



# Policies and Procedures

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## Administration Policies

VI-1.60(A)

### UMB Policy on Sexual Misconduct

**ADMINISTRATION** | *Approved August 14, 2020*

#### RESPONSIBLE VP/AVP

[Susan C. Buskirk, DM, MS](#)

#### REVISION HISTORY

Approved by the President March 30, 2015, replaced V1-1.30(A), to comply with USM V1-1.60 (eff. June 27, 2014, revised June 19, 2015); Revised August 26, 2015; Revised August 14, 2020; Revised March 24, 2023 to update links.

## Policy Statement

### I. PURPOSE

University of Maryland, Baltimore (“UMB” or “Institution”) is committed to providing a learning and working environment free from Sexual Misconduct, as defined in Section III of this Policy. UMB prohibits and will not tolerate Sexual Misconduct. Sexual Misconduct is a form of sex discrimination prohibited by state and federal laws, including Title IX of the Education Amendments of 1972 as amended (“Title IX”) and Title VII of the Civil Rights Act of 1964 as amended, and some forms of Sexual Misconduct may constitute criminal activity. UMB endeavors to foster a climate free from Sexual Misconduct through training, education, prevention programs, and policies and procedures that promote prompt reporting, prohibit retaliation, and promote timely, fair, and impartial investigation and resolution of Sexual Misconduct cases in a manner that eliminates the Sexual Misconduct, prevents its reoccurrence, and addresses its effects.

### II. SCOPE

#### A. Applicability and Jurisdiction

All students, faculty, and staff, as well as third parties and contractors under UMB control, are subject to this Policy regardless of sex, sexual orientation, gender identity, or gender expression. This Policy applies to Sexual Misconduct in connection with any UMB educational program or activity, including Sexual Misconduct (1) in any UMB facility or on any UMB property; (2) in connection with any UMB sponsored, recognized or approved program, visit, or activity, regardless of location and inclusive of the online environment; (3) that impedes equal access to any UMB educational program or activity or adversely effects the employment of a member of the UMB community; or (4) that otherwise threatens the health or safety of a member of the UMB community. Nothing in this Policy is intended to supersede or conflict with any federal compliance obligation.

Federal regulations implementing Title IX of the Education Amendments of 1972 (Title IX) require that UMB implement certain procedures when UMB obtains Actual Knowledge of Sexual Harassment in its Education Programs or Activities against a person in the United States. UMB will address all allegations to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on the campus or in an off-campus UMB program or activity, violating UMB policy. Prohibited Sexual Misconduct that violates UMB policy that does not fall under the scope of Title IX either because it occurs outside the United States or because it does not fall within Title IX's definition of Sexual Harassment will be addressed using alternate processes as more fully described in UMB's procedures.

If the Respondent is unknown or is not a member of the UMB community, the Title IX Coordinator will assist the Complainant (and the reporting party if someone other than the alleged victim has reported the Sexual Misconduct) in identifying appropriate campus and local resources and support options. UMB may take other actions as appropriate, such as barring a third party from UMB property and/or events. When the Respondent is enrolled in or employed by another USM institution, the Title IX Coordinator can assist in liaising with the appropriate individual for that institution and, in some instances, may make a report to the institution, as the alleged conduct may be prohibited by that school's policies. Similarly, the Title IX Coordinator may be able to provide support to a student or employee who reports discrimination in an externship, study abroad program, or other environment external to UMB.

#### **B. Protection of Minors**

In Maryland, a person under the age of 16 years cannot consent to sexual activity. This means that sexual contact by an individual over the age of 18 with a person younger than 16 years old may be a crime, could require an immediate report to the applicable child welfare agency and/or local law enforcement agency, and represents a potential violation of this Policy, even if the minor appeared to welcome the sexual activity. See UMB's Procedures for Reporting Suspected Child Abuse or Neglect (VI-1.50(A)) for mandatory requirements for Sexual Misconduct that includes a minor.

#### **C. Academic Freedom**

This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include controversial or sensitive subject matters protected by academic freedom.

#### **D. Guidance**

UMB encourages those who are unsure whether a situation is controlled by this Policy to ask questions and seek advice through the Title IX Office or the Consultation Line, available at <https://www.umaryland.edu/oac/consult-with-us/>.

### **III. DEFINITIONS**

#### **A. Actual Knowledge**

UMB will have actual knowledge that a violation of this Policy may have occurred when notice of the alleged violation is given to an Official with Authority to take corrective action. A report to the Title IX Coordinator or designee or received through UMB's Hotline is sufficient to provide UMB with actual knowledge.

#### **B. Advisor**

Advisor means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.

#### **C. Complainant**

An individual who is alleged to be the victim of conduct that is in violation of this Policy.

#### **D. Confidential Employees**

Employees of UMB who, in relation to the services being provided on behalf of the institution, have a professional or legal obligation to keep communications confidential. A list of these individuals is listed in Section VI.C.4.

#### **E. Consent**

A knowing, voluntary, and affirmatively communicated willingness to mutually participate in a particular sexual activity or behavior. Consent must be given by a person with the ability and capacity to exercise free will and make a rational and reasonable judgment. Consent may be expressed either by affirmative words or actions, as long as those words or actions create a mutually understandable permission regarding the conditions of sexual activity. Consent may be withdrawn at any time. Consent cannot be obtained by force, threat, coercion, fraud, manipulation, reasonable fear of injury, intimidation, or by using one's mental or physical helplessness or incapacity. Consent cannot be implied based on the mere fact of a previous consensual dating or sexual relationship. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.

If a person is **incapacitated**, which is to be deprived of their capacity or natural power, they are not able to make rational decisions and, therefore, cannot consent to sexual activity. Incapacity will be evaluated using a reasonable person standard, e.g., would a reasonable person believe the person is/was unable to consent. Incapacitation can be caused by the consumption of alcohol, but a person who is "drunk" or intoxicated" may or may not be incapacitated; incapacitation can also be the result of being drugged, unconscious, sleep-deprived and/or ill.

#### **F. Dating Violence**

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 the Complainant's statement, with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

#### **G. Domestic Violence**

A felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Maryland or the jurisdiction in which the crime or violence occurred.

#### **H. Education Program or Activity**

Includes locations, events, or circumstances over which UMB has or does exercise substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by UMB.

#### **I. Emergency Removal**

Removal of a party from UMB's program or activity on an emergency basis, provided UMB has undertaken an individualized safety and risk analysis, determined that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provided the respondent with notice and an opportunity to challenge the decision immediately following the removal.

#### **J. Formal Complaint**

A document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment by a Respondent and requesting that UMB investigate the allegation of sexual harassment. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator.

#### **K. Hearing Decision-maker**

Decision-maker refers to the individual(s) who have decision-making and sanctioning authority within UMB's formal grievance process.

#### **L. Hearing Panelist**

Individuals who serve on hearing panels within UMB's formal grievance process.

#### **M. Investigator**

Investigator means the person or persons charged by UMB with gathering facts about an alleged violation of this Policy, synthesizing the evidence, and compiling this information into an investigation report.

**N. Non-confidential Employees**

Employees of UMB who do not have a professional or legal obligation to keep communications confidential as listed in Section VI.C.4.

**O. Official with Authority**

Any official of UMB with authority to institute corrective measures on behalf of the institution.

**P. Quid Pro Quo**

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a person having power or authority over another and submission to such sexual conduct is made, either explicitly or implicitly, a term or condition of an individual's work or educational development or performance, or evaluation thereof.

**Q. Respondent**

A person who has been accused of violating this Policy.

**R. Retaliation**

Intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law, USM or UMB policy relating to Sexual Misconduct, or because an individual has made a report, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing related to Sexual Misconduct. Retaliation includes retaliatory harassment.

**S. Sex- and/or Gender-based Discrimination**

The unfair, unfavorable, or inequitable treatment of a person based on their biological sex, gender identity, gender expression, and/or sexual orientation.

**T. Sexual Assault**

An offense classified as a forcible or nonforcible sex offense, which as of 2018 have been combined in the single category "sex offenses," under the uniform crime reporting system of the Federal Bureau of Investigation and is defined as:

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

Rape— (Except Statutory Rape) The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity

Sodomy— Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity

Sexual Assault With An Object— To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity

Fondling— The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity

Incest— Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. In Maryland, pursuant to Family Law § 2-202, a man may not marry his: grandmother, mother, daughter, sister, granddaughter, grandfather's wife, wife's grandmother, father's sister, mother's sister, stepmother, wife's mother, wife's daughter, son's wife, grandson's wife, wife's granddaughter, brother's daughter or sister's daughter. A woman may not marry her: grandfather,

father, son, brother, grandson, grandmother's husband, husband's grandfather, father's brother, mother's brother, stepfather, husband's father, husband's son, daughter's husband, husband's grandson, brother's son, sister's son, or granddaughter's husband.

**Statutory Rape**—Nonforcible sexual intercourse with a person who is under the statutory age of consent. In Maryland, the statutory age of consent is 16 years of age (which means the victim must be under 16); however, 14- and 15-year-olds may consent if the offender is less than four years older than the victim.

#### **U. Sexual Coercion**

The use of unreasonable pressure 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 individual's freedom of will and ability to choose whether 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 individual's private sexual information, or threatening to harm oneself if the other party does not engage in the sexual activity.

#### **V. Sexual Exploitation**

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.

#### **W. Sexual Harassment**

Conduct on the basis of sex that satisfies one or more of the following: (1) An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct; (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or (3) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

#### **X. Sexual Intimidation**

Any unreasonable behavior, verbal or nonverbal, which has the effect of subjecting members of any biological sex or gender to humiliation, embarrassment, or discomfort because of their biological sex or gender. Sexual intimidation can include but is not limited to (1) threats to sexually assault another person; (2) gender or sex-based Stalking, including cyber-Stalking; or (3) engaging in indecent exposure.

#### **Y. Sexual Misconduct**

An umbrella term that includes Sex or Gender-based Discrimination, Dating Violence, Domestic Violence, Sexual Exploitation, Sexual Harassment, Sexual Intimidation, Sexual Violence (including Sexual Assault), and Stalking.

#### **Z. Sexual Violence**

A form of Sexual Harassment referring to physical sexual acts perpetrated without Consent. Sexual Violence includes rape, Sexual Assault, sexual battery, and Sexual Coercion.

#### **AA. Stalking**

A course of conduct directed at a specific person that would cause a reasonable person to (1) fear for the person's safety or the safety of others; or (2) suffer substantial emotional distress. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

#### **BB. Supportive Measures**

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent 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 recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment.

#### **IV. TITLE IX COMPLIANCE AND OVERSIGHT**

##### **Title IX Coordinator**

UMB's Title IX Coordinator oversees and coordinates UMB's compliance with all aspects of Title IX of the Education Amendments of 1972, all associated regulations promulgated under Title IX, and this Policy. The Title IX Coordinator is housed in the Office of Accountability and Compliance (OAC):

*Stephanie Suerty, MPA, CCEP*  
*Acting Title IX Coordinator*  
*Director, Special Projects*  
*Office of Accountability & Compliance*  
*410-706-5212*  
[titleixcompliance@umaryland.edu](mailto:titleixcompliance@umaryland.edu)

The Title IX Coordinator acts to ensure that all UMB representatives involved in the investigation, resolution, and disciplinary processes act with objectivity and impartiality. Where the Title IX Coordinator determines that a UMB representative poses a conflict of interest or bias, the Title IX Coordinator shall recuse that person(s) from the investigation, resolution, adjudication, and disciplinary processes. Concerns of bias or a potential conflict of interest by any other administrator involved in the investigation, resolution, adjudication, and disciplinary processes should be raised with the Title IX Coordinator.

The Title IX Coordinator is responsible for receiving complaints or reports of conduct that could constitute sex discrimination or sexual harassment, managing the Title IX Program, including the informal and formal grievance processes, and ensuring effective implementation of any remedies determined through UMB's grievance process.

Reports of misconduct or discrimination committed by the Title IX Coordinator, or concerns regarding potential bias or conflict of interest by the Title IX Coordinator, should be made to UMB's Chief Accountability Officer and Vice President, Dr. Susan Buskirk; or through the UMB Hotline.

#### **V. POLICY EXPECTATIONS**

##### **A. Prohibitions Against Sex and Gender-based Discrimination**

UMB adheres to all federal and state laws and regulations prohibiting discrimination in public institutions of higher education. Specifically, Title IX prohibits discrimination on the basis of sex in UMB programs and activities.

UMB does not discriminate, or tolerate discrimination, against any employee, applicant for employment, student, or applicant for admission on the basis of sex, sexual orientation, gender identity or gender expression. Sex and Gender-based Discrimination is prohibited.

This Policy includes Sex and Gender-based Discrimination in both employment and access to educational opportunities, and access to services and programs provided by UMB. Therefore, any member of the UMB community who acts to deny, deprive, or limit the educational or employment access and/or opportunities of any member of the UMB community, guest, or visitor on the basis of sex or gender in violation of federal and state laws and regulations is in violation of this Policy. UMB's prohibitions on discrimination extend to its admissions and hiring processes. UMB will take steps to eliminate prohibited conduct, prevent its reoccurrence, and remedy its effects.

##### **B. Prohibition Against Sexual Misconduct**

UMB does not tolerate Sexual Misconduct of or by any employee, affiliate, volunteer, student, visitor, contractor, or guest. UMB will act to remedy all forms of Sexual Misconduct.

UMB reserves the right to address offensive conduct and/or harassment not prohibited by this Policy, for example, harassment that does not rise to the level of creating a hostile environment, or is of a generic nature not based on sex or gender. Such conduct may be referred for alternative review and resolution by the Office of Accountability and Compliance (OAC) to other departments as appropriate, including to Human Resources Services (HRS) for human resource related violations and to Deans or their designees for student code of conduct violations.

## **VI. REPORTING SEXUAL MISCONDUCT**

### **A. Reporting Policy Violations to UMB**

Any person may report Sexual Harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute Sexual Harassment).

#### **1. Employees**

All UMB Non-Confidential Employees, including students employed by UMB, who learn of or observe conduct which they believe may be a violation of this Policy are required to report it to the Title IX Coordinator or Official with Authority. Failure of a Non-Confidential Employee to report an incident or incidents of Sexual Misconduct of which they become aware is a violation of this Policy and the violator could be subject to disciplinary action.

No employee (other than UMB Police) is authorized to investigate or resolve reports of prohibited conduct without the involvement of the Title IX Coordinator.

#### **2. Students**

All UMB students are encouraged to report actual or suspected violations of this Policy.

#### **3. Third Parties**

Third Parties (e.g., contractors, visitors, etc.) are encouraged to report actual or suspected violations of this Policy.

### **B. Privacy and Confidentiality**

1. UMB is committed to protecting the privacy and confidentiality of information of all individuals involved in a Sexual Misconduct matter. Privacy and confidentiality have distinct meanings under this Policy.

Privacy generally means that information related to a report of Sexual Misconduct will be shared only with those UMB employees with a "need to know" the information in order to assist in the review, investigation, or resolution of the report. Although not bound by confidentiality, these employees will make every effort to protect the privacy interests of all individuals, consistent with due process requirements and the need for a thorough review.

Confidentiality means that the information shared with professionals who have been designated by UMB as confidential resources cannot be revealed to any other person without the express permission of the individual who shared the information with the professional. These designated professionals are listed in Section VI.C.4., below.

#### **2. Reporting Party's Request for Confidentiality**

An individual who wishes to discuss a Sexual Misconduct matter confidentially may do so by speaking with a professional who has a legal duty to maintain confidentiality. Confidential resources for UMB students and employees are listed in Section VI.C.4., below. Information shared with these resources will not be shared with anyone without the individual's express permission, unless maintaining such confidentiality would result in imminent physical harm to the individual or other individuals. When a report involves suspected abuse of a minor, applicable laws and UMB policies require reporting to child protective services and/or local law enforcement.

#### **3. Reporting Party's Request for Privacy**

If a Complainant or other reporting party does want their name to be shared, does not want an investigation to take place, or does not want a formal resolution to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate the request along with various considerations, including risks to members of the UMB community and legal requirements. UMB will take all reasonable steps to investigate and respond to the complaint consistent with a request for privacy or a request not to pursue an investigation. Where UMB is unable to take action consistent with the request of the Complainant or reporting party, the Title IX Coordinator will inform them about UMB's chosen course of action.

#### **4. Timely Warning**

If a report of Sexual Misconduct discloses a serious or continuing threat to the UMB community, UMB may issue a campus-wide timely warning to protect the health or safety of the UMB community. The timely warning will not include identifying information about the reporting party.

### C. Options for Reporting

Reports of Sexual Misconduct may be made to UMB using any of the following options:

1. Report by phone, e-mail or U.S. mail, directly to the Title IX Coordinator:

Stephanie Suerth, MPA, CCEP  
Acting Title IX Coordinator  
Office of Accountability and Compliance  
620 West Lexington Street, 5th Floor  
Baltimore, MD 21201  
410-706-5212  
[titleixcompliance@umaryland.edu](mailto:titleixcompliance@umaryland.edu)

2. Officials with Authority

Any official of UMB with authority to institute corrective measures on behalf of the institution.

3. Report via the UMB Hotline:

Online: <https://secure.ethicspoint.com/domain/media/en/gui/28588/index.html>  
Telephonically: 866-594-5220

4. Confidential Reporting

On Campus:

UMB Student Counseling Center staff

UMB Employee Assistance Program staff

UMB health service providers working in their capacity as providers to assist a victim

Off Campus:

Local rape crisis centers

Domestic and/or dating violence resources, including centers and safe houses

Clergy/chaplains

Local medical facilities, including those offering SAFE (sexual assault forensic exam) services

The above resources will maintain confidentiality except in cases involving a threat of imminent physical injury, or abuse of a minor or vulnerable adult. Confidential employees who are also designated as Campus Security Authorities will submit timely anonymous, aggregate statistical information for Clery Act purposes.

Campus counselors and the Employee Assistance Program are available to help free of charge and can be seen on an emergency basis during regular business hours.

### D. Criminal Reporting to Law Enforcement

Individuals experiencing Sexual Misconduct have the right to file criminal charges with law enforcement:

Baltimore Police Department (Baltimore City)  
Special Investigation Section  
601 E. Fayette Street




Baltimore, Maryland 21202  
 Emergency: 911  
 Telephone: 410-396-2411

UMB Title IX personnel are available to promptly assist anyone experiencing Sexual Violence, including Sexual Assault, in making a report to the appropriate law enforcement and/or disciplinary authorities.


UMB has entered into an agreement with the Baltimore Police Department to clearly set the expectations and requirements, as required by Title IX, for referral of criminal matters to law enforcement.

#### **F. Grievance Reporting to Governmental Authorities**

Individuals experiencing Sexual Misconduct or Sex- and/or Gender-based Discrimination have the right to file a formal grievance with government authorities:

Assistant Secretary for Civil Rights  
 U.S. Department of Education Office for Civil Rights (OCR)  
 400 Maryland Avenue, SW  
 Washington, DC 20202-1100  
 Customer Service Hotline #: (800) 421-3481  
 Facsimile: 202-453-6012  
 TDD#: 877-521-2172  
 Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
 Website: <http://www.ed.gov/ocr> 

Employees experiencing Sexual Misconduct or Sex- and/or Gender-based Discrimination may file a formal charge with government authorities:

U.S. Equal Employment Opportunity Commission (EEOC)  
 10 S. Howard Street, Third Floor  
 Baltimore, MD 21201  
 800-669-4000  
 TTY 800-669-6820  
[eeoc.gov](http://eeoc.gov) 

Maryland Commission on Civil Rights  
 6 St. Paul Street, Suite 900  
 Baltimore, MD 21202  
 410-767-8600  
 800-637-6247  
[mccr@maryland.gov](mailto:mccr@maryland.gov)

Exempt and non-exempt employees may also pursue allegations of employment discrimination under Title 5, Subtitle 2, of the State Personnel and Pensions Article, Maryland Annotated Code. If an employee wishes to proceed under Title 5, the employee must specify that preference at the time the complaint is made. Non-exempt employees have a third option; they may pursue allegations of employment discrimination under Title 13 of the Education Article, Maryland Annotated Code.

#### **F. Statement of Rights**

The following description of rights is intended to comply with State law. Many of the following rights represent UMB's Core Values and apply in all situations whether or not a Title IX Hearing is required or utilized. Some of the following rights, as noted herein, are specific to and reserved for students.

The right to be treated with dignity, respect, and sensitivity by UMB officials;

The right to a fair, impartial, and equitable investigation and resolution of all credible allegations of Sexual Misconduct made in good faith to UMB officials with authority;

The right to timely written notice of all alleged violations, the precise misconduct being alleged, the date and location of the alleged misconduct, the implicated policies and procedures, and possible sanctions;

The right to timely written notice of any material modifications to the allegations (e.g., additional incidents or allegations, additional reporting parties, unsubstantiated allegations) and any attendant adjustments needed to clarify potential policy violations implicated;

The right to disciplinary proceedings and resolutions that provide for all parties being heard;

The right to have UMB policies and procedures followed without material deviation;

The right not to be pressured to mediate or otherwise informally resolve any reported Sexual Misconduct involving violence, including Sexual Violence;

The right to determine if law enforcement or medical assistance is desired and to seek law enforcement and/or medical assistance after initially declining such assistance;

The right not to be discouraged by UMB officials from reporting Sexual Misconduct to both on-campus and off-campus authorities;

The right to be informed by UMB officials of options to notify law enforcement authorities, including on-campus and local police, and the option to be assisted by UMB authorities in notifying such authorities. This also includes the right not to be pressured to report;

The right to have allegations of violations of this Policy responded to promptly and with sensitivity by UMB law enforcement and/or other UMB officials;

The right to be informed of available Supportive Measures, such as counseling; advocacy; health care; legal, student financial aid, visa, and immigration assistance; or other student services, both on campus and in the community;

The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of Sexual Misconduct, if such changes are reasonably available. No formal report, or investigation, either campus or criminal, need occur before this option is available. Such actions may include, but are not limited to:

- Changing an on-campus student's housing to a different on-campus location
- Assistance from UMB staff in completing the relocation
- Changing an employee's work environment (e.g. reporting structure, office relocation)
- Transportation accommodations
- Visa/immigration assistance
- Arranging to dissolve a housing contract and a pro-rated refund
- Exam, paper, and/or assignment rescheduling or adjustment
- Taking an incomplete in, or a withdrawal from, a class (may be retroactive)
- Transferring class sections
- Temporary withdrawal/leave of absence (may be retroactive)
- Campus safety escorts
- Alternative course completion options

The right to have UMB maintain such actions for as long as necessary and for protective measures to remain private, provided privacy does not impair UMB's ability to provide the accommodations or protective measures;

The right to be fully informed of relevant UMB policies and procedures as well as the nature and extent of all alleged violations;

The right to receive, sufficiently in advance, written notice of any meeting or interview involving the other party, when possible;

The right to identify and, through an Advisor, question relevant witnesses, including expert witnesses;

The right to provide the investigator(s)/Hearing Panelists/Decision-maker with a list of questions that, if deemed relevant and appropriate, may be asked by a party's Advisor of any party or witness;

The right not to have irrelevant prior sexual history admitted as evidence, except to (a) prove the source of injury; (b) prove prior Sexual Misconduct; (c) support a claim that a student has an ulterior motive; or (d) impeach a student's credibility after that student has put their own prior sexual conduct at issue;

The right of a party not to have their history of mental health counseling, treatment, or diagnosis, considered by the adjudicating official or body, unless the party consents;

The right to have access to the case file and evidence regarding the alleged acts obtained during the investigation or considered by an adjudicating officer or body, and to respond to that evidence on the record;

A fair opportunity for each party to provide the investigator(s) with their account and have that account be on the record;

The right to receive a final determination made by the adjudicating official or body regarding whether the Sexual Misconduct Policy has been violated and the basis for the determination;

The right to respond to the investigation report within the timeframes provided herein, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record;

The right to have reports of alleged Policy violations addressed by investigators, Title IX Coordinators, Hearing Panelists/Decision-maker who have received relevant annual training;

The right to meetings, interviews, and/or hearings that are closed to the public;

The right to provide and review testimony electronically or in a way in which the parties are not required to be in the physical presence of one another, as long as all hearing proceedings are live and provide the ability to see and hear the other party in real time;

The right to petition that any UMB representative in the process be recused on the basis of demonstrated bias and/or conflict of interest;

The right to have an Advisor of their choice accompany and assist the party in all meetings and/or interviews associated with the resolution process, including the right to an attorney as an Advisor as described in this Policy;

The right to be informed timely in a written notice of outcome letter of the finding(s) and sanction(s) of the resolution process and a detailed rationale therefore (including an explanation of how credibility was assessed);

The right to be informed of the grounds for appealing any finding and sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by UMB.

## **VII. MEDICAL ATTENTION**

Mercy Medical Center is the designated treatment center for sexual assault and domestic violence in Baltimore City where victims of sexual assault (aged 13 and older) may obtain a Sexual Assault Forensic Exam (SAFE), including Sexual Assault Evidence Collection Kits. A police report is not required in order to obtain an exam, which can be conducted up to five (5) days after an assault. Medical attention is recommended even if more than five (5) days have passed since the assault occurred.

Mercy Medical Center Emergency Room  
345 St. Paul Place  
Baltimore, Maryland 21202  
410-332-9494  
<https://bmoresafemercy.org/for-patients/>

UMB Title IX personnel are available to promptly assist anyone experiencing sex- or gender-based violence, including sexual assault, in obtaining medical attention, including providing transportation to the nearest designated SAFE hospital.

Information on Maryland SAFE programs located outside Baltimore City is included in Section XIV. Resources, below.

## **VIII. AMNESTY**

UMB encourages the reporting of Sexual Misconduct by victims and witnesses. Sometimes, victims or witnesses are hesitant to report misconduct or participate in resolution processes because they fear that they themselves may be accused of policy violations. It is in the best interest of the UMB community for victims and witnesses to report misconduct. To encourage reporting, UMB offers amnesty from minor policy violations related to the incident.

If the behavior was a violation of the drug or alcohol policy, and UMB is not required by law to intervene or report, UMB will offer amnesty if the violation occurred reasonably during or near the time of the alleged Sexual Misconduct, the person reported or is cooperating with UMB's investigation in good faith, and the behavior did not put another individual's health or safety at risk.

UMB encourages community members to assist victims during or after an incident when it is safe to do so, and offers training in bystander intervention. For students who offer help to others in need, UMB pursues a policy of amnesty from minor policy violations related to the incident.

## **IX. THE RESOLUTION PROCESS**

Upon receipt by the Title IX Coordinator or Official with Authority of an allegation or notice of an alleged violation of the Policy, UMB initiates its resolution process, which involves a prompt preliminary review to determine if there is reasonable cause to believe this Policy has been violated.

The Title IX Coordinator will initiate communication with the Complainant to offer Supportive Measures and determine if the Complainant wishes to file a Formal Complaint. Upon receipt of a Formal Complaint, the parties will be provided with written notice of the allegations, UMB's grievance process, including formal and informal resolution processes, the right of an Advisor of the party's choice, and UMB's policies regarding knowingly making false statements or submitting false information.

UMB will investigate allegations in a Formal Complaint. Any allegations that do not constitute an allegation of Sexual Harassment as defined in Section III.W, did not occur in UMB's education program or activity, or did not occur against a person in the United States, will be dismissed for purposes of a Formal Complaint of Sexual Harassment under Title IX; such a dismissal does not preclude UMB from taking action under this Policy, UMB's Code of Ethics and Conduct or other relevant policies.

UMB's investigatory process assumes the responsibility to ensure that the burden of proof and the burden of gathering sufficient evidence to reach a determination is borne by UMB. During the investigation process, the parties will have an equal opportunity to present witnesses, including fact and expert witness, and other inculpatory and exculpatory evidence. Neither party will be restricted from discussing the allegations or gathering and presenting relevant evidence.

To the extent allegations fall within the scope of Title IX, at the conclusion of the investigation, adjudication of the allegations will occur through a live hearing. During the hearing, as more fully described in the [Procedures](#), each party, through their Advisor, will have the opportunity to question and cross-examine the other party and any witnesses. Live hearings may be conducted with the parties located in separate rooms/locations with technology enabling the decision-maker(s), panelists, and parties to simultaneously see and hear the party or the witness answering questions. For parties that do not have an advisor, UMB will provide an Advisor of its choice, who may or may not be an attorney, for the purposes of conducting such questioning and cross-examination. An audio or audiovisual recording, or transcript, of the live hearing will be made available to the parties for inspection and review. A Determination will be made by the Decision-maker and a written Determination report will be provided to the parties simultaneously.

To the extent allegations fall partially within the scope of Title IX and partially within the scope of other policies, UMB may bifurcate matters.

The parties may appeal a Determination, or any dismissal of a Formal Complaint, on the following grounds:

Procedural irregularity that affected the outcome of the matter;

New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal of the Formal Complaint was made, that could affect the outcome of the matter; and

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.

In order to make a determination of whether or not a policy violation occurred, UMB uses the "preponderance of the evidence" standard, that is, whether it is *more likely than not* that a policy violation occurred.

The investigation and subsequent resolution processes determine whether the Policy has been violated. If it is determined that a policy violation occurred, UMB will promptly implement effective remedies designed to end the discrimination, prevent its reoccurrence, and address its effects.

Upon the freely given consent of both parties, an informal resolution process may be chosen in lieu of the formal process of investigation and adjudication. For those parties that agree to an Informal Process, UMB will provide a written notice of the allegation, the requirements for participation in the Informal Resolution process, the right to withdraw from the Informal Resolution process at any time before a resolution is agreed upon, and the potential consequences that may result from participating in the Informal Resolution process. Where there is an allegation of Sexual Misconduct committed by an employee against a student, the Informal Resolution process will not be offered as an option.


UMB prohibits the use of mediation to resolve policy violations where the Sexual Misconduct includes stalking, sexual assault, or sexual coercion.

#### **A. Advisors**

Complainants and Respondents may have an advisor of their choice attend with them all meetings and interviews within the resolution process, if they so choose.

Where a matter falls within the scope of Title IX such that a live hearing is required, Complainants and Respondents must have an advisor when a formal process is initiated and these advisors will be responsible for questioning witnesses during the live hearing of the grievance process. Each party may select whomever they wish for this role if the person(s) is eligible and available, i.e., is not a party or witness in the process and is not a minor. Examples of advisors include a licensed attorney, an advocate who is supervised by a licensed attorney, or a trained advocate. In addition, as necessary, a translator will be made available upon request of a party.

The advisor may attend meetings or interviews with the party. The advisor must attend any hearings and will be required to conduct any cross-examination on behalf of the party they are advising. The advisor may offer private consultations with the party during hearings, meetings, and interviews, except during questioning of the party. Parties may request, through the Title IX Coordinator, to have more than one Advisor. The decision to grant this request is at the sole discretion of the Title IX Coordinator and will be granted equitably to all parties.

A current or former UMB student who makes a complaint or who responds to a complaint on which a formal Title IX investigation is initiated and who was enrolled as a student at UMB at the time of the incident that is the basis of the complaint may obtain legal counsel through the Maryland Higher Education Commission (the "Commission"). The Commission has developed a list of attorneys and legal services programs willing to represent students on a pro bono basis or at reduced fees equivalent to those paid to attorneys under civil legal services programs administered by the Maryland Legal Services Corporation. The student may select an attorney on the Commission's list or seek an alternate attorney to whom the Commission will pay reasonable fees equivalent to those paid to attorneys under civil legal services programs. Any fees above and beyond those paid under civil legal services programs administered by the Maryland Legal Services Corporation are the responsibility of the student. The Commission will not pay attorney's fees for representation of a student in any criminal or civil matter or any administrative matter that is not a Title IX proceeding at an institution operating in Maryland. See <https://mhec.maryland.gov/Pages/Title-IX-Campus-Sexual-Assault-Proceedings.aspx> .

#### **B. Timeliness**

UMB will make a good faith effort to complete the resolution process, including any appeal, within a sixty (60) calendar day time period, which can be extended as necessary by the Title IX Coordinator, with notice to the parties.

UMB may undertake a short delay in its investigation (several days to weeks) and resolution process if circumstances require. Such circumstances include, but are not limited to, the need for language assistance, the absence of parties and/or witnesses, and/or accommodation for disabilities or health conditions. UMB will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates if necessary. UMB will promptly resume its investigation and resolution process as soon as feasible. During such a delay, UMB will implement Supportive Measures as deemed appropriate. Institutional action(s) are not precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

#### **C. Withdrawal or Resignation During Resolution Process**

*Students:* Should a student decide not to participate in the process, the process will proceed to an appropriate resolution.

Should a student Respondent permanently withdraw from the Institution, the process will end, as the Institution no longer has disciplinary jurisdiction over the former student. However, UMB will continue to address and remedy any systemic issues, variables that have contributed to the alleged violation(s), and any ongoing effects of the alleged misconduct. The student who withdraws or leaves while the process is pending may not return to UMB and a hold will be placed on their ability to be readmitted. If the student withdraws or takes leave for a specified period of time (e.g., one semester or term), the process will continue and that student will not be permitted to return to UMB unless and until the process is concluded and, where applicable, any sanctions have been satisfied. During the process, UMB may put a hold on a Respondent's transcript or place a note on a Respondent's transcript or dean's disciplinary certification that a disciplinary matter is pending.

*Employees:* Should an employee Respondent resign from employment with unresolved allegations pending, the resolution process ends, as UMB no longer has disciplinary jurisdiction over the former employee. However, UMB will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged misconduct.

#### **X. SUPPORTIVE MEASURES**

Individuals involved in reported Sexual Misconduct may be entitled to Supportive Measures. In some instances, Supportive Measures such as no-contact orders, may extend beyond the conclusion of informal or formal resolution of a complaint. Supportive Measures are not sanctions.

Supportive Measures, may include, but are not limited to, the following:

counseling

notification of the appropriate administrative authorities regarding possible absences from employment or academic program

extensions of deadlines or other course-related adjustments

arrangements for alternative academic, living, or employment situations, if such alternative is available and feasible

modifications to work or class schedules, building access points, parking lot assignments, and other similar logistics, including increased security and monitoring of certain areas of the campus

development of a mutual no-contact order (or a no-trespass order against a non-affiliated third party)

Any request(s) for Supportive Measures should be made to the Title IX Coordinator. The Title IX Coordinator, or their designee, will contact the appropriate UMB personnel to coordinate and implement Supportive Measures.

## **XI. SANCTIONS**

Sanctions may be imposed upon any member of the UMB community determined to have violated this Policy. The following are examples of remedial responses and sanctions that may be recommended singly or in combination:

### **A. Student Remediations and Sanctions**

Warning

Probation

Suspension

Dismissal

Required Counseling

Required Training or Education

Withholding Degree

Revocation of Degree

Transcript Notation

Other Actions

### **B. Employee Remediations and Sanctions**

Warning – Written or Verbal

Performance Improvement Plan

Required Counseling

Required Training or Education

Demotion

Suspension without Pay

Suspension with Pay

Termination

Other Actions

### **C. Sanctioning for Sexual Misconduct**

UMB considers Sexual Assault to be the most serious sexual misconduct. Respondents found responsible for Sexual Assault violations typically receive the most severe sanctions, including suspension or dismissal for students and termination for employees. However, UMB reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any act of Sexual Misconduct, based on the facts and circumstances of the particular case.

*The Hearing Decision-maker or Panel reserves the right to deviate from the range of recommended sanctions in the case of serious mitigating circumstances or egregiously offensive conduct. Neither the initial hearing officers nor any appeals body or officer will deviate from the range of recommended sanctions unless compelling justification exists to do so.*

Respondents are expected to comply with all assigned sanctions, responsive actions, and corrective actions within the timeframe specified by the Decision-maker and/or Title IX Coordinator. Failure to abide by the sanctions/actions imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions/actions, including suspension, expulsion, and/or termination, and may be noted on a student's official transcript or in an employee's official record. A suspension will be lifted only after compliance is achieved to the satisfaction of the Title IX Coordinator.

### **D. Prohibition on Retaliation**

Retaliation is any adverse action taken because of a person's participation in a protected activity. Protected activities include reporting an incident that may implicate this Policy, participating in the resolution process (as a party or witness), supporting a reporting party, Complainant or Respondent, or assisting in providing information relevant to an investigation. Protected activities also include opposing Sexual Misconduct, refusing to participate in wrongful or unlawful activities or refusing to carry out a directive that would include engaging in or hiding wrongful or unlawful activities. Adverse actions are negative professional or educational actions, that would not otherwise have been taken, to deter an individual from engaging in, or in retaliation against an individual for participating in, protected activities. Adverse actions are actions that would dissuade a reasonable person from engaging in the complaint process (either as a party or non-party witness).

Acts of alleged retaliation should be reported immediately using the UMB Hotline and will be promptly investigated as a potential separate violation of this Policy. UMB is prepared to take appropriate steps to prevent retaliation.

## **XII. RECORDS**

Records of all allegations, investigations, formal and informal resolutions, and hearings will be kept for at least seven (7) years by the Title IX Coordinator. The Institution will also retain records of the training provided to Title IX Coordinators, investigators, and decision-makers.

## **XIII. PREVENTION AND EDUCATION PROGRAMS**

Annually, UMB community members are expected to participate in training that addresses Title IX rights, responsibilities, and obligations, raises awareness regarding Sexual Misconduct, and seeks to prevent its occurrence. Information on mandatory training will be provided through the Title IX website.

*Training for Students:* UMB provides mandatory student training at the beginning of each academic year.

*Training for Employees:* UMB provides mandatory employee training upon hire and at the beginning of each academic year. Additional mandatory training may be required based on the employee's role within UMB.

Additionally, University Recreation and Fitness (URecFit), in collaboration with University Police, offers Rape Aggression Defense Training (RAD) on techniques for prevention and defense.

Requests for additional training can be made through the Office of Accountability and Compliance, at [www.umaryland.edu/oac](http://www.umaryland.edu/oac).

## **XIV. RESOURCES**

### **Mental Health & Victim Service Resources**

UMB Resources:

## UMB Employee Assistance Program (Confidential Resource)

419 W. Redwood St., Suite 560

Baltimore, MD 21201

Phone: 667-214-1555

Monday to Friday, 8 a.m. to 5 p.m. (other times by appointment)

A counselor is available by pager 24 hours a day, seven days a week — follow the instructions on the voice mail.

[www.umb-eap.org](http://www.umb-eap.org)

## UMB Student Counseling Center (Confidential Resource)

HSHSL Library

601 W. Lombard St., Suite 440

Phone: 410-328-8404; Fax: 410-328-5291

Monday to Friday, 8:30 a.m. to 5 p.m.

Limited evening hours Mondays and Tuesdays

[www.umaryland.edu/counseling](http://www.umaryland.edu/counseling)

## UMB Office of the Ombudsperson

Brian O. Godette, JD

714 W. Lombard St., Room 201

Baltimore, MD 21201

410-706-8534

[bgodette@umaryland.edu](mailto:bgodette@umaryland.edu)

## Baltimore City Resources:

*Domestic Violence:*

House of Ruth:

Hotline: 410-889-RUTH (7884)

<https://hruth.org/>*Sexual Assault/Sexual Violence:*

UMB has entered into an agreement with Turnaround to provide trauma-informed services to members of the UMB community who have experienced Sexual Misconduct.

## Turnaround

The Walbert Building

1800 N. Charles Street, Suite 404

Baltimore, MD 21201

24 Hour Helpline: 443-279-0379

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

## Maryland Resources:

## Maryland Coalition Against Sexual Assault (MCASA)

(Includes a statewide service provider directory)

301-328-7023

<https://mcasa.org>

## Maryland SAFE Programs

(Includes a listing of SAFE programs by County)

<https://mcasa.org/safe-programs>

## Sexual Assault Legal Institute (SALI)

Toll Free: 877-496-SALI

## Maryland Network Against Domestic Violence

(Includes a statewide service provider directory)

Office: 301-429-3601



Statewide Helpline: 1-800-MD-HELPS  
<https://mnadv.org>

National Resources:

National Stalking Resource Center:  
202-467-8700

Victim Connect Hotline: 855-4-VICTIM (855-484-2846)  
<https://victimconnect.org/get-help/talk-to-someone/>

National Domestic Violence Hotline:  
1-800-779-7233  
[www.thehotline.org](http://www.thehotline.org)

National Sexual Assault Hotline:  
1-800-656-HOPE (4673)

GLBT National Help Center:  
1-888-843-4564

GLBT Youth Hotline (up to age 25):  
1-800-246-7743

**RELATED POLICIES**

[USM Policy on Sexual Harassment](#)

**RELATED PROCEDURES**

[UMB PROCEDURES FOR RESOLVING SEXUAL MISCONDUCT COMPLAINTS UNDER THE JURISDICTION OF TITLE IX OF THE EDUCATION AMENDMENT OF 1972 "TITLE IX PROCEDURES"](#)

[UMB PROCEDURES FOR RESOLVING SEXUAL MISCONDUCT COMPLAINTS OUTSIDE THE JURISDICTION OF TITLE IX OF THE EDUCATION AMENDMENT OF 1972 "NON- TITLE IX PROCEDURES"](#)

[Reporting Through The UMB Hotline](#)

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