Policies and Procedures

Section VI - 1.60(A) UMB POLICY PROHIBITING SEXUAL MISCONDUCT AND SEX AND GENDER-BASED DISCRIMINATION

(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)

Vice President in Charge: Vice President of Operations and Planning, and Chief Accountability Officer

I. Policy
The University of Maryland, Baltimore (UMB) is committed to providing a working and learning environment free from all types of sex and gender-based 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. UMB prohibits and will not tolerate any form of sex or gender discrimination. Sexual Misconduct is a form of sex discrimination prohibited by Title IX and may also constitute criminal activity. In accordance with applicable state and federal laws, UMB must take prompt and effective steps to prevent the occurrence of sex or gender discrimination (hereinafter "Prohibited Sex Discrimination") and remedy its discriminatory effects. In addition, UMB prohibits Retaliation against anyone who files a complaint of Prohibited Sex Discrimination, anyone to whom a complaint of Prohibited Sex Discrimination is filed, or anyone who participates in an investigation of Prohibited Sex Discrimination. Likewise, UMB will not tolerate or condone the deliberate filing of false accusations. An individual found to have made a bad faith complaint is in violation of UMB Policy and may be subject to disciplinary action.

II. Purpose and Scope
The UMB Policy Prohibiting Sexual Misconduct and Sex and Gender-Based Discrimination is designed to comply with the requirements of the USM Board of Regents’ Policy on Sexual Misconduct, VI-1.60, and other state and federal laws. This policy applies to all complaints involving UMB faculty; UMB staff; UMB students; third parties and contractors under UMB control; UMB affiliates; and others not affiliated with UMB. Related UMB policies and procedures include VI-1.60(B) UMB Procedures for Adjudicating Complaints Against UMB Personnel of Sexual Misconduct and Sex and Gender-Based Discrimination, and VI-1.60(C) UMB Procedures for Adjudicating Complaints Involving Students of Sexual Misconduct and Sex and Gender-Based Discrimination.
III. Definitions

For purposes of this Policy, the following definitions apply:

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

B. **Complainant** refers to an individual who files a complaint of Prohibited Sex Discrimination alleging a violation of this Policy.

C. **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.

D. **Domestic Violence** means violence committed by a current or former spouse or intimate partner of the complainant, by a person with whom the complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the complainant, or by any person against an adult or youth complainant protected from those acts by domestic or family violence laws of Maryland.

E. **Interim Protective Measures** means reasonably available steps UMB may take to protect the parties while a Prohibited Sex Discrimination review or investigation is pending. Interim measures may include, but are not limited to, possible absences employment or the academic program and arrangements for alternate academic, living or employment situations.

F. **Respondent** means an individual who has been accused of Prohibited Sex Discrimination under this Policy.

G. **Responsible Employee** includes all UMB administrators, faculty, non-confidential staff in their supervisory roles, teaching assistants and institutional law enforcement. Responsible Employees who receive an oral or written complaint of Prohibited Sex Discrimination involving UMB faculty, staff, students or a UMB affiliate have an affirmative responsibility to promptly report the complaint to the Title IX Coordinator.

H. **Retaliation** means intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or UMB policy relating to Prohibited Sex Discrimination, or because an individual has made a report, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing related to Prohibited Sex Discrimination. Retaliation includes retaliatory harassment.
I. **Sex and Gender-Based Discrimination** means unlawful discrimination against an individual because of the individual's sex or gender in regard to hiring, termination, promotion, compensation, training, admission, dismissal, advancement, graduation or any other term, condition or privilege of employment or student status.

J. **Sexual Assault:**

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

2. Sexual Assault II. - Non-Consensual Sexual Contact - Any intentional touching of the intimate parts of another person, causing another to touch one's intimate parts, or disrobing or exposure of another without Consent. Intimate parts may include genitalia, groin, breast, or buttocks, or clothing covering them, or any body part that is touched in a sexual manner. Sexual contact also includes attempted sexual intercourse.

K. **Sexual Exploitation** means taking non-consensual or abusive sexual advantage of another person for one's own advantage or benefit for the advantage or benefit of anyone than the person being exploited.

L. **Sexual Harassment** is any unwelcome sexual advance, unwelcome request for sexual favors, or unwelcome verbal or physical conduct of a sexual nature generally characterized by non-consensual, unwelcome sexual behavior whether between people of the same gender or different genders or sexual orientation when: (1) submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, evaluation of academic work, or participation in any aspect of a UMB program or activity; (2) submission to or rejection of such conduct by an individual is used as the basis for academic, employment, or activity or program participation-related decisions affecting an individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, i.e., it is sufficiently severe or pervasive to create an intimidating, hostile, humiliating, demeaning or sexually offensive working, academic, residential or social environment. Sexual Harassment, including Sexual Violence, can include any or all of the following behaviors, as well as others which are not listed:

   a. Harassment through public or private insult, sexually suggestive comments concerning a person's body or behavior, and sexual demands
   
   b. Subtle or overt pressure to comply with demands of sexual activity
   
   c. Remarks about another person's clothing, body, sexual activities, sexual preferences, gender identity or sexual orientation, as well as teasing, jokes, remarks, or gestures which are sexual in nature
   
   d. Unnecessary touching, pinching, patting, or exposure of another person's body
   
   e. Unwarranted staring at another person's body
   
   f. Unwanted communications of a sexual nature in any form, over any medium, and in any media
g. Requests or demands for sexual favors accompanied by implied or overt threats or promised rewards, e.g., grades, class or clinical assignments, recommendations, student employment (for students) or assignments, promotions, discipline, references (for employees)

h. Repetition of unwanted invitations for dates

i. Physical assault of a sexual nature, up to and including attempted or actual rape

M. **Sexual Intimidation** means (1) threatening to sexually assault another person; (2) gender or sex-based Stalking, including cyber-stalking; or (3) engaging in indecent exposure.

N. **Sexual Misconduct** is an umbrella term that includes Dating Violence, Domestic Violence, Sexual Exploitation, Sexual Harassment, Sexual Intimidation, Sexual Violence, Stalking and related Retaliation.

O. **Sexual Violence** is a form of sexual harassment. Sexual violence means physical sexual acts perpetrated against a person's will or where a person cannot give Consent. Sexual violence encompasses rape, sexual assault, sexual battery and sexual coercion.

P. **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the safety of oneself or the safety of others or suffer substantial emotional distress.

**IV. Title IX Coordinator and Compliance Oversight**

A. The UMB Title IX Coordinator is responsible for coordinating UMB's efforts to comply with and carry out its responsibilities under Title IX and this Policy, and works in cooperation with the following Deputy Title IX Coordinators:

**Title IX Coordinator:**
Bonnie M. Muschett, JD, MBA
Director, Compliance and Engagement
Office of Accountability and Compliance
620 West Lexington Street, 5th Floor
Baltimore, MD 21201
Telephone: 410-706-1850
Email: bmuschett@umaryland.edu

**Deputy Title IX Coordinator/EEO Manager:**
Sheila G. Blackshear, MS, CAAP
Manager, Diversity/EEO/Affirmative Action
Human Resource Services
620 West Lexington Street, 3rd Floor
Baltimore, MD 21201
Telephone: 410-706-7302
Email: sheila.blackshear@umaryland.edu
Deputy Title IX Coordinator:
Rahel H. Denboba, JD
Specialist, Accountability and Compliance
Office of Accountability and Compliance
620 West Lexington Street, 5th Floor
Baltimore, MD 21201
Telephone: 410-706-1850
Email: rdenboba@umaryland.edu

B. The Title IX Coordinator is responsible for (1) overseeing UMB’s response to Prohibited Sex Discrimination inquiries and complaints, and identifying and addressing ongoing problems revealed by such complaints; (2) conducting, or designating an individual(s) to conduct, reviews and/or investigations of complaints of Prohibited Sex Discrimination; (3) overseeing educational programs and training related to Prohibited Sex Discrimination issues for students, faculty and staff; (4) ensuring that appropriate policies and procedures are in place for responding to complaints of Prohibited Sex Discrimination against students, faculty and staff, and (5) working with local law enforcement to ensure coordinated responses to Prohibited Sex Discrimination complaints.

V. Complaints and Due Process

A. Once UMB knows or reasonably should know of alleged Prohibited Sex Discrimination, it will take prompt and appropriate action to investigate or inquire to determine what occurred. This applies to Prohibited Sex Discrimination covered by this policy whether or not a parallel law enforcement action is pending or if a formal complaint is filed. UMB may need to delay temporarily fact-finding while police are initially gathering evidence.

B. After receiving a complaint with an allegation of Prohibited Sex Discrimination, the Title IX Coordinator will determine if the allegations are Prohibited Sex Discrimination subject to this policy. Complaints of Prohibited Sex Discrimination will be resolved in accordance with the applicable UMB procedure.

C. Campus Procedure for Complaints of Sexual Misconduct and Sex and Gender-Based Discrimination:

VI-1.60(B) UMB Procedures for Adjudicating Complaints Against UMB Personnel of Sexual Misconduct and Sex and Gender-Based Discrimination

VI-1.60(C) UMB Procedures for Adjudicating Complaints Involving Students of Sexual Misconduct and Sex and Gender-Based Discrimination

VI. Interim Measures

A. Interim measures are reasonably available steps UMB may take to protect parties while a Prohibited Sex Discrimination matter is investigated. The office of the Title IX Coordinator should be contacted with requests for interim measures. The Title IX Coordinator, working in coordination with the appropriate Deputy Title IX Coordinators, will contact appropriate UMB personnel to coordinate and implement appropriate interim measures.
B. Interim Measures, may include, but are not limited to, the following:

1. notification of off-campus authorities;
2. obtaining medical attention, including providing transportation;
3. access to counseling both on and off campus;
4. notification of the appropriate School or administrative unit in accordance to applicable campus procedures; and
5. notification of the appropriate authority regarding:
   a. possible absences from employment or the academic program; and/or
   b. arrangements for alternative academic, living or employment situation, if such alternative is available, feasible, and appropriate to the facts of the Prohibited Sex Discrimination reported.

VII. Confidentiality

UMB recognizes that Prohibited Sex Discrimination and allegations thereof are a sensitive subject matter for all parties involved. However, persons should be aware that the University may need to disclose information in order to conduct an investigation, resolve a complaint and comply with applicable law. UMB shall share details about investigations with those who have a need to know. Investigations of complaints of Prohibited Sex Discrimination often require the Complainant's identity to be known by the party or parties whose conduct is being reviewed. Individuals who wish to make a confidential complaint of Prohibited Sex Discrimination should speak with those who have a professional or legal obligation to keep communications confidential as described in Section VIII of this Policy under "Confidential Resources."

VIII. Resources

A. Contact UMB Police and Report a Crime

   To report a crime or emergency, call 711 or 410-706-3333 or go to the nearest UMB police officer.

   Any person may contact the UMB Police directly at any time. Some forms of discrimination on the basis of sex or gender, e.g., all forms of Sexual Violence, may constitute a crime. UMB will assist any individual who wishes to report alleged criminal conduct under this policy to appropriate enforcement authorities. Contact information is given below.

B. Seek Medical Attention

   For health emergencies, call 911 or go to the nearest emergency room

   Any Title IX Coordinator can facilitate contacting appropriate medical personnel as soon as possible following the incident to obtain attention and guidance in the preservation of evidence needed for proof of criminal assault and the apprehension and prosecution of assailants.
C. Resource Contact Information

UMB Campus Police
Pine Street Police Station
214 N. Pine Street
Baltimore, MD 21201
For emergencies phone x 711 or 410-706-3333
TTD/TTY: 410-706-3416
www.umaryland.edu/police
Baltimore City Police:
Emergency contact number: 911.

University of Maryland Medical Center:
22 North Greene Street between Baltimore and Lombard Street
Baltimore, MD 21201
Adult Emergency 410-328-9400
www.umm.edu

Mercy Medical Center:
Mercy Emergency Department operates a Sexual Assault Forensic Examiner (SAFE) program
where victims of sexual assault may receive free exams from trained
forensic nurse examiners.
301 St. Paul Place,
Baltimore MD 21011
The hospital's Emergency Room phone number is 410-332-9477.
https://mdmercy.com/departments-and-services/emergency-department

Student Health Center
408 W. Lombard Street between Eutaw and Paca Streets
Baltimore, MD 21201
Monday – Friday 7:00 a.m. to 5:00 p.m.
Monday & Thursday 5:00 p.m. - 7:00 p.m. at Family and Community Medicine 29 S. Paca St.
Appointments: 667-214-1899 (external) or 4-1899 (internal)
After Hours (urgent questions, available 24/7): 667-214-1800 (external) or 4-1800 (internal)
Director: James Baronas, MD: 667-214-1800 (external) or 4-1800 (internal)
www.umaryland.edu/studenthealth

Employee Health Services
Employees should access care at the UMaryland Immediate Care
408 W. Lombard Street located between Eutaw and Paca Streets.
667-214-1899(external) or 4-1899 (internal)
Hours for Employee Health are Monday through Friday 7am- 5pm.
Late hours are available at the main Family Medicine practice located at 29 S. Paca Street on
Monday and Thursday until 7pm.
A physician is on call 24 hours a day at 667-214-1800 (external) or 4-1800 (internal) to provide
assistance with care. After-hours emergencies are referred
to the University of Maryland Medical Center Emergency Department.

www.umaryland.edu/employeehealth

Employee Assistance Program (confidential)
419 W. Redwood St., Suite 560
Baltimore, MD 21201
Phone: (667) 214-1555 (external) or 4-1555 (internal);
Monday – Friday from 8:00 a.m. to 5:00 p.m. (other times by appointment)
A counselor is available by pager 24 hours a day, 7 days a week – follow the instructions on
voicemail.

www.umb-eap.org

Student Counseling Center (confidential)
HS/HSL Library
601 W. Lombard St., Suite 440
Baltimore, MD 21201
Phone: 410-328-8404; Fax: 410-328-5291

www.umaryland.edu/counseling
Monday – Friday from 8:30 a.m. to 5:00 p.m. and limited evening hours Mondays and Tuesdays

UMB Ethics Point Hotline (anonymous reporting option):
Dial toll-free: (866) 594-5220
or report online at www.ethicspoint.com and choose File a Report

Student Financial Assistance and Education: Students can obtain information about financial aid,
tuition refunds, leaves of absences, and options for loan repayment. (410) 706-7347 (external) or 6-7347 (internal); www.umaryland.edu/fin

Human Resource Services: Human Resource Services (HRS) includes the Employee and Labor
Relations unit and the Diversity/EEO and Affirmative Action unit. HRS is located at 620 W. Lexington
Street, 3rd Floor, Baltimore, MD 21201. (410) 706-7302 (external) or 6-7302 (internal);

www.umaryland.edu/hrs

Off-Campus Organizations and Hotlines offering victim assistance and advocacy services, including
legal assistance, emergency shelter and transitional housing:

• Turn Around, Inc.: Helpline: (443) 279-0379; www.turnaroundinc.org

• House of Ruth: 24 hr. Hotline: (410) 889-7884; www.hruth.org

• Maryland Network Against Domestic Violence: Helpline: 1-800-MD-HELPS; www.mnadv.org

D. Confidential Resources
The Title IX Coordinator will work collaboratively with a reporting individual to establish the
appropriate parameters of confidentiality in each case, always making every effort to operate with
discretion and maintain the privacy of the individuals involved. If the Complainant requests that
Title IX Coordinator keep the matter confidential, the Title IX Coordinator will carefully evaluate that request by balancing the Complainant’s wish for privacy against the safety and welfare of the UMB community. Where there is a need to preserve the health and safety of the victim and/or members of the University community, information may be shared on a need-to-know basis. Unless there is an imminent threat to health or safety or basis for disclosure, such as child abuse, confidentiality is offered when individuals seek Title IX support services from the Employee Assistance Program and the Student Counseling Center, or when a report is made through the UMB Ethics Point Hotline.

IX. Mandatory Reporting Requirements

A. A Responsible Employee who receives a complaint of Prohibited Sex Discrimination shall promptly report the complaint to the Title IX Coordinator. No employee is authorized to investigate or resolve complaints of Prohibited Sex Discrimination without the involvement of the Title IX Coordinator.

B. Because Prohibited Sex Discrimination may constitute both a violation of UMB Policy and a crime, UMB encourages persons to report incidents of Prohibited Sex Discrimination to the UMB campus police or appropriate law enforcement agencies. UMB will comply with its legal and policy obligations to report Prohibited Sex Discrimination that is child abuse and neglect. (See USM Policy on the Reporting of Suspected Child Abuse and Neglect, VI-1.50)

C. UMB will continue to report instances of Prohibited Sex Discrimination in accordance with the Crime Awareness and Campus Security Act of 1990 ("Clery Act") and its amendments. (See the Clery Incident Report Form information at: http://www.umaryland.edu/publicsafety) Data collected for Clery Act reporting is to be used to increase public safety, not to identify the victim; therefore, personal identifying information is not required.

X. External Reporting Options

For Students:
United States Department of Education, Office for Civil Rights (OCR), Wannamaker Building, 100 Penn Square Street East, Room 6300, Suite 515, Philadelphia, PA 19107, (800) 421-3481, (215) 656-8541; OCR.Philadelphia@ed.gov

For Employees:
Office of the Statewide EEO Coordinator (OSEEOC), Maryland State Department of Budget and Management, 301 West Preston Street, Room 607, Baltimore, MD 21201, (410)767-3800

Maryland Commission on Civil Rights (MCCR), 6 Saint Paul Street, Suite 900, Baltimore, MD 21202, (800) 637-6247

Equal Employment Opportunity Commission (EEOC), 10 South Howard Street, 3rd Floor, Baltimore, MD 21201, (800) 669-4000

XI. Educational Programs

A. Educational courses addressing Title IX and Prohibited Sex Discrimination are required for all UMB faculty and staff, including student employees. Title IX education is required for all UMB students.
Detailed information regarding required educational programs can be found at the Office of Accountability and Compliance website: www.umaryland.edu/titleix/training.

B. University Recreation and Fitness (URecFit), in conjunction with University Police, offers Rape Aggression Defense Training (RAD) on techniques for the prevention of becoming a victim of an attack and for defense. For more information, see the Safety Education section of the URecFit website: http://www.umaryland.edu/urecfit/safety-education/.