

## ACCOUNTABILITY AND COMPLIANCE

UNIVERSITY *of* MARYLAND, BALTIMORE



CIVILITY  
LEADERSHIP  
COLLABORATION  
KNOWLEDGE  
ACCOUNTABILITY  
EXCELLENCE  
DIVERSITY

*living our*  
**CORE**VALUES

**A RESOURCE GUIDE FOR STUDENTS  
ON SEXUAL MISCONDUCT  
Campus Policies, Procedures, and Victim  
Services**



UNIVERSITY  
*of* MARYLAND  
BALTIMORE

# IF YOU HAVE EXPERIENCED SEXUAL MISCONDUCT:

1. Go to a safe location as soon as you are able.
2. If it is an emergency, call 911.
3. Seek immediate medical attention if you are injured or believe that you may have been exposed to a sexually transmitted infection or sexually transmitted disease (STI/STD) or potential pregnancy.
4. Contact any of the following for immediate assistance:
  - a. Title IX coordinator at 410-706-2281 or via email at [titleixcompliance@umaryland.edu](mailto:titleixcompliance@umaryland.edu); Monday through Friday, 9 a.m. to 5 p.m.
  - b. UMB Police Department at 410-706-6882; available 24 hours a day/7 days a week (24/7).
  - c. Student Health Center at 667-214-1899; Monday through Friday, 7 a.m. to 4:30 p.m.
  - d. Student Counseling Center at 410-328-8404; Monday through Friday, 8:30 a.m. to 5 p.m. If you are in crisis, select option 7 to be connected for immediate support; available 24/7.
  - e. Employee Assistance Program at 667-214-1555; Monday through Friday, 9 a.m. to 5 p.m.
  - f. TurnAround Rape Crisis Center at 410-377-8111; available 24/7.
  - g. House of Ruth Maryland (Domestic Violence) at 410-889-7884; available 24/7.

Note that campus officials may contact on-call staff from other departments when their offices are closed or they are otherwise unavailable to assist immediately.

5. It is important to preserve physical evidence that may include tissue and fluid samples, evidence of violence, sheets, towels, clothing, etc. You may choose to avoid washing, bathing, urinating, etc., until after being examined at the hospital, if possible. In Baltimore City, Mercy Medical Center, located at 301 St. Paul Place, Baltimore, MD 21202, is the designated forensic nurse examiner (FNE) and can perform a sexual assault

forensic exam (SAFE). Because evidence of a sexual assault can deteriorate quickly, you may choose to seek a medical exam as soon as possible. Evidence collection should be completed within 120 hours of an assault, but fluids, hair samples, and DNA can be collected for a long time thereafter. Even if you have washed, evidence can often still be obtained. After 120 hours, it may still be helpful to have medical attention, even if you are not trying to obtain evidence of an assault. Sexual assault nurse examiners (SANEs) are trained in the collection of forensic evidence and can check for injuries and exposure to sexually transmitted diseases. If you are still wearing any clothes worn during the assault, wear them to the hospital, but bring a change of clothes, because the hospital will keep the clothes you are wearing as evidence. If you have changed clothes, bring the ones you were wearing during the assault to the hospital in a clean paper (not plastic) bag or wrapped in a clean sheet. Leave sheets/towels at the scene of the assault. Police will collect them. Typically, police will be called to the hospital to take custody of the rape kit, but it is up to you whether you wish to speak with them or file a criminal complaint.

6. Choose how to proceed. You have options and are encouraged to contact the Title IX Coordinator to discuss your options:

- a. Do nothing until you are ready;
- b. Pursue resolution by UMB; and/or
- c. Initiate criminal proceedings; and/or
- d. Initiate a civil process against the perpetrator.

You may pursue whatever combination of options is best for you. If you wish to have an incident investigated and resolved by UMB, please contact the Title IX Coordinator or submit a report through UMB's Hotline, which can be accessed electronically at [www.umaryland.edu/umbhotline](http://www.umaryland.edu/umbhotline) or by telephone at 866-594-5220. Those who wish incidents to be handled criminally should contact local police where the assault occurred. The Title IX Coordinator, or their designee, is available to accompany students in making such reports, if desired. Contact the Title IX Coordinator for more information.

# INCIDENTS INVOLVING MINORS

In Maryland, a person under the age of 16 cannot consent to sexual activity. This means that sexual contact by an individual over the age of 18 with a person younger than 16 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 UMB policy, even if the minor appeared to welcome the sexual activity.

## ABOUT CONFIDENTIALITY

### Confidential Reporting

If reporting students wish that details of an incident be kept confidential, they should speak with the Student Health Center or Student Counseling Center. Campus counselors are available to help on an emergency basis. Their service is free of charge. Members of the clergy, chaplains, and off-campus rape crisis center staff can maintain confidentiality. Local resources such as crisis centers also are confidential and have no duty to report your information to UMB.

### Mandated Reporting

All UMB employees who are not designated above as confidential are required to report any incidents of which they are aware. They share this information with the Title IX Coordinator. Incidents of sexual misconduct will be taken seriously when official notice is given to UMB. Such incidents of sexual misconduct will be investigated and resolved in a prompt and equitable manner under UMB's Policy on Sexual Misconduct and associated resolution procedures.

You may request confidentiality and/or that the Title IX Coordinator provide you with supportive measures and resources without initiating a formal resolution process. The Title IX Coordinator will weigh requests for confidentiality against the institutional need to address and remedy discrimination under

Title IX. Generally, UMB will respect your wishes unless it believes there is a threat to the community based on the use of weapons, violence, pattern, predation, or threatening conduct by the person being accused.

In cases where your request for confidentiality is granted, UMB will offer you available resources, supports, and remedies. You are not obligated to pursue formal resolution in order to access the resources that are available. If UMB decides that it is obligated to pursue a formal resolution based on the notice you have given, you are not obligated to participate in the resolution process. However, the ability of UMB to enforce its policies or provide remedies may be limited as a result of your decision not to participate.

## POLICY

Sexual misconduct, including sexual harassment, sexual violence, sexual exploitation, dating violence, domestic violence, and stalking, are violations of UMB's Policy on Sexual Misconduct.

A number of federal laws and regulations, including Title IX, the Violence Against Women Act, and the Clery Act mandate how institutions respond to such allegations. Many types of sexual misconduct also constitute violations of Maryland law. Members of the UMB community, guests, and visitors have a right to be free from sexual misconduct. All members of the community must conduct themselves in a way that does not infringe upon the rights of others.

UMB's Policy on Sexual Misconduct is intended to define expectations for appropriate conduct and outline resolution processes to address conduct that does not meet these expectations. When individuals accused of sexual misconduct are found to be in violation of the policy, UMB will impose sanctions, as described in the policy.

All members of the UMB community, guests, and visitors are protected by this policy regardless of their sexual orientation or gender identity. For more details on this policy, please visit [www.umb.edu/policies-and-procedures/library/administration/policies/vi-160a.php](http://www.umb.edu/policies-and-procedures/library/administration/policies/vi-160a.php). Additional information about

campus crime, state laws, and disclosures related to sexual misconduct can be found online in the campus Annual Security Report, which can be accessed here: [www.umaryland.edu/oac/policies-and-reports/clery-report](http://www.umaryland.edu/oac/policies-and-reports/clery-report).

## SEXUAL MISCONDUCT VIOLATIONS

The following are the definitions of conduct prohibited by UMB's Policy on Sexual Misconduct.

### 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.

### 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.

### 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).

### Sexual Assault

An offense classified as a forcible or nonforcible sex offense, which as of 2018 have been combined into a 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 or criminal sexual contact (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 (incest; statutory rape).

- *Rape (Except Statutory Rape):* The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim
- *Criminal Sexual Contact (Fondling):* The intentional touching of the clothed or unclothed body parts without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation. The forced touching by the victim of the actor's clothed or unclothed body parts, without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This offense includes instances where the victim is incapable of giving consent because of age or incapacity due to temporary or permanent mental or physical impairment or intoxication for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
- *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 old (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.

## 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.

## 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.

## 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.

## Sexual Exploitation

Taking nonconsensual or abusive sexual advantage of another person for one's own advantage or benefit or for the advantage or benefit of anyone other than the person being exploited.

## Sexual 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.

## 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.

## Retaliation

Intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law, University System of Maryland 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.

# SURVIVOR

You may choose one or more options. We encourage medical treatment for all options.

## Option 1:

Medical treatment and optional evidence collection at hospital emergency room.

Local police and local sexual assault advocacy agency respond to hospital.

Provided options to speak to one or both and receive services.

## Option 2:

Nonconfidential report.

Referred to Title IX Coordinator for review.

Provided option to receive on-campus support services.

Provided options to seek medical treatment and optional evidence collection at hospital emergency room.

Provided option to receive sexual assault advocacy locally.

## Option 3:

Confidential report at college/university health/counseling center.

Provided option of seeking counseling for on- or off-campus support.

Provided option of reporting to local police.

Provided options to seek medical treatment and optional evidence collection at hospital emergency room.

Local police and sexual assault advocacy agency respond to hospital.

Provided options to speak to one or both and receive services.

## Option 4:

Report at local police department.

Provided option of reporting the incident to local sexual assault advocacy agency and/or college/university.

## Option 5:

Confidential report through community sexual assault advocacy agency.

Provided option of working with college/university to receive on-campus accommodations.

Provided option of reporting to local police department.

*Please note that some services may vary by location.*

# CONSENT

***Knowing, voluntary, and clear permission, through word or action, to engage in mutually agreed upon sexual activity or contact.***

Since different people may experience the same interactions differently, each party is responsible for making sure that partners have provided ongoing, clear consent to engaging in any sexual activity or contact.

A person may withdraw consent at any time during sexual activity or contact through words or actions. If that happens, the other party must immediately cease the activity or contact. Pressuring another person into sexual activity can constitute coercion, which is also considered to be sexual misconduct.

Silence or the absence of resistance alone does not constitute consent. A victim is not required to resist or say “no” for an offense to be proven.

Consent to some forms of sexual activity (e.g., kissing, fondling) should not be construed as consent for other kinds of sexual activities (e.g., intercourse).

Being or having been in a dating relationship with the other party does not mean that consent for sexual activity exists.

Previous consent to sexual activity does not imply consent to sexual activity in the future.

To legally give consent in Maryland, individuals must be at least 16 years old.

## Force

Force is defined as direct or indirect use of physical violence and/or imposing physically on someone to gain sexual access. Force, unless part of mutually permissible kink, is a clear demonstration of a lack of consent.

## Incapacitation

Incapacitation is defined as a state in which individuals are unable to make rational, reasonable decisions because they lack the capacity to understand the “who, what, when, where, why, or how” of a situation or interaction. Individuals cannot give sexual consent if

they can't understand what is happening, or if they are disoriented, helpless, asleep, or unconscious for any reason. That applies even if it is because they voluntarily consumed alcohol or drugs. Unless consent is “knowing,” it is not valid. Those engaging in sexual activity who know or should have known that the other party is incapacitated are engaging in sexual misconduct. The possession, use, distribution, and/or administration of any incapacitating substances is prohibited.

The fact that a responding party was intoxicated, and thus did not realize the reporting party was incapacitated, does not excuse sexual misconduct.

# PROCEDURES

UMB's procedures are detailed fully online in the Policies and Procedures Library located here: [www.umaryland.edu/policies-and-procedures](http://www.umaryland.edu/policies-and-procedures).

## Intake

The UMB Title IX Coordinator will assist the reporting party with making choices and accessing resources. Assuming the complainant chooses to move forward with a UMB resolution, the next step is a preliminary review.

All resolutions will be conducted by University officials who receive annual training on Title IX, including domestic violence, dating violence, sexual assault, and stalking, and on how to conduct an investigation and hearing process, dependent upon their role in the resolution process, that protects the safety and promotes accountability.

The resolution process, insomuch as is admissible by law, is confidential. UMB will protect the confidentiality of the parties, consistent with applicable federal law. Title IX-related resolutions are not subject to publicly available recordkeeping provisions. Any release of information about a resolution will be accomplished without the inclusion of identifying information about the parties, to the extent permissible by law.

## Preliminary Review

An initial review of a complaint is conducted to determine whether to move forward to a formal investigation. The preliminary inquiry also determines which procedures apply for the resolution process. This decision is made by the Title IX Coordinator, based on federal law and regulations and taking into account the nature of the allegations and the reporting party's wishes. If the decision is made to move forward, the Title IX Coordinator refers the allegations to investigators. If mutually agreed upon, and permissible by law and UMB Policy, the allegation may be referred to an informal resolution process.

## Investigations

An investigative model is used to resolve allegations. Trained investigators will provide an investigation that is prompt, thorough, reliable, equitable, fair, and impartial. They will interview the complainant and respondent and witnesses, and prepare reports summarizing their findings. Information about all of the steps in the investigative process is provided in UMB's Alleged Violations of Policy on Sexual Misconduct: Title IX Procedures and/or in UMB's Alleged Violations of Policy on Sexual Misconduct: Non-Title IX Procedures.

## Hearings/Administrative Review

For allegations that fall under the scope of Title IX, a live hearing will be held to make a determination of whether a policy violation did or did not occur. Each party, through an advisor, will have an opportunity to cross-examine investigator(s), the other party, and any witnesses during hearings. The decision-maker(s) will make the determination and, if a policy violation occurred, determine what sanctions or remedial actions may be imposed. Allegations that do not fall under the scope of Title IX will be determined through administrative review. Decision-maker(s) will review the investigation report to determine if a policy violation occurred and, in consultation with appropriate UMB officials and personnel, determine what sanctions or remedial actions may be imposed.

## Standard of Evidence

UMB uses a preponderance of evidence standard. Decision-makers consider whether, given the available credible evidence, it is more likely than not that a violation occurred.

## Past History

The past sexual history or character of an individual is not considered unless it is determined to be highly relevant. All such information sought to be entered for consideration by a party or UMB will be presumed irrelevant until evidence of its relevance is offered. The existence of a pattern of behavior by a responding party may be relevant to the finding and sanction imposed. Both parties will be notified in advance if such information has been deemed relevant and will be considered during the process.

## Final Determination

The parties will be informed in writing of the outcome of the resolution, either simultaneously or without significant delay between the notifications to each party. This notice will include the procedures for appealing the decision, any change to the results that occurs prior to the time that such results become final, and when results are considered to be final.

## Appeals

All parties to the sexual misconduct proceedings may appeal decisions within five (5) days of receipt of the final determination on the basis of the grounds permitted by UMB's Policy on Sexual Misconduct and associated procedures. All parties are included in any appeal reconsideration and have equal rights of participation. There is only one level of appeal. That decision is final.

## RISK REDUCTION

### RISK REDUCTION FOR INTIMATE PARTNER VIOLENCE, STALKING, SEXUAL HARASSMENT, AND SEXUAL VIOLENCE

While victim-blaming is never appropriate and UMB fully recognizes that only those who commit sexual misconduct are responsible for their actions, UMB provides the suggestions

that follow to help individuals reduce their risk of being victimized and their risk of committing acts of sexual misconduct.

### Reducing the Risk of Victimization

- ✓ Make any limits/boundaries you may have known as early as possible.
- ✓ Clearly and firmly articulate consent or lack of consent.
- ✓ Remove yourself, if possible, from an aggressor's physical presence.
- ✓ Reach out for help, either from someone who is physically nearby or by calling someone. People around you may be waiting for a signal that you need help.
- ✓ Take affirmative responsibility for your alcohol and/or drug consumption. Alcohol and drugs can increase your vulnerability to sexual victimization.
- ✓ Look out for your friends, and ask them to look out for you. Respect them, and ask them to respect you, but be willing to challenge each other about high-risk choices.

### Reducing the Risk of Being Accused of Sexual Misconduct

- ✓ Show your potential partner respect if you are in a position of initiating sexual behavior.
- ✓ If a potential partner says "no," accept it and don't push. If you want a "yes," ask for it, and don't proceed without clear permission.
- ✓ Clearly communicate your intentions to your potential sexual partners, and give them a chance to share their intentions and/or boundaries with you.
- ✓ Respect personal boundaries. If you are unsure what's OK in any interaction, ask.
- ✓ Avoid ambiguity. Don't make assumptions about consent, about whether someone is attracted to you, how far you can go with that person, or if the individual is physically and mentally able to consent. If you have questions or are unclear, you don't have consent.
- ✓ Don't take advantage of the fact that someone may be under the influence of drugs or alcohol, even if that person chose to become that way. Others' loss of control does not put you in control.
- ✓ Be on the lookout for mixed messages. That should be a clear indication to stop and talk

about what your potential partner wants or doesn't want to happen. That person may be undecided about how far to go with you, or you may have misread a previous signal.

- ✓ Respect the timeline for sexual behaviors with which others are comfortable, and understand that they are entitled to change their minds.
- ✓ Recognize that even if you don't think you are intimidating in any way, your potential partner may be intimidated by or fearful of you, perhaps because of your sex, physical size, or a position of power or authority you may hold.
- ✓ Do not assume that someone's silence or passivity is an indication of consent. Pay attention to verbal and nonverbal signals to avoid misreading intentions.
- ✓ Understand that consent to one type of sexual behavior does not automatically grant consent to other types of sexual behavior. If you are unsure, stop and ask.
- ✓ Understand that exerting power and control over another through sex is unacceptable conduct.

## PROGRAMS

### Bystander Intervention

UMB offers bystander intervention programming to all new students in an effort to ensure that each member of the campus community is invested in creating a safe campus environment for themselves and others. Program participants are instructed on safe options for preventing harm and intervening when a risk of sexual misconduct exists.

### VAWA/Clergy

Incoming students are provided with education and training on awareness and risk reduction of sexual violence, dating violence, domestic violence, stalking, and consent in compliance with the Violence Against Women Act (VAWA) and the Clery Act.

### Ongoing Campaigns

Awareness and prevention campaigns are provided throughout the year to students, faculty, and staff.

## KEY CONTACTS

Acting Title IX Coordinator

**Tim Koch**

410-706-5212

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

## OTHER RESOURCES

<b>UMB Police Department</b>	410-706-6882	Available 24 hours/7 days a week (24/7)
<b>Student Health Center</b>	667-214-1899	Monday through Friday, 7 a.m. to 4:30 p.m.
<b>Student Counseling Center</b>	410-328-8404	Monday through Friday, 8:30 a.m. to 5 p.m. If you are in crisis, select option 7 to be connected for immediate support 24/7.
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