




University Senate CHARGE

Date:	November 11, 2014
To:	Terry Owen Chair, Equity, Diversity, and Inclusion (EDI) Committee
From:	Donald Webster  Chair, University Senate
Subject:	Review of the Interim University of Maryland Sexual Misconduct Policy
Senate Document #:	14-15-11
Deadline:	March 27, 2015

The Senate Executive Committee (SEC) requests that the Equity, Diversity, and Inclusion (EDI) Committee review the attached interim Sexual Misconduct Policy and make recommendations on whether they are appropriate.

The U.S. Department of Education's Office for Civil Rights (OCR) provided guidance regarding the Violence Against Women Act (VAWA), which was reauthorized in 2013. This guidance required higher education institutions to develop specific sexual misconduct policies and procedures. As a result, the University System of Maryland (USM) revised its Policy on Sexual Misconduct (V-1.60) and asked all USM institutions to align their policies accordingly. The attached interim policy was developed to align our existing policy with VAWA stipulations and the USM policy.

Specifically, we ask that you:

1. Review the interim University of Maryland Sexual Misconduct Policy & Procedures (VI-1.60[A]).
2. Review the overview of changes to the University of Maryland Sexual Misconduct Policy developed by the Office of Sexual Misconduct and Relationship Violence and consult with the University's Title IX Coordinator regarding the development of the interim policy (attached).
3. Review similar policies for sexual misconduct at our peer institutions and other Big 10 institutions.

4. Consider whether the proposed interim policy aligns with the USM Policy and VAWA guidelines.
5. Consult with the University's Office of Legal Affairs on any recommended policy revisions.
6. If appropriate, recommend whether the interim policy should be revised.

We ask that you submit your report and recommendations to the Senate Office no later than March 27, 2015. If you have questions or need assistance, please contact Reka Montfort in the Senate Office, extension 5-5804.

Attachments

DW/rm

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

(Approved on an Interim Basis by the President October 13, 2014)

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

I. POLICY STATEMENT

Sexual misconduct is a form of sex discrimination prohibited by federal and state discrimination laws, including Title IX of the Education Amendments of 1972 and Title VII of the Civil Rights Act. In addition, some forms of sexual misconduct violate the criminal laws of the State of Maryland. Sexual misconduct is also a form of sex discrimination in violation of the University of Maryland Code of on Equity, Diversity and Inclusion (“Code”) <http://www.president.umd.edu/policies/vi100b.html>. However, this policy supersedes and replaces the Code with respect to matters of sexual misconduct. The University will respond to complaints of sexual misconduct in accordance with the provisions of the Sexual Misconduct Policy and accompanying investigation and adjudication procedures.

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

Catherine A. Carroll, Director

Title IX Officer

Office of Sexual Misconduct & Relationship Violence

University of Maryland

1103 Reckord Armory, College Park, MD 20742-5031

E-mail: carrollc@umd.edu | titleixcoordinator@umd.edu

Phone: 301-405-1142 | Cell/Text: 301-852-0946 | Fax: 301-405-2837

http://www.umd.edu/Sexual_Misconduct

Training

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

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

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

II. APPLICABILITY

This policy applies to all members of the University community, including students, faculty and staff. It also applies to contractors and other third parties within the University's control.

This policy applies to sexual misconduct:

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

III. DEFINITIONS

“Coercion” Includes conduct, intimidation, and express or implied threats of physical or emotional harm, that would reasonably place an individual in fear of immediate or future harm and that is employed to persuade or compel someone to engage in sexual contact.. Examples of Coercion include causing the deliberate Incapacitation of another person; conditioning an academic benefit or

employment advantage on submission to the sexual contact; threatening to harm oneself if the other party does not engage in sexual contact; or threatening to disclose an individual's sexual orientation, gender identity, gender expression, or other personal sensitive information if the other party does not engage in the sexual contact.

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

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

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

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

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

“Incapacitated” An individual who is Incapacitated is unable to give Consent to sexual contact. States of Incapacitation include sleep, unconsciousness, intermittent consciousness, or any other state

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

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

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

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

“**Responsible University Employee**” includes any University administrator, supervisor, faculty member, campus police, coach, trainer, resident assistant, or non-confidential first responder who has the authority to take action to redress sexual misconduct; or whom a student could reasonably believe has such authority or duty.

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

IV. PROHIBITED CONDUCT

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

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

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

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

“Sexual Assault” (Non-consensual sexual intercourse or oral sex) means any act of sexual penetration with another individual without consent. Sexual penetration includes vaginal or anal penetration, however slight, with any body part or object, or oral penetration involving mouth to genital contact.

“Sexual Contact” (Non-consensual sexual contact) means any unwanted intentional touching of the intimate body parts of another person or yourself; causing another to touch your intimate body parts; or the disrobing or exposure of another without consent. Intimate parts may include genitalia, groin, breast, or buttocks, or clothing covering them, or any other body part (including your own) that is touched in a sexual manner. Unwanted sexual contact includes attempted sexual intercourse.

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

“Sexual Harassment” means: (a) unwelcome sexual advances; (b) unwelcome requests for sexual favors; or (c) other behavior of a sexual or gender-based nature where: (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, evaluation of academic work, or participation in a university-sponsored educational program or activity; (ii) submission to or rejection of such conduct by an individual is used as the basis for an academic, employment, or activity or program participation decision affecting that individual; or (iii) such

conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance, i.e., it is sufficiently severe or pervasive to create an intimidating, hostile, humiliating, demeaning or sexually offensive working, academic, residential or social environment.

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

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

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

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

V. SANCTIONS

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

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

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

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

VI. CONFIDENTIAL RESOURCES

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

Campus Advocates Respond and Educate (CARE) to Stop Violence

University Health Center Office 301-314-2222

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

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

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

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

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

University Counseling Center 301-314-7651

www.counseling.umd.edu

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

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

www.health.umd.edu/mentalhealth/services

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

Student Legal Aid Office

Undergraduates 301-314-7756; Graduates 301-405-5807

This office, located in South Campus Dining Hall, provides free, confidential legal advice to any University student.

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

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

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

Prince George’s Hospital Domestic Violence and Sexual Assault Center

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

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

Maryland Coalition Against Sexual Assault (MCASA)

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

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

Maryland Network against Domestic Violence

1-800-MD-HELPS

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

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

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

VII. REPORTING SEXUAL MISCONDUCT

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

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

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

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

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

Office of Sexual Misconduct & Relationship Violence 301-405-1142

www.umd.sexual_misconduct | titleixcoordinator@umd.edu

The mission of the Office of Sexual Misconduct & Relationship Violence is to support the University’s commitment to a working and learning environment free from sexual misconduct and relationship violence. The core services of the Office include: oversight for all institutional responses to sexual misconduct and relationship violence, ensuring University compliance with federal statutory and regulatory requirements, promoting best practices in responding to victims of sexual violence and holding respondents accountable, receiving and investigating reports of sexual misconduct and relationship violence, and increasing access to information and available resources to the campus community. The office seeks to work

collaboratively across all campus constituent groups and create a climate where diversity, inclusion and respect inform all processes.

Sexual misconduct committed by students may also be reported to:

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

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

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

Office of Rights and Responsibilities, Department of Resident Life 301-314-7518

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

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

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

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

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

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

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

Amnesty for Students Who Report Sexual Misconduct

The University recognizes that a student who is under the influence of alcohol and/or drugs at the time of an incident may be hesitant to make a report of sexual misconduct because of the threat of disciplinary sanctions for his or her own violation of the Code of Student Conduct (i.e., alcohol or drug use violation). In this context, a student who reports sexual misconduct, either as a complainant or third party witness, will not face disciplinary charges under the Code of Student Conduct in accordance with *V-1.00(J) University of Maryland Policy on Promoting Responsible Action in Medical Emergencies* at <http://www.president.umd.edu/policies/v100jnew.html>

Requests for Confidentiality

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

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

VIII. PROTECTIVE INTERIM MEASURES

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

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

For Students:

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

For Employees:

- *Employment accommodations*, both the complainant and the respondent may request a temporary reassignment, if appropriate, to other work duties and responsibilities, or other work locations, or other work groups/teams or alternative supervision/management.
- *Transportation and parking accommodations*

IX. RETALIATION

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

X. COMPLAINT PROCEDURES

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

Complaints Against Staff. Complaints against staff based on a violation of this policy will be reviewed in accordance with the procedures set forth in *Appendix B (to be finalized by December 31, 2014)*

Complaints Against Faculty. Complaints against faculty members based on a violation of this policy will be reviewed in accordance with the procedures set forth in *Appendix C (to be finalized by December 31, 2014)*.

Complaints Against Third Parties Not Affiliated With the University. If a member of the University community (student, faculty or staff) is subjected to sexual misconduct by a third party not affiliated with the University on University premises or during University sponsored activities, the matter should be reported to the Title IX Officer. The matter may be referred to law enforcement with a request that a formal letter be issued to the third party denying access to the University's buildings or grounds for acting in a manner that disrupts or disturbs the normal educational functions of the institution. The University is authorized to deny campus access to a third party engaged in disruptive behaviors under Maryland State law (see Sections 26-101 and 26-102, Education Article, Annotated Code of Maryland).

XI. STEPS TO TAKE FOLLOWING A SEXUAL ASSAULT

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

Get to a Safe Place and Seek Emotional Support. Talking with a trusted friend or relative or someone who is professionally trained to deal with sexual assault like a confidential CARE advocate or mental health professional at the University Health Center can help you make decisions about what

to do. Whether you decide to go to law enforcement or not, it is important to take care of your own emotional needs. Professional counseling may be beneficial.

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

Seek Medical Attention. It is important to seek medical attention as soon as possible. A medical examination will ensure appropriate medical treatment, including testing for pregnancy or sexually transmitted infections. You may also want to obtain a Sexual Assault Forensic Exam (SAFE). A medical examination will also allow for the collection of physical evidence by way of a. A SAFE exam allows for the collection of evidence and can ensure any physical evidence is preserved in the event of a report to law enforcement. A SAFE exam may be obtained within 72 hours after an assault at:

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

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

XII. CAMPUS SAFETY

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

Emergency Phones

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

Walking Escorts/Student Police Auxiliary Foot Patrol 301-405-3333

University Police provide a walking escort service 24 hours a day for anyone who feels unsafe while walking on campus. A University Police Officer provides by either the Student Auxiliary Police Aide, or walking escorts.

University Department of Public Safety 301-405-3555 or
Local Police in ANY location - 911

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

XIII. CONSENSUAL RELATIONSHIPS AND PROFESSIONAL CONDUCT

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

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

XIV. GOVERNMENT AGENCIES THAT ADDRESS COMPLAINTS OF SEXUAL MISCONDUCT

Complaints of sexual misconduct may also be filed with:

Equal Employment Opportunity Commission

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

Maryland Commission on Civil Rights

William Donald Schaefer Tower
6 Saint Paul Street, Ninth Floor
Baltimore, MD 21202-1631
Phone: 410-767-8600

Fax: 410-333-1841
TTY: 410-333-1737
Website: <http://mccr.maryland.gov/>
E-mail: jcole@mccr.state.md.us

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

Complaints involving violations of Title IX in the state of Maryland should be directed to:

Office for Civil Rights

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

Replacement for:

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

Changes to UMD Sexual Misconduct Policy

October 2014 Revised SM Policy Changes to October 2013 SM Policy

Overall the policy document has been re-organized to increase access, readability and logical flow of the material.

A section on **Training** has been added that broadly addresses the University's prevention and education efforts.

Under **Applicability**, the scope has been revised to further clarify it includes University sponsored programs (not just activities), regardless of location (to ensure study abroad and statewide volunteer programs are included)

Definitions have been separated: **Policy Definitions** from **Prohibited Conduct Definitions** to increase clarity.

Definitions (of Policy Terms) Added: Coercion, Complainant, Confidential, Incapacitated, Interim Protective Measures, Respondent, Responsible University Employee, and the Title IX Officer.

Definitions of Prohibited Conduct Added: Dating violence, Domestic Violence, Retaliation, Sexual Contact (takes the place of Sexual Assault II), Sexual Violence, and Stalking.

Definition Examples have been removed because a policy document generally would not include specific examples, but leave that up to the interpreters of the policy.

A section on **Sanctions** has been added.

Confidential Resources has replaced the section on **Confidentiality**. This is to clarify where individuals may seek confidential assistance.

Reporting Sexual Misconduct has replaced **Reporting Procedures**. There are multiple places a person may report sexual misconduct. The revised policy wanted to make it clear that generally reporting sexual misconduct, other than discussing it with a confidential provider, is not confidential and reporting confidentially is a confusing statement.

The revised policy clarifies how to report a crime and how the University will handle co-occurring criminal actions.

The revised policy clarifies how the University will respond to requests for confidentially or anonymity when a person reports sexual misconduct.

The revised policy clarifies the **Types Of Accommodations and Interim Protective Measures** available for students and employees.

The revised policy includes new provisions for **Investigating And Adjudicating Complaints Against Students (Appendix A)**, and will add new procedures for staff and faculty, when completed.

The revised policy also includes information about **Government Agencies That Address Complaints Of Sexual Misconduct** (Title IX violations).

Changes to UMD Sexual Misconduct Policy
October 2014 Revised SM Policy Changes to October 2013 SM Policy

Student Sexual Misconduct Investigation & Adjudication Procedures (Appendix A)

The new procedures are a hybrid between an investigative model and adjudication model. We have attempted to take the best of both models and combine them into a procedure that will emphasize the capacity and skills of the Title IX Office, while promoting transparency and due process. In establishing the Title IX Office, the University has exponentially increased its capacity to effectively investigate these cases, which will be leveraged to inform the adjudication process.

The expertise and resources focused on an impartial investigation will inform whether or not a case will even be presented for charging and adjudication as a policy violation. Roles have been clarified in order to maintain relative independence and encourage checks and balances throughout the process. The Title IX office conducts the investigation and makes a finding based on all the information available as to whether a policy violation has occurred. If a preliminary finding is made that a violation has occurred, the case is forwarded to the Office of Student Conduct, to determine whether any charges will be issued (and/or if they would like further investigation or information in order to make a charging decision).

If the student is charged, the case will likely be referred to the Standing Review Committee (the Adjudication body). This is a specialized group of faculty, staff and students who have received specialized training (and on-going training) on sexual misconduct (rape, harassment, perpetrator behaviors, effects of alcohol on males and females, victim responses, stalking, lethality, abusive relationships, investigative procedures, effective interviewing strategies, etc.). SRC members will receive an investigation packet that includes the Investigative Report and OSC charges to review prior to the conference. It will also include any additional information submitted by the parties. (The parties have an opportunity to review the report before it is sent to OSC for a determination of charging and request changes and/or add information).

The Investigator presents the report to the SRC. The SRC may question the Investigator. Both parties and their representative may be present during the Investigator's presentation and the SRC's questioning. The SRC will invite both parties to submit any additional questions they may have of the Investigator, in writing, to the SRC Chair. The SRC Chair synthesizes the questions and asks them of the Investigator for all parties to hear. The individual parties may or may not be there depending on their preference. The complainant does not have to attend. If the SRC wants to ask the complainant or respondent questions, or seek clarification about something, they may request that either party meet with them separately and privately. Both parties are allowed an attorney and a support person. If the SRC is considering sanctions, it will request each party submit and/or present an impact statement.

The SRC meetings/conferences are intentionally designed to maintain control over the University's process. The attorneys are there to counsel the student – not address the SRC. The SRC is in control of the meeting. The SRC makes its own independent determination of responsibility. It is addressing two areas: 1) the policy violation and 2) the sanction.

Other members of the SRC will entertain Appeals. This is to ensure that the resources and expertise focused on these cases is consistently maintained throughout the process, from receipt of initial complaint, to the final outcome.