Subject: Sexual Harassment, Sexual Misconduct, Sexual Assault, and Retaliation Policy

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1. Purpose

Maryland University of Integrative Health (MUIH) is committed to maintaining a positive learning and working environment. The University operates with the expectation that all persons are entitled to respect and that each person has a responsibility to act in a way that is respectful of others. This policy:

1. provides a general overview of conduct that may constitute discrimination, harassment, sexual misconduct, sexual assault, or retaliation;
2. explicitly prohibits discrimination, harassment, sexual misconduct, sexual assault, and retaliation; and,
3. establishes procedures to follow when a member of the University community believes they have been subject to discrimination, harassment, sexual misconduct, sexual assault, and/or retaliation.

2. Policy

In accordance with Policy 1015 Non-Discrimination Policy, the University does not discriminate on the basis of sex (including pregnancy, childbirth, breastfeeding, or related medical conditions), race, religion (including religious dress and grooming practices), color, gender (including gender identity and gender expression), national origin or ancestry, physical or mental disability, medical condition, genetic information, marital status, registered domestic partner status, age, sexual orientation, veteran or military status, or any other basis protected by federal, state, or local law, ordinance, or regulation.

While the University does not tolerate any acts of discrimination, this policy specifically addresses discrimination based upon sex (including pregnancy, childbirth, breastfeeding or related medical conditions), gender (including gender identity and gender expression), marital status, registered domestic partner status, sexual orientation, and any other basis protected by federal, state, or local law, ordinance, or regulation as they may pertain to these characteristics.

Additionally, the University does not tolerate acts of harassment, sexual misconduct, sexual assault, or retaliation against or by any member of the University community. Each member of the University community shares in a common responsibility to maintain an environment free from discrimination, harassment, sexual misconduct, sexual misconduct, and retaliation.

Faculty and staff members who violate this policy will be subject to disciplinary action, up to and including termination of employment. Students who violate this policy will be subject to disciplinary action, up to and including expulsion. The grievance procedures set forth in this policy establish a process for reporting, investigating, making findings, and determining appropriate sanctions in relation to a complaint or other report of discrimination, harassment, sexual misconduct, sexual assault, and retaliation.

Robust discussion and debate are fundamental to life at the University. Consequently, this policy shall be interpreted in a manner that is consistent with academic freedom. Free speech rights apply in the classroom and in all other educational programs and activities of institutions. Care will be taken not to inhibit open discussion, academic debate, and expression of personal opinion, particularly in the classroom. Nonetheless, speech or conduct of a sexual or hostile nature which occurs in the context of educational instruction may exceed the protections of academic freedom and constitute prohibited discrimination,

harassment, or sexual misconduct if it meets the definition of those terms as noted through this policy and:

1. is reasonably regarded as non-professorial speech (i.e., advances a personal interest of the faculty member as opposed to furthering the learning process or legitimate objectives of the course); or
2. lacks accepted pedagogical purpose or is not germane to the academic subject matter.

3. Procedures

3.1 Reporting Violations of this Policy

Any member of the University community, including faculty, staff, and students, who wishes to report an incident of discrimination, harassment, sexual misconduct, sexual assault, or retaliation should contact:

Melissa Cahill, Title IX Coordinator
7750 Montpelier Road, Laurel, MD 20723 (second floor)
Phone number: 410-888-9048 ext. 6641
titleix@muih.edu

Under no circumstances is an individual required to report discrimination, harassment, sexual misconduct, sexual assault, and/or retaliation to a supervisor or academic instructor. The persons charged with handling and investigating discrimination, harassment, sexual misconduct, sexual assault, and/or retaliation complaints may consult with legal counsel at any point during the process. The procedures will be followed in as confidential and sensitive a manner as possible in order to protect all of the individuals involved.

There may be situations or circumstances when a member of the University community is subjected to discrimination, harassment, sexual misconduct, sexual assault, and/or retaliation, but does not wish to come forward or pursue a complaint, or when a person observes these actions directed at another member of the University community. The University will do all it can to respect the victim's wishes, but may proceed to address allegations of discrimination, harassment, sexual misconduct, sexual assault, and/or retaliation if and when the University becomes aware of such allegations, especially where the circumstances present a threat of harm or injury to the victim or other members of the community.

Prompt reporting of a complaint of discrimination, harassment, sexual misconduct, sexual assault, and/or retaliation is strongly encouraged. However, the University will investigate and take appropriate action in response to any report regardless of when the alleged conduct occurred. If a staff member, faculty member, or student leaves the University with a pending complaint against them, they will not be permitted to return to the University until the case is resolved.

In addition to reporting a violation of this policy to the University, a complainant may also file a complaint with the Equal Employment Opportunity Commission and/or the United States Department of Education's Office for Civil Rights.

3.1.1 Formal Complaint Procedure

The following outlines the formal complaint procedure for addressing violations of this policy and any appeals based on the same. No other available grievance or appeals procedures may be applied to violations covered under this policy. Further, no additional sanctions will be imposed for violations covered under this policy.

Upon receipt of a report of a violation of this policy, the University will initiate the following grievance procedures:

1. Within five (5) business days, unless unusual or complex circumstances exist, the Title IX Coordinator will meet with the Complainant to review the complaint, related policies, and these grievance procedures. The Title IX Coordinator will also identify support resources and interventions or interim measures available to the Complainant.

2. In cases where the alleged violation is reported to the University by a third party, the victim will be notified by the Title IX Coordinator that a complaint has been received. The Title IX Coordinator will meet with the victim to discuss their options and University and community resources.

3. Within three (3) business days of meeting with the Complainant, unless unusual or complex circumstances exist, the Title IX Coordinator will appoint a trained investigator ("Investigator") to conduct a thorough, impartial, and prompt investigation of the complaint and prepare a report of the investigation (the "Investigator's Report"). The investigation and the Investigator's Report shall be completed within thirty (30) days from the date on which the University is notified of the complaint, unless unusual or complex circumstances exist.

4. The Investigator, in consultation with the Title IX Coordinator, will establish a timeline and process for the investigation including a plan for notifying the Respondent.

The Investigator will conduct interviews as needed with the Complainant, Respondent, and all appropriate individuals that the Investigator in their discretion decides should be interviewed, and will gather any pertinent evidentiary materials.

Upon completion of the Investigation, the Investigator will prepare a report detailing the Investigation including a summary of the interviews and the evidentiary materials gathered. Based on the results of the Investigation, the Investigator will make an appropriate finding based on a preponderance of the evidence, either:

1. It is more likely than not that the alleged conduct did not occur and the Respondent is not responsible for violating this policy; or
2. It is more likely than not that the alleged conduct did occur and the Respondent is responsible for violating this policy.

The Investigator will share the Investigation Report and findings with the Title IX Coordinator. The Title IX Coordinator shall notify the Complainant and Respondent of this outcome, within the same 24-hour period, consistent with MUIH's obligations under FERPA and the Clery Act. Each party may accept the findings as presented, accept the findings in part and reject them in part, or reject all of the findings.

When the Investigator finds that the Respondent is responsible for a violation of this policy, if both parties accept the findings, the University will impose sanctions appropriate for the violation(s).

If either party rejects the findings in part or entirely, the Title IX Coordinator will initiate the Formal Hearing Process outlined below. In cases in which one or both parties accept some findings and reject others, the

findings accepted by the parties will stand and the hearing will be convened solely to resolve the contested findings.

If the Investigator finds that the Respondent is not responsible for a policy violation, the Investigation shall be closed. In these instances, the University may institute other forms of remedial and/or community-based responses, such as educational initiatives and/or trainings. In consultation with the Title IX Coordinator, the Provost (when the Respondent is a student) or the Vice President of Finance or designee (when the respondent is faculty or staff) shall determine the appropriate requirements. When the Respondent is a third party, the Vice President Finance will impose sanctions appropriate for the violation(s). See 3.2 Sanctions below.

3.1.1.1 Formal Hearing Process

If either party rejects the Investigator's findings in part or entirely, the Title IX Coordinator will initiate the Formal Hearing Process. As part of this process, a three-person panel ("Panel") appointed by the President will conduct a hearing to determine, based on a preponderance of the evidence, whether or not the Respondent violated any university policy specific to the alleged conduct. Each Panel shall include one of the following administrators, unless the administrator is unavailable due to a conflict of interest:

- When the Respondent is a student, the Associate Vice President for Student & Alumni Affairs shall serve as chair for the hearing
- When the Respondent is a faculty member, the Dean of Academic Affairs shall serve as chair for the hearing
- When the Respondent is a staff member, the Human Resources Generalist shall serve as chair for the hearing
- A Respondent who is a third party (not a faculty, staff, or student) is not entitled to a hearing or appeal under this policy

If the University's outside counsel advises that any of the above has a conflict of interest in serving as chair for any case, the President shall designate another individual as chair. All panel decisions shall be made by majority vote.

Both parties will have the opportunity to respond to the issues before the Panel. Such response may be in writing or in person, and shall be made within the timeframe established by the Panel. The Panel will call witnesses as it deems necessary. Members of the Panel may ask questions of any witnesses as the Chair determines are appropriate. The Panel may ask for statements from other parties and for relevant university records or other evidentiary materials as needed.

The Panel shall meet in private to review the Investigator's Report and recommendation(s), any responses made by the parties, and any other evidence presented at the hearing. The Panel will determine an appropriate finding based on a preponderance of the evidence either that:

1. It is more likely than not that the alleged conduct did not occur and the Respondent is not responsible for violating this policy; or
2. It is more likely than not that the alleged conduct did occur and the Respondent is responsible for violating this policy.

If the Panel finds that a violation occurred, it will issue a written decision that includes the imposition of sanctions. If the Respondent is a university employee, copies of the written decision will be provided to

the Complainant and the Respondent to the extent appropriate, within the same 24-hour period. If the Respondent is a student, a copy of the written decision will be provided to the Respondent. Within the same 24-hour period in which the student receives a copy of the written decision, the Complainant shall be advised of the Panel's decision to the extent permitted by the provisions of FERPA and required by the Clery Act.

3.1.2 Informal Complaint Procedure

The informal complaint procedure is not applicable in cases of sexual misconduct, including sexual assault, sexual exploitation, dating violence, domestic violence, and stalking.

When an incident arises in which a person feels that they have been subjected to sexual harassment as defined in this policy, it should be addressed as soon as possible. In many cases, informal actions can be taken that will effectively stop the Respondent's misconduct; however, informal resolution is never required. The Complainant may choose to confront the Respondent, making it clear that the Complainant does not want any further incidents to occur. If this does not stop the misconduct, or if the Complainant needs help in the process, the Complainant should contact the Title IX Coordinator. The Title IX Coordinator can provide the Complainant with support and advice on how to confront the Respondent and how to discourage any further misconduct.

The Complainant may proceed as follows with an informal complaint:

1. Meeting – The Complainant may request a meeting with the Respondent with a third party present to witness the conversation. The Respondent may also bring a third party to the meeting. A third party is a witness to the conversation and shall not be anyone who may be a witness regarding the Complainant's complaint should a formal investigation become necessary, or who has any other type of conflict of interest regarding the Complainant's informal complaint or potential future formal complaint. The Complainant and Respondent shall notify the Title IX Coordinator in advance as to whether they desire the presence of a third party and will inform the Title IX Coordinator of the identity of and contact information for the third party. The Title IX Coordinator, with advice of the University's outside counsel, will ensure that the suggested third parties do not have any conflict with regard to the Complainant's complaint. If a conflict is identified, the Title IX Coordinator shall notify the Complainant or Respondent, as appropriate, and request that they designate another third party who does not have a conflict of interest regarding the Complainant's complaint.

   The Title IX Coordinator will arrange the meeting with the Respondent and the third party and will attend the meeting. The Title IX Coordinator will be present at the meeting only to provide guidance regarding the informal complaint process. The third party witness(es) to the conversation shall not serve as a support person for either Complainant or Respondent during the informal complaint process and/or the meeting with Complainant and Respondent. Therefore, the third party may not participate in the informal process, including the meeting of Complainant and Respondent.

   If the matter is resolved, no sanctions will be imposed.

2. Informal Mediation – The Complainant may request an informal mediation to resolve the matter, which may result in a written agreement between the parties. The Complainant and Respondent may agree upon other remedial action. The mediator, who should have no conflict of interest

regarding the complaint, shall be selected by the Title IX Coordinator in consultation with the University's outside counsel. The mediator will not prescribe a resolution. The purpose of the mediator is to aid the Complainant and the Respondent in resolving the matter. The Title IX Coordinator shall arrange the mediation and be present at the mediation, only to provide guidance regarding the informal complaint process. Neither the Complainant nor the Respondent may bring a third party witness to the mediation. If the matter is resolved via mediation, no sanctions will be imposed. The Title IX Coordinator shall retain a copy of the mediation agreement and signed originals of the mediation agreement will be given to the Complainant and the Respondent.

The Title IX Coordinator will make every effort to process informal complaints in a timely manner. At any time, the Complainant or the Respondent may end the informal process and begin the formal complaint procedure outlined above. The formal complaint procedure may also be initiated if the informal complaint procedure does not result in a satisfactory resolution for either party.

The Title IX Coordinator shall keep a log of all informal complaints and whether they are resolved or whether they result in a formal complaint.

3.1.3 Reporting to Law Enforcement

In cases involving potential crimes, including sexual assault, dating or domestic violence, or stalking, individuals are encouraged to file a report with the local police department. University staff will assist individuals with contacting local law enforcement authorities, and upon request, will provide transportation assistance.

The University's grievance procedures and the legal system work independently from one another. The University will proceed with its process, regardless of action or inaction by outside authorities. Decisions made or sanctions imposed through these grievance procedures are not subject to change because criminal or civil charges arising from the same conduct are dismissed, reduced, or rejected in favor of or against the Respondent.

In certain instances, the University may need to report conduct to law enforcement authorities even when the subject of the conduct has not decided to do so. Such circumstances include incidents that warrant the undertaking of additional safety and security measures for the protection of the victim and the University community or other situations in which there is clear and imminent danger.

3.2 Sanctions

In consultation with the Title IX Coordinator, the Provost in the case of a Respondent who is a student or the Vice President of Finance in the case of a Respondent who is a faculty or staff member may consider the following in determining sanction(s):

- the nature of and the circumstances surrounding the violation;
- the Respondent's prior disciplinary record;
- precedent cases;
- University safety concerns; and,
- any other information deemed relevant.

The sanction(s) will be structured to end the conduct, prevent its recurrence, and remedy its effects on the Complainant and the University community. The Provost or Vice President of Finance will render a sanction decision within five (5) business days of receiving the Investigator's findings.

Not all violations will be deemed equally serious offenses, and the University reserves the right to impose different sanctions, ranging from warning to expulsion/termination, depending on the severity of the offense. The University will consider the concerns and rights of both the Complainant and the Respondent. Where appropriate, the sanctions will be reported to the Complainant and the Respondent in writing within the same 24-hour period. The sanction(s) imposed will be implemented immediately and will be in effect pending the outcome of any hearing or appeal as provided for in this policy. Sanctions for Respondents who are third parties (not faculty, staff, or students) will be determined by the Director of Human Enrichment and may include removal from campus and termination of contractual arrangements.

The sanctions described in this policy are not exclusive of and may be in addition to other actions taken or sanctions imposed by outside authorities. Sanctions imposed will be determined on the basis of the facts and the extent of harm to the individuals involved and the University's interests. The sanctions imposed will be implemented immediately and will be in effect pending the outcome of any appeal.

3.2.1 Student Sanctions

Sanctions imposed upon students who are determined to have violated this policy may include a variety of institutional responses or requirements, including, but not limited to, the following: written letter of warning; not being allowed to represent the University in volunteer or paid work; restitution; required attendance at educational programs; required assessment or counseling; restriction of privileges; probation, suspension and/or expulsion; and any other sanctions listed in Policy 7000 Code of Conduct or deemed appropriate under the circumstances.

3.2.1.1 Amnesty

Disciplinary sanctions for a violation of Policy 7000 Code of Conduct may not be imposed upon a student who files a complaint for sexual assault or who participates in an investigation as a witness, unless the University determines that (1) the Code of Conduct violation occurred at or near the time of the alleged sexual assault, and (2) the Code of Conduct violation was an act that was reasonably likely to place the health or safety of another individual at risk.

3.2.2 Faculty Sanctions

Sanctions imposed upon faculty who are determined to have violated this policy may include a variety of institutional responses or requirements, including, but not limited to, the following: an oral warning; a written warning; a letter of reprimand; mandatory attendance of an educational program; mandatory referral for psychological assessment and compliance with any resulting treatment plan; restriction of responsibilities; reassignment; denial of salary increase; suspension without pay; or dismissal.

3.2.3 Staff Sanctions

Sanctions imposed upon staff who are determined to have violated this policy may include a variety of institutional responses or requirements, including, but not limited to, the following: an oral warning; a written warning; a letter of reprimand; mandatory attendance of an educational program; mandatory referral for psychological assessment and compliance with any resulting treatment plan; restriction of responsibilities; reassignment or transfer to another department; denial of salary increase; suspension without pay; final written warning; or termination.

3.3 Appeals

The Complainant and the Respondent have the right to appeal the outcome of the investigation if not satisfied with the result. In most cases, an appeal is confined to a review of the written documentation and/or record of the Investigation and/or hearing and pertinent documentation regarding the grounds for appeal. An appeal is not an opportunity for the Appeal Committee to substitute its judgment for that of the Investigator or the Panel merely because the Appeal Committee disagrees with the finding and/or sanction. Appeal decisions are to be deferential to the Investigator and the Panel, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so.

A written appeal should be submitted to the Title IX Coordinator within two (2) business days following the notification of the Panel's decision. The non-appealing party will receive notice of the appeal from the Title IX Coordinator within three (3) business days and will have two (2) business days to submit a written response to the appeal. If the appeal is related to disproportionate sanctions, the administrator who determined the sanction will have two (2) business days to submit a written explanation for the sanctioning decision for submission to the Appeal Committee.

3.3.1 Grounds for Appeal

Disagreement with the finding or sanctions is not, by itself, grounds for an appeal. The only grounds upon which an appeal may be made are:

- Procedural Error: A procedural error occurred that significantly impacted the outcome of the hearing as it applies to the appealing party (e.g. substantiated bias, material deviation from established procedures, etc.). A description of the error and its impact on the outcome of the case as it applies to the appealing party must be included in the written appeal.
- New Information: New information has arisen which was not available or known to the appealing party during the investigation or hearing and that could have substantially impacted the original finding or sanction(s) had it been available at that time. Information that was known to the appealing party at the time of the investigation or hearing but which they chose not to present is not new information. A summary of this new evidence and its potential impact on the findings and/or sanctions must be included in the written appeal; or,
- Disproportionate Sanction(s): The sanctions imposed are substantially disproportionate to the severity of the violation(s). An explanation of why the sanction(s) are disproportionate to the severity of the violation must be included. Mere dislike or disagreement with the sanction(s) or the impact of the sanction(s) on the appealing party is not grounds for an appeal.

3.3.2 Appeal Committee

The Title IX Coordinator will refer the appeal to the Appeal Committee, which is comprised of a Chair and two members designated by the President, all of whom were not involved in the formal hearing.

3.3.3 Appeal Process

Based on its review of the case and appeal statements, the Appeal Committee will determine if the grounds for the appeal are substantiated. If the grounds for appeal are not substantiated, the appeal will be denied and both parties will be notified in writing. If the appeal is substantiated, the Appeal Committee will take appropriate action as indicated below.

3.3.3.1 Procedural Error

If the Appeal Committee determines that a procedural error occurred that was substantially prejudicial to the outcome of the hearing, it may return the complaint to the Panel with instructions to reconvene to correct the error. In rare cases where the procedural error cannot be addressed by the Panel (as in cases of bias), the Appeal Committee may order a new investigation with a new investigator or a new hearing with a new Panel. The results of a new investigation or new hearing can be appealed once, on the applicable grounds for appeals.

3.3.3.2 New Information

If the Appeal Committee determines that new information should be considered, it will return the complaint to the Panel to reconsider the complaint in light of the new information only.

3.3.3.3 Disproportionate Sanctions

If the Appeal Committee determines that the sanctions imposed are substantially disproportionate to the severity of the violation(s), the committee may modify the sanctions as appropriate within the bounds of this policy.

3.3.4 Appeal Outcome

The Appeal Committee will render a decision within ten (10) business days after the latter of (i) the receipt of the formal appeal, (ii) the response from the other party, or (iii) when the appeal is based on the sanction, the response from the administrator who determined the sanction (Provost or Vice President of Finance). The Appeal Committee's decision is final and an appeal will not be considered further.

All parties will be informed of the status of requests for appeal in a timely manner and shall be informed of the outcome as appropriate within the same 24-hour period.

3.4 Interim Measures

The University may take whatever measures deemed necessary in response to an allegation in order to protect an individual's rights and personal safety, and the safety of the University community. Such measures include, but are not limited to, an interim suspension (immediate, temporary suspension pending the outcome of the grievance process), a no-contact directive, and/or appropriate changes in academic schedule, work location, or any other steps that may be necessary based on the circumstances, as well as direct the individual to resources that can assist with obtaining any necessary changes in housing resources. Interim measures also may include reporting the matter to the local police. The Respondent's failure to adhere to the parameters of any interim measure is a violation of university policy and may lead to additional disciplinary action. Interim measures will be determined by:

- If the Respondent is a student – Provost, in consultation with the Title IX Coordinator
- If the Respondent is a faculty member – Provost, in consultation with the Title IX Coordinator
- If the Respondent is a staff member – Vice President of Finance, in consultation with the Title IX Coordinator

Interim measures may be imposed:

- In instances where it is determined that the Respondent poses a potential threat to another;
- To ensure the safety and well-being of members of the University community and/or preservation of university property;

- To ensure the Complainant's and/or Respondent's own physical or emotional safety and well-being; or
- If the Respondent poses a threat of disruption or interference with the University's normal operations.

3.5 Support Person

Each party may each have a support person present with them at all meetings and any hearings associated with a complaint in which the respective individual is participating.

For complaints concerning dating violence, domestic violence, stalking, and sexual assault, each party may be accompanied by an advisor (attorney, current faculty member, current student, or current staff member) of each party's choice. For complaints that do not include allegations of dating violence, domestic violence, stalking, and sexual assault, the support person must be a current faculty member, current student, or current staff member, except that, if any party who faces potential criminal charges related to the complaint, that party may have an attorney present as a support person.

For all types of complaints, the advisor and/or support person may not be any individual with a real or potential conflict of interest and/or an individual with a role in adjudicating the pending matter, including but not limited to the following individuals: the Investigator for the Complainant's complaint; any witness for the Complainant's complaint; a member of the Panel for the Complainant's complaint; a member of the Appeal Committee for the Complainant's complaint; the Title IX Coordinator; or any individual who may impose sanctions for the Complainant's complaint. For all types of complaints, the advisor and/or support person may attend, but shall not participate in, meetings or the hearing. In such cases, an advisor and/or support person will only be permitted in a non-participatory advisory role and any costs incurred in retaining such advisor and/or support person shall be borne by the party who designated the advisor and/or support person.

3.6 Confidentiality and Mandatory Reporting

Those responsible for carrying out the responsibilities outlined in this policy will respect the confidentiality and privacy of the individuals involved, and will keep identities and information confidential to the extent reasonably possible. Those individuals reporting, involved in, Complainant of, Respondent of, or otherwise involved in a complaint regarding any alleged violation of this policy are also required to keep the matter confidential.

Absolute confidentiality may not be possible in all circumstances, including but not limited to when the University is required to disclose information in response to legal process, when the University is legally mandated to report an alleged violation to local law enforcement or other authorities (including when the alleged violation involves a minor or vulnerable adult), or when the University has a need to protect the rights of others (including when the alleged violation involves a minor or a vulnerable adult).

Confidential resources are available for those who wish for absolute confidentiality:

- University Counselor/Social Worker and Referral Coordinator – dlasurebryant@muih.edu
- HopeWorks of Howard County – 5457 Twin Knolls Road, Columbia, MD 21045. 410-997-2272; 800-752-0191; http://www.wearehopeworks.org/

Faculty and staff are required to report incidents that may give rise to allegations under this policy to the Title IX Coordinator.

3.7 Anonymous Complaints

The University will reasonably respond to all allegations of discrimination, harassment, sexual misconduct, sexual assault, and/or retaliation. However, due to the inherent difficulty of investigating and resolving allegations from unknown persons, it may difficult for the University to resolve an anonymous complaint and pursue appropriate response to these allegations if a Complainant insists that their name not be revealed.

3.8 Frivolous Complaints Prohibited

The purpose of this policy is to promote and maintain an environment free from discrimination, harassment, sexual misconduct, sexual assault, and/or retaliation. Any member of the University community who believes that they have been subjected to discrimination, harassment, sexual misconduct, sexual assault, and/or retaliation is encouraged to use the procedures provided in this policy, not only for the benefit and protection of that individual, but ultimately for the entire University community.

However, false charges of discrimination, harassment, sexual misconduct, sexual assault, and/or retaliation undermine the purpose and effectiveness of this policy. Accordingly, persons who knowingly make false charges of discrimination, harassment, sexual misconduct, sexual assault, and/or retaliation may be subject to disciplinary action. The failure of a complaint to result in a finding of discrimination, harassment, sexual misconduct, sexual assault, and/or retaliation is not alone evidence that the charges were knowingly false.

3.9 Training

The University is committed to providing effective educational and training programs as a key component in maintaining an environment free from discrimination, harassment, sexual misconduct, sexual assault, and retaliation. The University will provide educational programs for all new students, faculty, and staff (including student employees) on the following: discrimination; harassment; the definition of consent in reference to sexual activity; safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervention when there is a risk of domestic violence, dating violence, sexual assault, or stalking against a person other than the bystander; information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks; and sexual misconduct. Periodic refresher, prevention, and awareness programs will also be provided.

The Title IX Coordinator, Investigators, members of the Panel, members of the Appeal Committee, and any other individual with responsibilities under this policy shall receive training as required to carry out their roles under this policy.

3.10 Retaliation

The University encourages students, faculty, and other employees to express freely, responsibly, and in an orderly way, facts, opinions, feelings, or complaint of discrimination, harassment, sexual misconduct, and/or sexual assault. Retaliation against persons who report or provide information about discrimination, harassment, sexual misconduct, and/or sexual assault or behavior that might constitute these actions is strictly prohibited. Any act of reprisal for reporting a violation of this policy in good faith or cooperating with an investigation, including internal interference, coercion, and restraint, by a member of the University

community or by one acting on behalf of the University, is a violation of this policy and will result in appropriate disciplinary action.

3.11 Consensual Relationships

Persons in positions of power or authority over others should be aware of and sensitive to the problems that may arise from apparently consensual relationships with their subordinates. The power differential inherent in such relationships may compromise free choice. Any perceived abuse of authority diminishes trust and respect among members of the University community. Therefore, all members of the University community are expected to maintain appropriate professional relations with one another. For more information, see Policy 3020 Maintaining Appropriate Boundaries.

3.12 Resources in the Event of Sexual Assault

Individuals who have suffered a sexual assault should immediately contact the local police department by calling 911 and the Title IX Coordinator, Melissa Cahill, at (410) 888-9048, extension 6641 or titleix@muih.edu. Other resources are available at https://www.muih.edu/campus-community/about-campus/title-ix.

3.13 Record Retention

Records of investigations and hearings are maintained by the University for five (5) years. If the Respondent is a student, the records will be maintained for five (5) years past the student's graduation or, if the student leaves the University before graduation, for five (5) years past their original expected graduation date. If the Respondent is a faculty or staff member, the records will be maintained for five (5) years past the conclusion of the investigation and any hearing.

3.14 Information Concerning Registered Sex Offenders

As required by the federal Campus Sex Crimes Prevention Act, institutions of higher education must issue a statement advising institution community members where information concerning registered sex offenders may be obtained. Persons convicted of certain sex offenses are required by law to register with the State. Information on registered sex offenders in Maryland is available at: http://www.dpscs.state.md.us/sorSearch/search.do. The Department of Justice National Sex Offender Public Website is also a source for sex offender information. For information on registered sex offenders attending or employed at the University, contact the local police department or the Title IX Coordinator.

4. Definitions

- **COMPLAINANT** – A person who alleges that they or another have been harmed or aggrieved because of another individual's violation(s) of this policy
- **CONSENT** – Consent is expressed in explicit words and means willingly and knowingly agreeing to engage in mutually understood sexual conduct. Consent must be mutual and ongoing, offered freely and knowingly, and cannot be given by a person who is incapacitated, as described below. Non-communication or silence constitutes lack of consent. A verbal "no" constitutes lack of consent, even if it sounds insincere or indecisive. Incapacitation also constitutes a lack of consent. If at any time during a sexual interaction any confusion or ambiguity should arise about consent, it is the responsibility of the person initiating the activity to stop and clarify the other's willingness to continue. If at any time consent is withdrawn, the activity must stop immediately. Consumption of drugs or alcohol does not relieve a party of responsibility to obtain ongoing consent.

In order for consent to be valid, all parties must be capable of making a rational, reasonable decision about the sexual act and must have a shared understanding of the nature of the act to which they are consenting. It is not possible for a person to give consent if incapacitated by drugs, alcohol, or other physical/mental impairment, or if incapacitated by being threatened, intimidated, or coerced into giving consent.

Examples of incapacitation include, but are not limited to, being intoxicated, passed out, asleep, unable to communicate, or subjected to violence. Physical indicators of incapacitation may include slurred speech, unsteady gait or stumbling, vomiting, unfocused or bloodshot eyes, disorientation, unresponsiveness, or outrageous or unusual behavior.

- **DATING VIOLENCE** –Violence committed by a person: (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (b) where the existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved.
- **DISCRIMINATION** – Discrimination, as it pertains to this policy, is defined as treating someone unfavorably because of that person's sex (including pregnancy, childbirth, breastfeeding, or related medical conditions), gender (including gender identity and gender expression), marital status, registered domestic partner status, sexual orientation, or any other basis protected by federal, state, or local law, ordinance, or regulation or treating someone less favorably because of their connection with an organization or group that is generally associated with people of a certain sex, gender, marital status, registered domestic partner status, sexual orientation, or any other basis protected by federal, state, or local law, ordinance, or regulation. Such behavior is prohibited when it has the effect of excluding individuals from participation, denies the individual the benefits of, treats the individual differently, or otherwise adversely affects a term or condition of an individual's employment, education, living environment, or participation in a university program or activity. Gender discrimination extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity. The actual or perceived sexual orientation or gender identity of parties to a gender discrimination complaint does not change the University's obligation to investigate and resolve these complaints. Gender discrimination also encompasses forms of sexual harassment and sexual violence. All such acts are forms of gender discrimination are prohibited by Title IX of the Education Amendments of 1972 ("Title IX").
- **DOMESTIC VIOLENCE** – A felony or misdemeanor committed (a) by a current or former spouse or intimate partner of the victim; (b) by a person with whom the victim shares a child in common; (c) by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; (d) 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 (e) 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 the jurisdiction in which the crime of violence occurred.
- **GENDER-BASED HARASSMENT** – Acts of verbal, nonverbal, or physical aggression, intimidation, stalking, or hostility based on gender or gender-stereotyping constitute gender-based harassment. Gender-based harassment can occur if a member of the University community is harassed either for exhibiting what is perceived as a stereotypical characteristic for the sex assigned to them at birth, or for failing to conform to stereotypical notions of masculinity or femininity. In order to constitute harassment, the conduct must be such that it has the effect of unreasonably interfering with an individual's academic performance or creating an intimidating, hostile, demeaning, or offensive work, academic, or living environment.
- **RESPONDENT** – A person against whom a complaint is filed for alleged violation(s) of this policy

- **SEXUAL ASSAULT** – An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the Federal Bureau of Investigation's Uniform Crime Reporting Program, which are:

    - Sex Offenses (definition applicable to rape, fondling, incest, or statutory rape): Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
    - 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.
    - 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 incapacity.
    - Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
    - Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.
- **SEXUAL EXPLOITATION** – Occurs when a person takes non-consensual, unjust, or abusive sexual advantage of another person for their own benefit or for the benefit of anyone other than the person being exploited and which conduct does not otherwise constitute sexual harassment or assault under this policy. Examples of conduct prohibited include, but are not limited to: non-consensual video/audio taping of sexual activity by any electronic device; non-consensual sharing of a consensually made video/audio tape of sexual activity; prostituting another individual; going beyond the boundaries of consent given, such as by secretly allowing others to watch consensual sex; or voyeurism of a sexual nature. Sexual exploitation is prohibited and will be treated as sexual misconduct.
- **SEXUAL HARASSMENT** – Unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal and physical conduct of a sexual nature constitute sexual harassment.

    While it is not possible to list all the conduct or circumstances that may constitute sexual harassment, the following are some examples of conduct which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

    - Unwelcome sexual advances, whether they involve physical touching or not, and unwanted discussions of sexual matters;
    - Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life;
    - Comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess;
    - Displaying sexually suggestive objects, pictures, cartoons;
    - Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
    - Sexist remarks and sexist behaviors;
    - Requests or demands for sexual favors accompanied by implicit or explicit promised rewards or threatened punishment;
    - Inquiries into one's sexual experiences; and,

- Discussion of one's sexual activities.

This definition of harassment is intended to be illustrative and is not limited to the stated definition. Types of sexual harassment may include:

- **HOSTILE ENVIORNMENT HARASSMENT –** In general, sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a workplace, learning environment, or living environment that is hostile, offensive, intimidating, or humiliating may constitute sexual harassment. Such conduct may create a hostile environment for individuals other than those at whom the conduct is directed. Hostile environment harassment includes peer harassment, such as student-to-student or colleague-to-colleague. To constitute a hostile environment, the harassment must be sufficiently severe or pervasive to affect the conditions of the Complainant's employment, academic standing, or participation in an education program or activity, and must create an offensive or abusive environment. A single incident or isolated incidents of offensive sexual conduct or remarks may create a hostile environment, but generally do not unless the conduct is quite severe. Even instances that may not constitute a hostile environment should be addressed under the informal procedures of this policy.
- **QUID PRO QUO HARASSMENT –** *Quid pro quo* sexual harassment may occur when anyone in a position of power or authority over another uses any academic or supervisor reward to subject such other person to unwanted sexual attention or to subject such other person to verbal or physical conduct of a sexual nature. In general, *quid pro quo* sexual harassment means unwelcome sexual advances, requests for sexual favors, or other verbal and physical conduct of a sexual nature by one in a position of power or influence when:

  - submission by an individual is made either an explicit or implicit term or condition of employment or of academic standing; or
  - submission to or rejection of such conduct is used as the basis for academic or employment decisions affecting that student or employee.

  Most often *quid pro quo* sexual harassment arises in the context of an authority relationship or power differential. This relationship may be direct (as in the case of a supervisor/subordinate or teacher/student), or it may be indirect (when the harasser has the power to influence others who have authority over the victim).

- **SEXUAL MISCONDUCT** – Includes sexual harassment, sexual assault, sexual exploitation, dating and domestic violence, and stalking
- **STALKING –**Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for their safety or the safety of others; or (b) suffer substantial emotional distress.

5. References

Policy 1015 Non-Discrimination Policy,
https://my.muih.edu/wp-content/uploads/Policy_1015_Non-Discrimination_Policy.pdf

Policy 3020 Maintaining Appropriate Boundaries,
https://my.muih.edu/wp-content/uploads/Policy_3020_Maintaining_Appropriate_Boundaries.pdf

Policy 7000 Code of Conduct,
https://my.muih.edu/wp-content/uploads/Policy_7000_Code_of_Conduct.pdf

6. Approval and Revisions

Approved April 23, 2019 by President and CEO, Marc Levin.