



VI. 160.1B – UMCES Policy on Sex Discrimination

Approved by the President - September 19, 2024

I. Purpose

This policy (the Policy) and the accompanying procedures (the Procedures) are established as the formal implementation of USM VI-1.60 Policy on Sex Discrimination. The University of Maryland Center for Environmental Science (UMCES or University) is committed to providing a working and learning environment free from and learning environment free from Sex Discrimination, including Sex-Based Harassment, Sexual Exploitation, Sexual Coercion, and Sexual Intimidation. UMCES prohibits and will not tolerate Sex Discrimination in any form. Sex Discrimination is 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, and may also constitute criminal activity.

UMCES endeavors to foster a climate free from Sex Discrimination and Retaliation. UMCES accomplishes this through training, education, prevention programs, through procedures that promote prompt reporting, prohibit retaliation, and provide for timely, fair, and impartial investigation and resolution of Sex Discrimination and Retaliation cases in a manner that eliminates the conduct, prevents its recurrence, and addresses its effects. All UMCES community members are subject to this policy, regardless of sex, sexual orientation, gender identity, or gender expression. This includes all students, faculty, and staff of UMCES, as well as third Parties and contractors under UMCES control. Nothing in this policy is intended to supersede or conflict with any federal compliance obligation.

This Policy and Procedures apply to all allegations of Prohibited Conduct (as defined herein) occurring on or after August 1, 2024. For conduct occurring before August 1, 2024, please refer to the prior Policy and Procedures at <https://www.umces.edu/sites/default/files/VI%20-%201.60%20UMCES%20Policy%20and%20Procedure%20on%20Sexual%20Misconduct%2008-14-2020.pdf>.

II. Applicability and Scope

This Policy prohibits Sex Discrimination, Other Sexual Misconduct and Retaliation under federal and state discrimination laws, including Title IX of the Education Amendments of 1972 (Title IX) and Title VII of the Civil Rights Act (Title VII). This Policy applies to all members of the campus community, including Students, faculty, and staff. It also applies to contractors and other third Parties who are engaged in any UMCES Education Program or Activity, or who are otherwise interacting with UMCES, including, but not limited to volunteers, vendors, and visitors. All UMCES members are prohibited from engaging in or assisting or abetting another's engagement in Sex Discrimination or Retaliation.

This Policy applies to Prohibited Conduct committed by or against students, faculty, staff and

third Parties when:

1. Conduct occurs on UMCES premises, in any UMCES facility, or on property owned or controlled by the UMCES, including but not limited to, a building owned or controlled by a student organization that is officially recognized by the UMCES, and conduct that is subject to the UMCES's disciplinary authority;
2. Conduct occurs in the context of a UMCES Education Program or Activity (as defined herein), including, but not limited to, UMCES-sponsored academic, , extracurricular, study abroad, research, online, or internship programs or activities; or
3. Conduct occurs outside the context of a UMCES Education Program or Activity or outside the United States, but has continuing adverse effects on or creates a hostile environment for students, employees or third Parties while on premises or other property owned or controlled by the UMCES or in any UMCES Education Program or Activity;

UMCES has no authority to investigate reported incidents involving members of the campus community that occurred prior to the individual being enrolled at or employed by UMCES when the incident did not occur on campus or otherwise in connection with a UMCES Education Program or Activity. UMCES may, however, be able to assist individuals with Supportive Measures.

III. Definitions

For purposes of this Policy and the accompanying Procedures, the following definitions apply:

- A. **Advisor** means a person chosen by a Party to provide advice and consultation to that Party, in accordance with this Policy and Procedures. An Advisor may be an attorney or another individual. An Advisor cannot be a witness or provide evidence in a case.
- B. **Appellate Officer** means an individual designated to review and decide appeals of Written Determinations and Dismissals of Complaints. Appellate Officers shall have had no previous involvement with the substance of the Complaint.
- C. **Complainant** is an individual who is alleged to have been subjected to Prohibited Conduct who is a student or employee or who was participating or attempting to participate in the Education Program or Activity at the time of the alleged Prohibited Conduct whether or not that individual initiated the Complaint.¹
- D. **Complaint** means an oral or written request to the University that objectively can be understood as a request to investigate and make a determination about alleged Prohibited Conduct.

¹ A parent, guardian, or other authorized legal representative with the legal right to act on behalf of the Complainant may also file a Complaint on behalf of a Complainant.

- E. **Confidential Employees** are (1) employees whose communications are privileged² or confidential under Federal or State law; (2) employees whose communications are specifically designated as confidential for the purpose of providing services related to potential Prohibited Conduct; or (3) employees who are conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination—but the employee’s confidential status is only with respect to information received while conducting the study.
- F. **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 the person 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 or Sexual Coercion.
 - An individual who is Incapacitated is unable to give Consent.
- G. **Dating Violence** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- H. **Domestic Violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with

² The employee’s confidential status is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies.

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.

- I. **Draft Determination** means a draft written report which summarizes the allegations, the policies and procedures applicable to the allegations, all evidence reviewed, and interviews conducted, and provides the Investigator’s preliminary determination as to whether the alleged Prohibited conduct occurred. The Draft Determination is not an outcome of the case and is not subject to appeal.
- J. **Education Program or Activity** of the University includes all operations of the University in the United States, including, but not limited to, all conduct³ over which the University exercises disciplinary authority and all conduct that occurs in any building owned or controlled by a student organization that is officially recognized by a University. The University must address a sex-based hostile environment under its Education Program or Activity even when some conduct alleged to be contributing to the hostile environment occurred outside the University’s Education Program or Activity or outside the United States.
- K. **Employees with Authority** are employees, other than Confidential Employees, who have authority to institute corrective measures or who are responsible for administrative leadership, teaching, or advising.
- L. **Incapacitated** mean means an individual’s decision-making ability is impaired such that the individual is incapable of understanding the “who, what, where, why, or how” of their sexual interaction/encounter. A person may be Incapacitated if they are asleep, unconscious, coming in and out of consciousness, being physical restrained by another person or device (e.g., handcuffs, rope, tape), or any other state where the individual is unaware that sexual contact is occurring. Incapacitation may also exist because of a temporary or permanent mental or developmental disability that impairs the ability to Consent to sexual contact. Alcohol or drug use is one of the primary causes of Incapacitation. Being “drunk” or “high”, by most individuals’ understanding, is not the same as being Incapacitated. 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 results in a person being unable to:

³ Such conduct may occur in-person or through the use of technology such as e-mail, texts, social media applications, etc.

1. make decisions about the potential consequences of sexual contact;
2. evaluate one's own conduct;
3. communicate to another person, Consent to sexual contact; or
4. communicate an unwillingness to another person, to engage in sexual contact.

M. **Investigator** means a trained UMCES faculty or staff member or third-Party contractor designated to conduct an impartial, fair, and unbiased investigation into an alleged violation of this Policy.

N. **No Contact Order** means an official directive that serves as notice to an individual that the individual must not have verbal, electronic, written, or third-party communications with another individual.

O. **Other Sexual Misconduct** means the following conduct:

1. **Sex-Based Harassment prohibited by Md. Code Ann., State Gov't § 20-601** means unwelcome and offensive conduct, which need not be severe or pervasive, when the conduct is based on sex, sexual orientation, or gender identity or consists of unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature; and
 - a. Submission to the conduct is made either explicitly or implicitly a term or condition of the employment of an individual;
 - b. Submission to or rejection of the conduct is used as a basis for employment decisions affecting the individual; or
 - c. Based on the totality of the circumstances, the conduct creates a working environment that a reasonable person would perceive to be abusive or hostile.
2. **Sexual Coercion:** The use of unreasonable pressure in an effort to compel another individual to initiate or continue sexual activity against the individual's will. A person's words or conduct are sufficient to constitute Sexual Coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Sexual Coercion includes but is not limited to intimidation, manipulation, express or implied threats of emotional or physical harm, and/or blackmail. Examples of Sexual Coercion include but are not limited to 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.

3. **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.
 4. **Sexual Intimidation:** Threatening behavior that is verbal and/or physical of a sexual nature directed at another person, such as threatening to sexually assault another person or engaging in indecent exposure.
 5. **Attempted Sexual Assault:** An attempt to commit Sexual Assault.
- P. **Parental Status** means the current, potential, or past status of an individual who is, with respect to any person under the age of 18 or over the age of 18 but incapable of self-care because of a disability: (1) a biological, step, adoptive, or foster parent; (2) a legal custodian or guardian; (3) in loco parentis; or (4) actively seeking legal custody, guardianship, visitation, or adoption .
- Q. **Party** means either Complainant or Respondent or collectively "Parties"
- R. **Pregnancy or Related Conditions** means the current, past, or potential presence of any of the following conditions:
1. Pregnancy, childbirth, termination of pregnancy, or lactation
 2. Recovery from pregnancy, childbirth, termination of pregnancy, or lactation
 3. Medical conditions related to pregnancy, childbirth, termination of pregnancy or lactation.
- S. **Preponderance of the Evidence** means that it is more likely than not that a Policy violation has occurred.
- T. **Prohibited Conduct** means conduct listed in Section IV of this Policy.
- U. **Relevant** means related to the allegations of Sex Discrimination under investigation as part of these Procedures. Questions are Relevant when they seek evidence which may aid an Investigator in determining whether the alleged Sex Discrimination occurred. Evidence is Relevant when it may aid an Investigator in determining whether the alleged Sex Discrimination occurred.
- V. **Remedies** means actions designed to restore or preserve the Complainant's equal access to the UMCES's Education Program or Activity. Remedies are similar to Supportive Measures but may be punitive and burden the Respondent.
- W. **Respondent** means an individual alleged to be the perpetrator of conduct that could constitute Prohibited Conduct.

- X. **Retaliation** means intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because an individual has reported information, made a Complaint, testified, assisted, participated or refused to participate in any manner in an investigation, proceeding, or hearing related to Prohibited Conduct. Retaliation includes bringing charges against an individual for violations of other University policies that do not involve Prohibited Conduct but arise out of the same facts or circumstances as a Complaint, for the purpose of interfering with any right or privilege secured by Title IX.
- Y. **Sanctions** mean disciplinary and other consequences imposed on a Respondent who is found to have violated this Policy.
- Z. **Sexual Assault** means an offense classified as a sex offense in the uniform crime reporting system of the Federal Bureau of Investigation. Sex offenses are sexual acts directed against another person and include:
1. **Non-Consensual Sexual Penetration**— Penetration, no matter how slight, of the genital or anal opening of the body of another person with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
 2. **Fondling**—The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
 3. **Incest**—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 4. **Statutory Rape**—Nonforcible sexual intercourse with a person who is under the statutory age of consent.⁴
- AA. **Sex-Based Harassment** means Sex Discrimination prohibited by Title IX that satisfies one or more of the following:
1. **Quid pro quo harassment**— An employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the University’s Education Program or Activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct.

⁴ See Md. Code Ann., Crim. Law §§ 3-301 through 3-307.

2. **Hostile Environment Harassment**— Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the University’s Education Program or Activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - i. The degree to which the conduct affected the complainant’s ability to access the University’s Education Program or Activity;
 - ii. The type, frequency, and duration of the conduct;
 - iii. The Parties’ ages, roles within the University’s Education Program or Activity, previous interactions, and other factors about each Party that may be Relevant to evaluating the effects of the conduct;
 - iv. The location of the conduct and the context in which the conduct occurred; and
 - v. Other sex-based harassment in the University’s Education Program or Activity.

3. Sexual Assault, Dating Violence, Domestic Violence, or Stalking.

- BB. **Sex Discrimination** means exclusion from participation in or being denied the benefits of any Education Program or Activity on the basis of sex, including sex stereotypes, sex characteristics, sexual orientation, gender identity, and Pregnancy or Related Conditions. Sex-Based Harassment is a form of Sex Discrimination.
- CC. **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.
- DD. **Student** means a person who has gained admission to the University.
- EE. **Supportive Measures** are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:
1. Restore or preserve that Party’s access to the University’s Education Program or Activity, including measures that are designed to protect the safety of the Parties or the University’s educational environment; or
 2. Provide support during the University’s grievance procedures.

Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, restrictions on contact applied to one or more Parties, changes in work or housing

locations, leaves of absence, increased security and monitoring of certain areas of the campus, training and education programs related to Sex-Based Harassment, and other similar measures.

FF. Written Determination means a written report which summarizes the allegations, the policies and procedures applicable to the allegations, all evidence reviewed, and interviews conducted, and provides the Investigator's determination as to whether the alleged Prohibited conduct occurred and any sanctions or remedies. The Written Determination memorializes the outcome of the case and is subject to appeal.

IV. Prohibited Conduct

This Policy prohibits Sex Discrimination, Other Sexual Misconduct, and Retaliation as defined in this Policy. Prohibited Conduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Prohibited Conduct can occur between people of the same or different sex, sexual orientation, or gender identity.

V. Title IX Administration

A. Title IX Coordinator

The Title IX Coordinator is responsible for monitoring the Education Program or Activity for barriers to reporting information about conduct that reasonably may constitute Sex Discrimination and take steps reasonably calculated to address such barriers. The Title IX Coordinator leads, coordinates, and oversees the University's efforts regarding compliance, training, prevention programming, and educational programs. The Title IX Coordinator is available to meet with any student, employee, or third Party to answer any questions about this Policy. The Title IX Coordinator may delegate appropriate responsibilities under this Policy to other members of the Title IX Team or any other qualified representative under the Title IX Coordinator's supervision. The use of the term "Title IX Coordinator" in this Policy and Procedures will include any person to whom the Title IX Coordinator has delegated any responsibilities under this Policy or the accompanying Procedures.

Individuals can contact the Title IX Coordinator to seek resources under this Policy at:

Lisa A. Ross, SHRM-CP
Title IX Coordinator
2020 Horns Point Road
Cambridge, MD
titleix@umces.edu
410-221-2017

B. Title IX Team

The Title IX Coordinator may delegate responsibilities under this Policy and Procedures to members of the Title IX Team. The Title IX Team includes:

Addie Bowie
HR Coordinator
2020 Horns Point Road
Cambridge, MD
abowie@umces.edu
410-221-8241

Riniya Countiss, SHRM-CP
HR Coordinator
146 Williams Street
Solomons, MD
rcountiss@umces.edu
410-326-7402

Essala D. Lowe
Vice President of Administration and Finance
2020 Horns Point Road
Cambridge, MD
elowe@umces.edu
410-221-2002

C. Training

1. All Students and Employees – Preventative Education

UMCES will develop and implement preventative education, for all employees and students, to help identify and reduce the occurrence of Prohibited Conduct. The training will contain information regarding what constitutes Sex-Based Harassment, definitions of Consent and Prohibited Conduct, the UMCES's Procedures, bystander intervention, risk reduction, and the consequences of engaging in Sex-Based Harassment. These educational initiatives shall be for all incoming students and new employees. UMCES will also develop ongoing prevention and awareness campaigns for all students and employees addressing the same information. Educational initiatives for employees shall comply with Md. Code Ann., State Pers. & Pens. § 2-203.1.

2. Employee Training

UMCES will develop and implement training for all employees regarding the UMCES's obligation to address Prohibited Conduct. All employees shall be trained upon hire, upon change of position that alters their duties under Title IX or this Policy, and annually thereafter. Training materials must not rely on sex stereotypes. Training materials will not rely on sex stereotypes. The training will include: the scope of conduct that may constitute Prohibited Conduct, the definition of Prohibited Conduct, and all applicable notification requirements (set forth in Section VI.B of this Policy) and responsibilities that apply to each employee's specific designation.

VI. Reporting Information to UMCES Employees

All UMCES employees must notify the Title IX Coordinator or provide Students or other persons with the contact information of the Title IX Coordinator under the following circumstances:

- A. **Pregnancy or Related Conditions** – If a Student, or a person who has the legal right to act on behalf of the Student, informs any employee of the Student's Pregnancy or Related Conditions, the employee must provide that person with the Title IX Coordinator's contact information and inform them that the Title IX Coordinator can coordinate specific actions to ensure equal access and prevention of discrimination. Employees need not provide the Title IX Coordinator's contact information if the employee reasonably believes that the Title IX Coordinator has been notified.

- B. **Prohibited Conduct** – When an employee becomes aware of information about conduct that reasonably may constitute Prohibited Conduct, they are required to take the following action based on their designation:
 1. **Confidential Employees** must inform any person who communicates information about conduct that may reasonably constitute Prohibited Conduct that they are Confidential Employees, circumstances in which they are not required to notify the Title IX Coordinator about conduct that reasonably may constitute Prohibited Conduct, how to contact the Title IX Coordinator, and how to initiate a Complaint, and that the Title IX Coordinator may be able to offer and coordinate Supportive Measures as well as initiate an informal resolution process or investigation under the procedures.
 2. **Employees with Authority** must notify the Title IX Coordinator when they obtain information about conduct that may reasonably constitute Prohibited Conduct.
 3. **All Employees** who are not Confidential Employees or Employees with Authority shall either (1) notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute Prohibited Conduct or (2) provide the contact information of the Title IX Coordinator and information about how to

make a Complaint to any person who provides the employee with information about conduct that may reasonably constitute Prohibited Conduct.

Any person may also directly report Prohibited Conduct at any time by contacting the Title IX Coordinator or any member of the Title IX team at any time regardless of whether the reporting person is the Complainant.

VII. Pregnancy and Related Conditions

A. Nondiscrimination. UMCES shall not discriminate on the basis of current, past, or potential Pregnancy or Related Conditions. UMCES will not require any Student to provide certification that they are physically able to participate in a class, program, or activity, unless:

1. The certified level of physical ability or health is necessary for the class, program, or activity;
2. The University requires such certifications of all students participating in the class, program, or activity; and
3. The information obtained through the certification is not used as a basis for prohibited discrimination.

B. Student Accommodations. UMCES will provide reasonable accommodations to policies, practices, or procedures for students experiencing Pregnancy or Related Conditions.

1. **Requesting Reasonable Accommodations.** Students may request accommodations for Pregnancy or Related Conditions by contacting the Title IX Coordinator (see Section VI.A. of this Policy). The Title IX Coordinator may request documentation from the Student's medical provider which is necessary and Relevant to determining what accommodations are appropriate for the Student's needs. The Title IX Coordinator will initiate the interactive process, in consultation with the Student, Faculty members, and any other necessary Parties to determine reasonable modifications based on the Student's individualized needs.
2. **Consideration of Reasonable Accommodations.** An accommodation that would fundamentally alter the nature of the UMCES's Education Program or Activity is not reasonable and will not be granted under this Policy. Depending on the unique needs of the Student, reasonable accommodations may include, but are not limited to: modified work schedule, light duty, additional or more flexible break periods, a different chair.
3. **Leaves of Absence.** Students experiencing Pregnancy or Related Conditions may take a voluntary leave of absence for a period of time determined by the Student's medical provider, or the period of time permitted by any other UMCES policy, including the Graduate Student Handbook, whichever is greater. Upon return from a leave of absence, the student will be reinstated to the same academic status and

(to the extent possible) extracurricular status that the student held when the leave began.

C. **Employee Accommodations.** UMCES will provide reasonable accommodations for qualified employees with known limitations related to Pregnancy or Related Conditions.

1. **Requesting Reasonable Accommodations.** Employees may request accommodations for Pregnancy or Related Conditions by contacting the Title IX Coordinator (see Section VI.A. of this Policy). The Title IX Coordinator may request documentation from the Employee's medical provider which is necessary and Relevant to determining what accommodations are appropriate for the Employee's needs. The Title IX Coordinator will initiate the interactive process, in consultation with the Employee, Supervisor, and any other necessary Parties to determine reasonable modifications based on the Employee's individualized needs.
2. **Consideration of Reasonable Accommodations.** An accommodation which causes an undue hardship on the part of the UMCES is not reasonable and will not be granted under this Policy. Depending on the unique needs of the Employee, reasonable accommodations may include, but are not limited to: modified work schedule, light duty, additional or more flexible break periods, a different chair.
3. **Employee Leave.** UMCES shall consider Employee Leave if there is no other reasonable accommodation which will enable the Employee to perform their essential job functions for the duration of a known limitation based on Pregnancy or a Related Condition. If an employee has no remaining paid leave pursuant to the University's employee leave Policy on Annual, Holiday, Personal, and Sick Leave, the University will consider unpaid leave as a possible accommodation, in consideration of the unique needs and circumstances of the employee.

D. **Lactation Space.** UMCES provides a lactation space for all members of the campus community and visitors which may be used for expressing milk or breastfeeding as needed. Designated lactation spaces are:

AL – Room 201

CBL – Nice Hall Room 101A

HPL/UA/IAN Cambridge – Coastal Room 1404A

IAN Annapolis – Basement

IMET – 3 Hall B

MDSG – Conference Room B

VIII. Parental, Family and Marital Status

The University prohibits any policy, practice, or procedure, or any employment action, concerning the current, potential, or past Parental Status, family status, or marital status of a

Student, employee, or applicant (for admission or employment), that treats persons differently on the basis of sex.

IX. Supportive and Interim Measures

Reports of conduct in violation of this policy may require immediate protective measures to protect the safety and well-being of the Parties and/or the UMCES community pending the outcome of the investigative and adjudicative processes. Any Party may request that UMCES implement Supportive Measures at any time during the investigation and adjudicatory process, as necessary. Supportive Measures may include:

A. **For students:**⁵ No Contact Orders, 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. housing accommodations such as facilitating changes in.

B. **For employees:** No Contact Orders, temporary reassignment, other work locations, difference work shifts.

UMCES may also institute Interim Measures prior to the adjudication of any Complaint as necessary. Interim Measures may include the following:

C. Emergency Removal

An emergency removal is for the purpose of addressing imminent threats posed to any person's physical health or safety, which might arise out of Prohibited Conduct. UMCES may remove a Respondent on an emergency basis from the University's Education Program or Activity when the University:

1. Undertakes an individualized safety and risk analysis;
2. Determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of Sex Discrimination justifies removal; and
3. Provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

UMCES will not remove a Respondent from the University based solely on an accusation. The Respondent will be offered an opportunity to meet with the Title IX Coordinator to review the reliability of the information within five (5) days from the effective date of the emergency removal. However, there is no guarantee that the Student Respondent will be permitted to return to campus.

D. Administrative Leave - Employee Respondents

UMCES in consultation with the Title IX Team, Public Safety, and any other necessary campus department may take interim measures for employee Respondents such as

⁵UMCES will not change any Student's grade pursuant to this Policy, but this Policy does not supersede any existing rights under any applicable Grade Challenge Policy.

changing an employee's work responsibilities or work location or placing the Respondent on administrative leave during the resolution process. Such action may be appropriate when there is a legitimate concern that without interim measures: 1) the employee will engage in Prohibited Conduct while the investigation is ongoing, or 2) the employee would be unduly disruptive to UMCES members or UMCES's Education Programs or Activities.

X. Rights of the Parties

The University will ensure Procedures which provide the Parties with a fair, prompt, equitable and impartial investigation and resolution of the complaint, including the following rights:

- A. Treatment with dignity, respect, and sensitivity by University officials during all phases of the disciplinary proceedings;
- B. A fair and impartial investigation;
- C. Disciplinary proceedings and resolutions that are prompt and equitable and provide an opportunity for the parties to be heard;
- D. Timely written notice of:
 - 1. The reported violation, including the date, time, and location of the alleged violation, and the range of potential sanctions associated with the alleged violation;
 - 2. The party's rights and responsibilities under the University's policies and procedures and information regarding other civil and criminal options;
 - 3. The date, time, and location of each hearing, meeting, or interview that the party is required or permitted to attend;
 - 4. A final determination made by the adjudicating official or body regarding whether a policy violation occurred and the basis for the determination;
 - 5. Any sanction imposed, as permitted by law; and
 - 6. The party's rights to appeal and a description of the appeal process;
- E. Participation in the disciplinary proceedings, including:
 - 1. Access to the case file and evidence regarding the incident obtained by the University during the investigation or considered by the adjudicating official or body, with personally identifiable or other information redacted as required by applicable law;
 - 2. Offering testimony at a hearing, or, if the University's process does not include a hearing, to the adjudicating official;

3. Submitting evidence, witness lists, and suggested specific questions to be posed to the other party involved in the disciplinary proceedings by investigators or the adjudicating official or body;
 4. Providing and reviewing testimony electronically or in a way in which the parties are not required to be in the physical presence of one another;
 5. Reviewing and providing written responses to reports and proposed findings; and
 6. Appealing a determination or sanction;
- F. Assistance by a licensed attorney, an advocate supervised by an attorney, or a trained advocate throughout the disciplinary proceedings, including by the attorney or advocate's:
1. Attendance at hearings, meetings, and interviews with the party;
 2. Private consultations with the party during hearings, meetings, and interviews, except during questioning of the party at a hearing; and
 3. Assistance with the party's exercise of any right during the disciplinary proceedings;
- G. Notwithstanding whether a student accesses counsel paid for by the Maryland Higher Education Commission (MHEC), the presence of no more than two people, including a personal supporter of the party's choice, an attorney, or an advocate, at any hearing, meeting, or interview during the disciplinary proceedings;
- H. Notice to a student party, presented in an appropriate and sensitive format, before the start of the disciplinary proceedings, of:
1. The student's right to the assistance of an attorney or an advocate;
 2. The legal service organizations and referral services available to the student; and
 3. The student's right to have a personal supporter of the student's choice at any hearing, meeting, or interview during the disciplinary proceedings;
- I. Access to counsel paid for by MHEC for a current or former student who makes a Complaint or responds to a Complaint on which a Title IX investigation is initiated, and who was enrolled as a student at the University at the time of the incident that is the basis of the Complaint, unless the student knowingly and voluntarily chooses not to have counsel, in accordance with COMAR 13B.09.01:
1. A student may select and retain an attorney before the conclusion of the formal Title IX proceedings;
 2. A student may obtain from MHEC, through MHEC's website, a list of licensed attorneys who have indicated that they will represent such

students in Title IX proceedings on a pro bono basis or for reduced legal fees; and

3. A student's attorney may seek reimbursement of certain legal costs and fees from MHEC's Legal Representation Fund for Title IX proceedings, subject to the availability of funding.

XI. Amnesty

The University recognizes that a Student who is under the influence of alcohol and/or drugs when an incident of Prohibited Conduct occurs may be reluctant to report the Prohibited Conduct out of concern that the Student may face disciplinary actions for engaging in prohibited alcohol or drug use. As such, a Student who provides information about conduct which may constitute Prohibited Conduct to the University or law enforcement, or who participates in an investigation either as a Complainant or witness, will not face disciplinary action for violating University drug and alcohol policies. This Amnesty provision applies only when the University determines that: (1) the drug/alcohol violation occurred during or near the time of the alleged Prohibited Conduct; (2) the Student acted in good faith in reporting or participating as a witness; and (3) the violation was not likely to place the health or safety of another individual at risk.

XII. Recordkeeping

UMCES will maintain for a minimum of seven (7) years, records of the following:

- A. Each Complaint of Sex Discrimination, records documenting the informal resolution process or grievance procedure, and the resulting outcome.
- B. For each notification the Title IX Coordinator or designee receives of information about conduct that reasonably may constitute Sex Discrimination, records documenting any action taken.
- C. All materials used for Title IX training of students or employees.

XIII. Reporting to Law Enforcement

Prohibited Conduct, particularly Sexual Assault, may be a crime. Individuals who are experiencing an emergency should call 911 immediately. The Title IX Team will assist Complainants who wish to report Prohibited Conduct to law enforcement authorities. To make a report directly to law enforcement, contact the following police department based on your physical location on-campus:

Appalachian Laboratory (AL) HR – 410-326-7402

AL - MD State Police, Cumberland - 301-729-2101

Chesapeake Biological Laboratory (CBL) HR - 410-326-7402

CBL—MD State Police, Prince Frederick - 410-535-1400 or

Calvert County Sheriff Department - 410-535-2800

Horn Point Laboratory (HPL) HR - 410-221-8241

HPL - MD State Police, Easton – 410-822-3101 or
Dorchester County Sheriff Department - 410-228-4141
Institute of Marine and Environmental Technology (IMET) HR - 410-221-8241
IMET - Central District Station Baltimore Police Department – 410-396-2411
MD Sea Grant College (MDSG) HR – 410-326-7402
MDSG - University of Maryland Police Department -310-405-3555
Annapolis Office/ IAN HR – 410-221-8241
IAN - Annapolis Police Department - 410-268-9000 or
MD State Police, Glen Burnie – 410 -761-5130
University Administration (UA) HR – 410-221-2017
UA - MD State Police, Easton – 410-822-3101 or
Dorchester County Sheriff Department - 410-228-4141

Standards for a violation of criminal law are different from the standards for a violation of this Policy, and conduct may violate this Policy even if law enforcement authorities decline to prosecute. Complaints of Sex Discrimination and Other Sexual Misconduct and related internal University processes may occur prior to, concurrent with, or following criminal proceedings off-campus.

- A. **Preservation of Evidence.** In addition to prompt reporting, the preservation of physical and other evidence may be important to prove criminal conduct or to obtain a civil or criminal order of protection. For instances of Sexual Assault, the nearest hospitals equipped with the Maryland Department of State Police Sexual Assault Evidence Collection Kit are:

AL – Western MD Health System Cumberland – 240-964-7000
CBL – Calvert Memorial Hospital – 410-535-4000
HPL – University of MD Shore Regional Health at Cambridge – 443-225-7500
IAN Annapolis – Anne Arundel Medical Center – 410-481-1000
IMET – University of MD Medical Center – 410-328-8667
MDSG – University of Maryland Health Center – 301-314-8180 or
Doctors Community Hospital – 301-552-8118
UA – University of MD Shore Regional Health at Cambridge – 443-225-7500

- B. **Co-Occurring Criminal Proceeding.** Proceeding under these Policy and Procedures is independent of any criminal investigation or proceeding. Reporting to

law enforcement does not preclude a person from proceeding with a report or Formal Complaint of Prohibited Conduct 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 Supportive Measures, and taking appropriate action.

However, at the request of law enforcement, the Title IX Coordinator may defer its fact-gathering until the initial stages of a criminal investigation are complete. If such a request is made by UBPD, then UBPD 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 UBPD, Baltimore City Police, or the local prosecutor's office, the Title IX Team will work collaboratively and supportively with each respective agency within the parameters outlined above. The Title IX Team will communicate any necessary delays in the University's investigative process to both Parties in the event of a deferral.

- C. **Counseling and Mental Health Services.** The University offers counseling and mental health services through the Employee Assistance Program at <https://www.guidanceresources.com/groWeb/login/login.xhtml>. Use web ID USMEAP when contacting via the Internet. Individuals who experience a sexual assault or other sexual violence can also seek services at www.mcasa.org.

XIV. Campus Sexual Assault Climate Survey

At least every two (2) years, the UMCES will (1) develop an appropriate Sexual Assault campus climate survey using nationally recognized best practices for research and climate surveys; and (2) administer the Sexual Assault campus climate survey to students in accordance with the procedures set by MHEC. UMCES will submit to MHEC a report in accordance with the requirements set forth in Md. Code Ann., Educ. § 11-601(g).

XV. Clery Act Compliance

UMCES remains responsible for complying with the requirements of the Crime Awareness and Campus Security Act of 1990 (Clery Act) and its amendments. UMCES must comply with Clery Act requirements, including crime recording and reporting requirements, where compliance is not otherwise achieved by actions under this Policy.

If a report of Prohibited Conduct discloses a serious and ongoing threat to the campus community, Public Safety may issue a timely warning of the conduct in compliance with the Clery Act in the interest of the health and safety of the campus community. This notice will not contain any personally identifying information related to the Parties.

