of Prohibited Conduct.

Quasi-Confidential Resources will report incidents of Prohibited Conduct under this Policy to the Title IX Coordinator, but are not required to share any personally identifying information to the University's Title IX Coordinator.

Quasi-Confidential Resources include:

Licensed Athletic Trainers, Non-Licensed Counselors, Non-Licensed Healthcare Providers, and/or Staff/Advocates who work or volunteer at the Counseling Center, University Health Services, or Women's Center and any designated Complainant or Respondent .

Conversations with these Quasi-Confidential Resources can remain confidential, except, when there is an imminent or continuing threat to health or safety (as determined in the sole discretion of the University), there a disclosure of apparent or suspected abuse of a child or dependent adult, or other basis for disclosure, such as a legal obligation to reveal such information under enforceable court order or subpoena.

#### **F. Disclosures to Others / Responsibility to Report**

Prohibited Conduct may be reported to people on campus who are not Responsible Employees, Confidential or Quasi-Confidential Resources.

All members of the UMBC community are strongly urged to forward and report all information received about an incident of Prohibited Conduct to the Title IX Coordinator.

All community members who witness or receive information about a child (under the age of 18) being abused or neglected, this information must be immediately reported, as explained in more detail below.

## **G. Reporting Suspected Child Abuse or Neglect**

Any member of the UMBC community who suspects or observes a child (under age 18) being harmed is required to contact law enforcement by dialing 911 or 410.455.5555.

In addition, pursuant to Family Law Article of the Maryland Annotated Code, Sections 5-701 through 5-708, any member of the UMBC community, who has a reason to believe that a child has been abused or neglected, has a mandatory obligation to report that suspicion to the local department of social services or local police department and to the University's Designee for reporting child abuse.

The Baltimore County Department of Social Services:	410.853.3000
University Police Department:	410.455.5555
Baltimore County Police Department:	410.887.2214
University's Designee/UMBC Title IX Coordinator	410.455.1250

Detailed information regarding reporting suspected child abuse and neglect may be found at [www.usmh.usmd.edu/regents/bylaws/SectionVI/VI150.pdf](http://www.usmh.usmd.edu/regents/bylaws/SectionVI/VI150.pdf).

## **X. Guidance on Resolution of Formal Complaints**

### **A. Standard of Review**

The standard of review for all complaints based on alleged violations of this Policy is preponderance of the evidence. This is the same standard of review that is used in other proceedings at UMBC for Formal Complaints of Sexual Harassment and for all allegations of involving discrimination.

### **B. Confidentiality**

The University 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 this Policy and Title IX.

The University 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.

Confidentiality restrictions imposed during the investigation must not restrict a party's ability to (i) discuss the allegations under investigation, for example with a parent, friend, or other source of emotional support, or with an advocacy organization; or to (ii) gather and present evidence.

The University may require non-disclosure or confidentiality from complainants and respondents where no formal complaint is filed, and no investigation takes place.

The University may also require the Complainant, Respondent, Support Person, Advisor, Advocate or Attorney to agree not to further disseminate or disclose evidence, reports or documents shared as part of the investigation process.

### **C. Time Frame for Resolution**

The University will generally seek to resolve every report of Prohibited Conduct within sixty to ninety (60-90) calendar days after receiving a Formal Complaint, excluding any appeal. There may be circumstances that prevent the University from meeting the sixty to ninety (60-90) calendar day timeline.

The time frame may be extended by the University for good cause, as determined on a case-by-case basis, in order to: ensure the integrity and completeness of an investigation, comply with a request by law enforcement, reasonably accommodate the availability of witnesses, reasonably accommodate delays by the parties, account for University closures, or address other legitimate reasons, including the complexity of the investigation (e.g. the number of witnesses and volume of information provided by the parties) and the severity and extent of the alleged Prohibited Conduct.

When the University is unable to meet the target timeline, the Parties will receive written notice regarding the extended time frame.

### **D. Equitable Treatment**

The University will treat Complainants and Respondents equitably by:

1. Providing remedies to a Complainant where a determination of responsibility 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);
2. Providing an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence; and
3. Applying any provisions, rules, or practices used to investigate and adjudicate complaints under Title IX equally to both parties.

### **E. Objective Evaluation of Evidence.**

This Policy requires the objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence.

Credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness.

#### **F. Conflict of Interest or Bias.**

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, may not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

The University requires all individuals involved in responding to, investigating, and/or adjudicating matters under this Policy to disclose to the Office of Equity and Inclusion/Title IX Coordinator any potential conflict of interest. A conflict of interest may arise when any of those persons, has been a participant or is related to a participant in the matter being investigated or reviewed, is related to or has had past substantial association with the Complainant or Respondent or a witness, or is biased, and/or lacks impartiality.

#### **G. Presumption of Non-Responsibility.**

The University will presume that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made, or the Respondent admits the conduct.

#### **H. Role of Support Person, Advocate or Attorney**

Respondents have the right to have access to and assistance from a support person, trained advocate or adviser or attorney throughout the disciplinary proceedings, including:

1. Presence during any interview, Review Meeting or Hearing;
2. Private consultations with the party during interviews, Review Meetings and Hearings, except during questioning of the party at a hearing;
3. Assistance with the party's exercise of any right during the proceedings; and
4. For a student, access to counsel paid for by the Maryland Higher Education Commission (MHEC).
5. The presence of no more than two people, including a support person, advisor, attorney, or an advocate, at any hearing, meeting, or interview during the disciplinary proceedings.

The University will make reasonable efforts to accommodate the Support Person, Attorney or Advisor's/Advocate's schedule, while balancing the University's responsibility to provide a prompt and equitable process.

The Support Person, Attorney, Advisor or Advocate may not delay, disrupt, or otherwise interfere with the outlined Procedures. The Support Person, Attorney, Advocate or Advisor will not be allowed to provide testimony or statements on behalf of the individual they are assisting.

The Support Person Attorney, Advisor or Advocate cannot be a fact witness or provide any statements as part of any process under the Procedures.

## **I. Evidence that Cannot Be Considered**

### **1. Privileged Information**

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;

### **2. Health Records**

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.

### **3. Mental Health Records**

An adjudicating official, decision-maker or investigator is prohibited from considering evidence about a student's history of mental health counseling, treatment, or diagnosis, unless the student consents.

### **4. Prior Sexual History**

Sexual history will not be used for purposes of illustrating either party's individual character or reputation.

An adjudicating official or body is prohibited from considering a Complainant's prior sexual history, behavior or predisposition, unless: (1) such questions and evidence are offered to prove that someone other than the Respondent committed the Prohibited Conduct; or (2) the questions and evidence concern specific incidents of the Complainant's prior sexual behavior *with the Respondent* and are offered to prove consent. The mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to establish Consent.

An adjudicating official or body is prohibited from considering a Respondent's prior sexual history with an individual other than a party to the proceedings, except to: (1) prove prior sexual misconduct; (2) support a claim that a student has an ulterior motive; or (3) impeach a student's credibility after that student has put their own prior sexual conduct at issue.

## **J. Co-Occurring Criminal Investigation**

People may report Prohibited Conduct to law enforcement before, during or after reporting to the University. Therefore, the University process is not dependent on the status of or outcome of any criminal investigation or process. That means that you can report conduct to both law enforcement, and the University, or you can report only to one or the other.

Because the standards for a violation of criminal laws are different from the standards under this Policy, the outcome of a criminal investigation or proceeding does not control whether or not something is found to violate this Policy; a policy violation may be found even if law enforcement agencies or prosecutors decline to prosecute.



Since the University is required to conduct an investigation in a reasonably prompt time frame, in most cases, the University will not wait until a criminal investigation or proceeding begins or ends before conducting its own investigation or implementing Supportive Measures to protect the safety of the person reporting, and/or the entire UMBC campus community, if necessary.

However, at the request of law enforcement, the University's investigation may be delayed temporarily, during the initial evidence gathering stage of the criminal investigation, as long as the delay does not inhibit the University's ability to respond to the Prohibited Conduct in a prompt manner.

Where appropriate, if there is a pending criminal investigation regarding Prohibited Conduct that is also the subject of a Complaint to OEI, the University may coordinate with law enforcement consistent with student privacy rights and any applicable agreements with local law enforcement.

### **K. Student Right to an Attorney paid for by MHEC**

Under Maryland State Law, a current or former student who makes a Formal Complaint or responds to a Formal Complaint where a 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, may have *access* to counsel paid for by the Maryland Higher Education Commission (MHEC), unless the student knowingly and voluntarily chooses not to have counsel. Code of Maryland Regulations (COMAR) 13B.09.01.

A student may obtain from MHEC, through [MHEC's website](#), a [list of licensed attorneys](#) and/or legal services programs who have indicated that they will represent such students in Title IX proceedings on a pro bono basis or for reduced legal fees.

A student may contact, select and seek to retain an attorney from the MHEC list, at any time before the conclusion of formal Title IX proceedings. 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.

## **XI. Investigation and Resolution of Formal Complaints**

### **A. Which Procedures Apply**

**Sexual Harassment I:** The procedures include a Notice of Complaint, Investigation, Opportunity to Review of Evidence, Opportunity to Review the Report, Title IX Hearing and Appeal. Those procedures are set forth in further detail in a separate document.

**Gender Discrimination, Sexual Exploitation, and Sexual Harassment II:** The procedures include a Notice of Complaint, Investigation, Opportunity to Review of Evidence, Opportunity to Review the Report, Review Meeting and Appeal. Those procedures are set forth in further detail in a separate document.

### **B. Supportive Measures**

The Title IX Coordinator shall offer Supportive Measures to the Complainant and Respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

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 the parties, the safety of the community or the institution's educational environment, deter Prohibited Conduct or to ensure the integrity of the investigative and/or adjudicative processes.

The University must maintain as confidential any Supportive Measures provided to the Complainant or Respondent, unless maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive Measures may include, but are not limited to, counseling, extensions of deadlines or other course-related or academic accommodations and adjustments, change in class schedule, including the ability to drop a course without penalty or to transfer sections, if such alternatives are available and feasible; modifications of a work schedule, work location, or job assignment, if such alternatives are available and feasible; arranging for an incomplete grade in a class, permitting a leave of absence, or withdrawal, including a retroactive withdrawal; change in campus housing assignment or housing license, if such alternatives are available and feasible; assistance from University support staff in completing University housing assignments; to the extent practicable, preserving eligibility for academic, athletic, or other scholarships, institution-based financial aid, or program eligibility; providing alternative course completion options, campus escort services, referrals to counseling, health services, or academic support services, restrictions on contact between the parties, changes in housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, restricting access to the University or to certain University facilities, resources, or activities pending resolution of the report, and other similar measures.

Supportive Measures may be requested by the Reporting Party or the Responding Party, or the University can initiate Supportive Measures in the absence of a request, at any time, during the process. Individuals can make a request for Supportive Measures, in-person or in-writing by contacting the University's Title IX Coordinator. The Title IX Coordinator, in consultation with the University, is responsible for implementing reasonable and appropriate Supportive Measures.

### **C. Notice of Complaint**

Upon receipt of a Formal Complaint, the University will provide written notice to known parties:

1. Of the investigation and adjudication process, including any informal process;
2. Of the allegations including sufficient details known at the time and with sufficient time to prepare a response before any initial interview;
3. "Sufficient details" include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Prohibited Conduct, and the date and location of the alleged incident, if known;

4. The presumption that 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;
5. That the parties may have a support person, advisor or attorney with them at any meeting or interview
6. That they have the right to inspect and review evidence before a report is issued;
7. That the UMBC Code of Student Conduct and other University policies prohibit knowingly making false statements, furnishing false information to any University official or office, and submitting false or misleading information during any University investigation or adjudication process; and
8. That if the institution decides to investigate additional allegations not included in the original notice, the Respondent will be provided notice of the additional allegations.

## **D. Title IX Dismissals**

### **1. Mandatory Dismissal**

If the conduct alleged in the Formal Complaint would not constitute Sexual Harassment I, 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 Title IX.

A Title IX dismissal does not preclude consideration of the matter under the process applicable to Sexual Misconduct, Gender Discrimination, Sexual Exploitation, Sexual Harassment II and Retaliation, or under the University's Discrimination and Equal Opportunity Policy.

### **2. Permissive Dismissal**

The institution may dismiss the Formal Complaint or any allegations therein, if at any time during the investigation or hearing:

- a. a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- b. the Respondent is no longer enrolled or employed by the institution; or
- c. specific circumstances prevent the institution from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

### **3. Notice of Title IX Dismissal**

Upon making a determination that the University will issue a Title IX Dismissal, the Title IX Coordinator will promptly send written notice of the dismissal and reason(s) therefore to the parties.

The notice will contain information regarding whether or not the Office of Equity and Inclusion will continue the investigation or resolution under the procedures applicable Sexual Misconduct, under this Policy and/or those under the Discrimination and Equal Opportunity Policy.

#### **D. Consolidation of Formal Complaints**

The University may consolidate Formal Complaints 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 arise out of the same facts or circumstances.

The University shall promptly notify the Parties if, in its sole discretion, it determines that matters should be consolidated.

#### **E. Investigation of a Formal Complaint.**

When investigating a Formal Complaint and throughout the investigation and adjudication process, the University will:

1. 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,
2. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
3. 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;
4. 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;
5. 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.
6. Make all evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint available at any Title IX Hearing or Review Meeting to give each party equal opportunity to refer to such evidence.
7. Prior to completion of the investigative report, 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 provide the parties at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report.
8. Create an investigative report that fairly summarizes relevant evidence.
9. Provide each party and Advisor, if any, the investigative report in an electronic format or a hard copy, at least 10 days prior to any Title IX Hearing or Review Meeting, and give them 10 days to submit a written response.

#### **F. Decision-Maker**

The University has the discretion to use either a Sole Decision-Maker or Board of Review comprised of trained personnel to hold a Title IX Hearing or Review Meeting.

The University will ensure that the single decision-maker or Board of Review have had the requisite training and confirm that there is no actual conflict of interest, bias, or lack of impartiality. A student may not serve as a Board of Review member under the Procedures.

The role of the Board of Review or Sole Decision-Maker is to independently determine whether a Policy violation did or did not occur, based upon the preponderance of the evidence standard, and if warranted, determine the appropriate sanctions.

The role of the Board of Review and the Sole External Reviewer, is not to re-investigate the matter. The Board of Review or Sole External Reviewer shall make the final determination(s) regarding credibility of all the information/evidence presented. However, no negative inferences related to final credibility determinations, shall be made, because a party does not appear or does not participate at the scheduled meeting.

#### **G. Live Title IX Hearing with Cross-Examination Required for Complaints of Sexual Harassment I.**

A live hearing with cross-examination of witnesses is required to adjudicate Formal Complaints of Sexual Harassment I, including Sexual Assault, Domestic Violence, Dating Violence and Stalking.

1. 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.
2. 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.
3. Only relevant cross-examination and other questions may be asked of a party or witness.
5. 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.
6. If a party does not have an advisor present at the live hearing to conduct cross-examination on behalf of that party, 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.
7. 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.
8. 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.

9. The University will create a single audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review. The recording will be the property of the University.

#### **H. Review Meeting to Resolve Complaints of Sexual Misconduct, Sexual Harassment II, and Discrimination under this Policy.**

1. A Sole Decision-Maker or Review Board is identified and notice of the meeting is provided to the parties.
2. The University will create a single audio/audiovisual recording or transcript, of any live hearing and make it available to the parties for inspection and review. The recording will be the property of the University.
3. The investigator presents the report, recommendation, and conclusion for no longer than fifteen (15) minutes; the Board of Review or Sole Decision-Maker may, but is not required to, ask questions.
4. The Reporting Party has an opportunity to give a closing and/or impact statement no longer than fifteen (15) minutes; the Board of Review or Sole Decision-Maker may, but is not required to, ask questions.
5. The Responding Party has an opportunity to give a closing and/or impact statement no longer than fifteen (15) minutes; the Board of Review or Sole Decision-Maker may, but is not required to, ask questions.
6. The parties cannot ask questions of one another.
7. The Board of Review or Sole Decision-Maker may: (a). Accept the Investigator's recommended finding(s); (b). Reject the Investigator's recommended finding(s); or (c). Refer the matter back for further/additional Investigation.

#### **I. Determination Regarding Responsibility.**

After any Title IX Hearing or Review Meeting, the decision-maker(s), who cannot be the same as the Title IX Coordinator or the investigator(s), must issue, a written determination regarding responsibility, which must include:

1. Identification of the allegations potentially constituting Prohibited Conduct;
2. 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;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of the policy to the facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility,
6. A determination of sanctions the institution will impose on the Respondent,<sup>7</sup>

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<sup>7</sup> The Decision-Maker or Board may consult with the Office of Equity and Inclusion, Office of Provost, Student Conduct, Student Affairs, Department of Human Resources, and/or any other University administrative offices about any prior disciplinary actions regarding the Responding Party and about sanctions imposed in similar cases in the past.

7. Whether remedies designed to restore or preserve equal access to the Education Program or Activity will be provided to the Complainant; and
8. Procedures and permissible bases for parties to appeal.

## **J. Appeals.**

The appeal process is equally available to the parties.

The University has the discretion to use either a Sole Decision-Maker or Board of Review comprised of trained personnel to determine an appeal. The Decision-Maker or Board may not be the same as those who presided over the Title IX Hearing or Review Meeting.

### **1. Grounds for Appeal**

Any party may appeal a determination regarding responsibility, or dismissal of a Formal Complaint or any allegations therein, on the following bases:

- a. Procedural irregularity that affected the outcome of the matter;
- b. New evidence that was not reasonably available at the time the determination regarding was made, that could affect the outcome of the matter; and
- c. The Title IX Coordinator, investigator(s), or decision- maker(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;
- d. Excessiveness or insufficiency of the sanctioning decision.

Mere dissatisfaction or mere deviations from procedures that were not so substantial as to deny a party notice or a fair opportunity to be heard, are not valid bases for an Appeal.

### **2. Appeal**

As to all appeals, the University will:

- a. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- b. 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;
- c. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome, and provide an opportunity for them to respond to the other party's appeal submission;
- d. Issue a written decision describing the result of the appeal and the rationale for the result; and
- e. Provide the written decision simultaneously to both parties.

## **K. Final Decision.**

The determination regarding responsibility becomes final either on the date that the University 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.

## **L. Disciplinary Actions or Sanctions**

This Policy prohibits a broad range of conduct, which is serious in nature.

In keeping with the University's commitment to fostering an environment that is safe, respectful, inclusive, and free of Prohibited Conduct, this Policy allows for wide latitude in the imposition of disciplinary actions or sanctions and/or conditions tailored to the facts and circumstances of each report, the impact of the Prohibited Conduct on the Reporting Party and surrounding UMBC community members, and accountability for the Responding Party.

The imposition of disciplinary actions (in employment context) or sanctions (in educational context) are designed to eliminate Prohibited Conduct under the Policy, prevent its recurrence, and remedy its effects, while supporting the University's mission and federal obligations.

Disciplinary actions or sanctions may include educational, restorative, rehabilitative, and punitive components. Some conduct, however, is so egregious in nature, so harmful to the individuals involved and the entire UMBC community, or so deleterious to the educational or working environment, that it requires severe disciplinary action, up to and including termination from or dismissal from the University.

Disciplinary actions which may be imposed on faculty, staff, and student employees in the employment context, can include, but are not limited to the following: no contact orders, letter of reprimand, censure, service to the University, counseling, retraining, transfer, demotion, suspension, and/or termination.

Sanctions which may be imposed on students in the academic context, can include, but are not limited to the following: no contact orders, housing restrictions (including removal from on-campus housing), community service, educational requirements, written warning, reprimand, probation, suspension, and/or dismissal. Further, the University reserves the right to delay or refuse the conferring of an academic degree—undergraduate or graduate—during the pendency of an investigation.

Individuals who commit certain Prohibited Conduct in violation of federal, state, or local law may also be subject to criminal charges and penalties.

## **M. Conditions**

In certain circumstances, even when there are no disciplinary actions or sanctions imposed, the University reserves the right to impose certain conditions upon any party who is subject to this Policy. Conditions may be imposed as Supportive Measures, as part of an Informal Resolution, or as part of a final Sanction after a Hearing or Review Meeting.

Conditions are designed to prevent any Prohibited Conduct under the Policy, cultivate a safe academic and employment environment, and maintain public order on campus, while supporting the University's mission and federal obligations. Conditions are not disciplinary actions or sanctions.

## **XII. Informal Resolution**



Informal Resolution may be used to resolve alleged violations of this Policy subject to the following conditions:

- A. The University may 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.
- B. The University 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.
- C. The University may not require the parties to participate in an informal resolution process.
- D. The University may not offer informal resolution process in a Sexual Assault or Sexual Harassment I matter until/ unless a Formal Complaint is filed.
- E. At any time prior to reaching a determination regarding responsibility, the University may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the University:
  - 1. Provides to the parties a written notice disclosing (1) the allegations, (2) the requirements of the informal resolution process including the circumstances where parties are precluded from filing 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;
  - 2. Obtains the parties' voluntary, written consent to the informal resolution process.

### **XIII. Clery Act Compliance and Release of Information**

In handling reports related to Prohibited Conduct, the University remains responsible for complying with the requirements of the Crime Awareness and Campus Security Act of 1990 ("Clery Act") and the Violence Against Women Act (VAWA) amendments to the Clery Act.

The University will comply with Clery and VAWA requirements, including crime recording and reporting requirements, where compliance is not otherwise reached by actions under this Policy.

Pursuant to the Clery Act, anonymous statistical information regarding reported criminal incidents must be shared with the UMBC Police Department for inclusion in the daily crime log. This information will be included in the University's Annual Security Report and the University may also share aggregate and non-personally identifiable data about reports, outcomes, and sanctions.

### **XIV. Agreements with Local Law Enforcement and Rape Crisis Programs**

UMBC has formalized agreements with (1) Baltimore County Police Department, and (2) TurnAround, Inc. The agreement with Baltimore County Police Department complies with Title IX and outlines when the University will refer a matter to the Baltimore County Police Department. The agreement with TurnAround, Inc., formalizes a commitment to provide trauma-informed services to Reporting Parties of sexual assault and to improve the University's overall response to sexual assault.

## **XV. University Sexual Assault Climate Survey**

On or before March 1, 2016, and at least every two (2) years thereafter, the University will develop and administer a Sexual Assault campus climate survey to students, using nationally recognized best practices for research and climate surveys, in accordance with the procedures set by the Maryland Higher Education Commission (MHEC). On or before June 1, 2016, and at least every two (2) years thereafter, the University shall submit to MHEC a report in accordance with the requirements set forth in Md. Code Annotated, Education Article, Section 11-601(g).

## **XVI. Education, Prevention and Training**

### **A. Policy and Prevention**

The Office of Equity and Inclusion and other campus partners offer educational programs to explain this Policy and the Complaint process, and to promote awareness and prevention of Prohibited Conduct.

The educational programs include, but are not limited to, overviews of what constitutes Prohibited Conduct; the University's Policies and Procedures; discussion of the impact of alcohol and drug use; understanding consent; and safe and positive options for bystander intervention.

### **B. Training for Responsible Employees**

All persons involved in any way in responding to, investigating, or adjudicating reports involving Prohibited Conduct, including but not limited to, Board of Review members, Responsible Employees, law enforcement, pastoral counselors, counselors, health professionals, Resident Assistants, and on-campus advocates, must have annual training in receiving, reporting and handling reports of Prohibited Conduct; must be familiar with the University's procedures; and must understand the parameters of confidentiality.

### **C. Training for Persons Involved in Handling Complaints Under this Policy**

Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must 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.

In addition to the training listed above, decision-makers must also 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.

Investigators must also 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.

The University will make these training materials publicly available on its website.

## **XVII. Record Keeping**

The University maintain, for seven years, records of:

1. Each 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;
4. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. Including the basis for its conclusion that its response was not deliberately indifferent, and any measures designed to restore or preserve equal access to the recipient's education program or activity. If a recipient does not provide a complainant with supportive measures, then the recipient must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.
5. Document the basis for the University's 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.
6. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. These training materials are also publicly available on the Office of Equity and Inclusion website.

## **XVIII. 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.

## **XIX. Related Policies and Regulations**

[University System of Maryland \(USM\) Policy on Sexual Harassment \(Title IX policy\)](#)

[UMBC Policy on Amorous and Sexual Relationships, Revised July 1, 2004](#)

[UMBC Discrimination and Equal Opportunity Policy](#)

[The Family Educational Rights and Privacy Act \(FERPA\) \(20 U.S.C. § 1232g; 34 CFR Part 99\)](#)<sup>8</sup>

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<sup>8</sup> The Family Educational Rights and Privacy Act ("FERPA") affords students privacy rights with respect to their education records. Under FERPA, absent certain exceptions, UMBC cannot disclose a student's educational records to

## XX. External Reporting Agencies

In addition to or as an alternative to the University's procedures for reporting Prohibited Conduct, reports of Prohibited Conduct, may be filed with the following external agencies. Individuals seeking to file with these agencies should make contact as soon as possible, to verify any applicable filing time limits and deadlines.

U.S. Department of Education  
Office for Civil Rights  
The Wanamaker Building  
100 Penn Square East, Suite 515  
Philadelphia, PA 19107-3323  
Phone: 215.656.8541  
Fax: 215.656.8605  
TDD: 1.800.877.8339  
Email: [OCR.Philadelphia@ed.gov](mailto:OCR.Philadelphia@ed.gov)  
Website: [http://www2.ed.gov/about/offices/list/ocr/docs/tix\\_dis.html](http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html)

U.S. Equal Employment Opportunity Commission (EEOC)- Baltimore Field Office  
GH Fallon Federal Building  
31 Hopkins, Plaza, Suite 1432  
Baltimore, Maryland 21201  
Phone: 1.800.669.4000  
Fax: 410.962.4270  
TTY: 1.800.669.6820  
Website: [www.eeoc.gov](http://www.eeoc.gov)

Maryland Commission on Civil Rights (MCCR)  
William Donald Schaefer Tower  
6 St. Paul Street, Ninth Floor  
Baltimore, Maryland 21202  
Phone: 410.767.8600  
Fax: 410.333.1841  
TTY: 410.333.1737  
Website: [www.mccr.maryland.gov](http://www.mccr.maryland.gov)

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anyone other than the student — not even to the student's parents — without the student's written authorization. For more information, about UMBC student privacy policies see <http://ogc.umbc.edu/ferpa-rights-notification/> or <http://www2.ed.gov/policy/gen/guid/fpc/ferpa/index.html>.