



Maryland University of Integrative Health
Policy and Procedures

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Subject: Title IX 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 free from acts of sexual misconduct, domestic and/or dating violence, and stalking. 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

This policy applies to all complaints of sexual misconduct in the University’s employment, education programs and activities. MUIH also prohibits sexual misconduct by all third parties at MUIH. The University will follow distinct guidelines as related to Title IX and the University for sexual misconduct.

2.1 Title IX Sexual Harassment

The Title IX Sexual Harassment policy is based on definitions set forth in regulations from the U.S. Department of Education under Title IX of the Education Amendments Act of 1972.

Prohibited conduct under Title IX Sexual Harassment must meet all of the following requirements:

- Occurs within the United States; and
- Occurs within the University’s education program or activity
- At the time of filing the formal complaint, a complainant is participating in or attempting to participate in the education program or activity at the University.

Prohibited behaviors under Title IX Sexual Harassment are:

- Quid Pro Quo Sexual Harassment
- Title IX Sexual Harassment
- Sexual Assault
- Domestic Violence
- Dating Violence

- Stalking

For the purposes of this policy, the University considers consent as a voluntary, informed, un-coerced agreement through words or actions freely given, which could be reasonably interpreted as a willingness to participate in mutually agreed-upon sexual acts.

Allegations of sexual misconduct that do not fall under this policy because they do not constitute prohibited conduct as defined in this section may constitute violations of Section 2.2 University Sexual Misconduct.

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.

2.2 University Sexual Misconduct

The University does not tolerate any acts of discrimination in accordance with [Policy 1015 Non-Discrimination Policy](#). 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.

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.

2.3 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. 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, Title IX 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

The persons charged with handling and investigating discrimination, harassment, Title IX sexual harassment, sexual misconduct, sexual assault, and/or retaliation complaints are trained and will maintain confidentiality and sensitivity to the situation. They may consult with legal counsel at any point during the process.

We understand that some may not wish to come forward or pursue a complaint. The University will do all it can to respect the victim's wishes, but may proceed to address allegations of discrimination, harassment, Title IX 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.

3.2 Assessment and Dismissal of Formal Complaints

Upon receipt of a formal complaint, the Title IX and University Sexual Misconduct Coordinator will respond to any immediate health or safety concerns raised. The Title IX and University Sexual Misconduct Coordinator will then follow the process below to conduct an initial assessment to determine whether the alleged conduct would constitute prohibited conduct under this policy.

- Within five (5) business days, unless unusual or complex circumstances exist, the Title IX and University Sexual Misconduct Coordinator will meet with the Complainant to review the complaint, related policies, and procedures.
- If the allegations in the formal complaint constitute prohibited conduct as defined by this policy, the Title IX and University Sexual Misconduct Coordinator will implement appropriate support resources and interventions or interim measures available to the Complainant. The Coordinator will then initiate an investigation based on the formal complaint policy. If the Coordinator deems the

formal complaint appropriate for informal resolution, upon consent of both parties, the Title IX and University Sexual Misconduct Coordinator may refer the matter to the informal resolution process.

- If the allegations in the formal complaint would not constitute prohibited conduct as defined in this policy, the Title IX and University Sexual Misconduct Coordinator shall dismiss the formal complaint from the Title IX process. If appropriate, the Coordinator may refer the process to another department for review or refer to the informal resolution process.

In addition, any time prior to a hearing, the University may dismiss a formal complaint if:

- The complainant notifies the Title IX and University Sexual Misconduct Coordinator in writing that the complainant wishes to withdraw the formal complaint or any allegations therein;
- The respondent is no longer enrolled or employed by the University; or
- Specific circumstances prevent the University from gathering sufficient evidence to reach a determination as to the formal complaint or allegations therein.

Upon dismissal, the University shall promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties via electronic format. Both parties will have equal right to appeal the dismissal through the appeal process. The determination of dismissal is final either on the date that the parties are provided with the written determination of the result of an appeal, or the date on which an appeal would no longer be considered timely. Once final, a complainant cannot file a formal complaint under this policy concerning the same alleged conduct.

3.3 Options for Complainants, Respondents, and Other Reporting Individuals

A complainant, respondent, or witness has options for them, including counseling and support services, as well as contacting law enforcement or other confidential resources.

3.3.1 Employees' Responsibility to Report

In emergency situations, if there is a suspected crime in progress or serious threats to the safety of anyone, employees must immediately contact law enforcement by calling 911. In non-emergency situations, employees must promptly report suspected violations of this policy to the Title IX and University Sexual Misconduct Coordinator.

3.3.2 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 – counseling@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.

3.3.3 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.

3.3.4 Amnesty

Disciplinary sanctions for a violation of [Policy 7000 Code of Student 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.

3.3.5 Frivolous Complaints Prohibited

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.

3.4 Supportive Measures

Upon receipt of a report or formal complaint, the University will promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint. The University will also consider supportive measures for the respondent.

4. Grievance Procedures for Title IX and University Sexual Misconduct Complaints

The University is committed to providing a prompt and impartial investigation and adjudication of all formal complaints alleging violations of this policy. During the grievance process, both parties (complainant and respondent) have equal rights to participate.

4.1 Investigation and Adjudication

4.1.1 Timing

The University will seek to complete the investigation and adjudication within ninety (90) business days from the receipt of the formal complaint. Timeframes for all phases of the grievance process, including the investigation, the hearing, and any related appeal, apply equally to both parties. If an extension of time is needed to accurately and completely complete the investigation or adjudication, the University will notify the parties in writing of any extension and the reason for the extension.

4.1.2 Investigation

If the Title IX and University Sexual Misconduct Coordinator has deemed that an investigation is appropriate, the Coordinator will refer the matter for investigation to a panel of investigators, typically two individuals.

4.1.2.1 Notice of Investigation

Following the receipt and review of the formal complaint by the Title IX and University Sexual Misconduct Coordinator, and it being determined that the matter falls under the policy, the parties will be informed in writing of the initiation of the investigation. The written information shall include:

- The identities of the parties, if known.
- A concise summary of the alleged conduct at issue (including when and where it occurred, if known).
- Notice of the allegations
- A statement that the respondent is presumed not responsible and that a determination regarding responsibility is made at the conclusion of the grievance process.
- A statement informing both parties that they may have an adviser of their choice, who may be, but is not required to be, an attorney.
- A statement informing the parties that they may request to inspect and review evidence.
- A statement informing the parties that knowingly making false statements or knowingly submitting false information during the grievance process may constitute a violation of University policy.
- Information regarding the applicable grievance procedures, including the informal resolution process.

4.1.2.2 Collection of Evidence

The Investigators 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. Parties and witnesses are expected to provide all available relevant evidence to the investigators during the investigation. If a party or witness fails to provide available relevant evidence during the investigation, such evidence may be excluded from consideration at the hearing. While parties are not restricted from presenting information attesting to the parties' character, such evidence generally is not considered relevant.

Investigators will provide to a party written notice of the date, time, location, participants, and purpose of all investigative interviews to which they are invited or expected, with sufficient time (generally no less than 3 business days) for the party to prepare to participate.

Interviews will be held with the panel of investigators and each party separately. The investigators will interview any witnesses, as necessary. Investigators will take notes of the interviews. Medical and counseling records are confidential and investigators will not access, consider, disclose, or other use a party's records that are made or maintained by a medical professional without the party's voluntary, written consent.

4.1.2.3 Case File

After all parties are interviewed and the investigators have gathered evidence, the investigators will prepare a case file. The case file will include all collected evidence directly related to the allegations raised in the formal complaint, including evidence upon which the University does not intend to use in reaching a determination. The case file may include, transcripts or summaries of party and witness interviews and other collected documents and evidence. The investigators will provide the case file, redacted of personally identifiable information in accordance with privacy regulations, to each party and their adviser in electronic form or hard copy. An updated Notice of Allegations will be provided, if appropriate.

Within ten (10) business days of receiving the case file, each party may respond in writing, which may include a request that the investigators collect additional evidence. If the investigators believe more information is needed, they will pursue additional steps. The parties and their advisers will be provided with each party's written responses to the case file along with any additional evidence collected.

4.1.2.4 Investigative Report

Upon completion of the Investigation, the investigators will prepare a written investigative report that summarizes all relevant evidence. The investigative report will be provided to the parties and their advisers via electronic format at least ten (10) business days prior to the hearing.

Parties may choose to provide a written response to the investigative report, which must be submitted at least five (5) business days prior to the hearing. The parties and their advisers will be provided with the other parties written response to the investigative report electronically within 48 hours prior to the hearing.

4.1.2.5 Hearing

A hearing panel of three individuals will hear every case with an attorney or former attorney serving as the Presiding Hearing Panelist and two other individuals that may be internal or external to the University.

The Presiding Hearing Panelist will have absolute discretion with respect to administering the hearing and will decide whether evidence and witnesses are relevant to the case. The Presiding Hearing Panelist will be responsible for maintaining an orderly, fair, and respectful hearing and will have the authority to respond to disruptive or harassing behaviors, including adjourning the hearing or excluding the offending individual.

The Hearing Panel will be provided with the case file, investigative report, and any responses to the investigative report prior to the hearing.

The parties and their advisers will be notified of the hearing date, time, and location (or relevant information to meet remotely) at least five (5) business days prior to the hearing.

Parties are required to identify witnesses to be called at the hearing, and provide a brief explanation of the information each witness would be asked to provide, so the Presiding Hearing Panelist can determine

their relevance. The Presiding Hearing Panelist has the discretion to exclude witnesses, evidence, and questions deemed irrelevant.

4.1.2.6 Standard of Proof

The standard of proof under this policy is preponderance of evidence. A finding of responsibility by a preponderance of evidence means that it is more than likely than not, based on all the relevant evidence and reasonable inferences from the evidence, that the respondent violated this policy.

4.1.2.7 Expectation regarding the Complainant, the Respondent, and the Witness regarding the Hearing

If the complainant, the respondent, or a witness informs that University that they will not attend the hearing (or will refuse to be cross-examined), the hearing may proceed, as determined by the Title IX and University Sexual Misconduct Coordinator. The Hearing Panel may not, however: a) rely on any statement or information provided by that non-participating individual in reaching a determination regarding responsibility; or b) draw any adverse inference in reaching a determination regarding responsibility based solely on the individual's absence from the hearing.

Each party may make requests related to the format or the nature of their participation in the hearing. The Presiding Hearing Panelist will accommodate requests by either party for the hearing to occur with the parties located in separate locations with technology enabling the Hearing Panel and the parties to simultaneously see and hear the party answering questions. As appropriate, hearings may be conducted in person or by video conference or any other means of communications by which all individuals participating are able to see and hear each other.

4.1.2.8 Case Presentation

The parties will be provided with equal opportunity for their advisers to conduct cross-examination of the other party and/or relevant witnesses. A typical hearing may include brief opening remarks by the Presiding Hearing Panelist; questions posed by the Hearing Panel to one or both of the parties; questions posed by the Hearing Panel to any relevant witnesses; and cross-examination by either party's adviser of the other party and relevant witnesses.

Other University administrators may attend the hearing at the request of or with prior approval of the Presiding Hearing Panelist, but the parties will be notified in advance of anyone else who will be in attendance.

4.1.2.9 Record of Hearing

The University will create an official record in the form of a recording or transcript of any live hearing and make it available to the parties for inspection and review. Any other record of the hearing or any other recording is prohibited and violations may result in discipline.

4.1.2.10 Written Determination

The Hearing Panel will consider all of the relevant evidence and deliberate regarding responsibility after the hearing. The Presiding Hearing Panelist will make a determination, based on preponderance of evidence, whether the respondent has violated the policy. The Presiding Hearing Panelist will prepare a written determination, which will contain: 1) the allegations potentially constituting Title IX sexual harassment; 2) a description of the procedural steps taken from the receipt of the formal complaint through the determination; 3) findings of fact supporting the determination; 4) conclusions regarding the application of this policy to the facts; 5) a statement of, and rationale for, the result as to each allegation,

including a determination regarding responsibility, any disciplinary sanctions imposed if there has been a finding of responsibility, and whether any remedies designed to restore or preserve equal access to the University's education program or activity or working environment will be implemented; and 6) relevant appeal information for the parties. The parties and their advisers will simultaneously be provided with the written determination via electronic format.

5. Disciplinary 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.

5.1 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 Student Conduct](#) or deemed appropriate under the circumstances.

5.2 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.

5.3 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.

6. Appeals

The Complainant and the Respondent have the right to appeal upon the dismissal of a formal complaint or allegations therein and upon receiving the Presiding Hearing Panelist's written determination regarding responsibility and sanctions. Appeals will be heard by an appeal panel which is comprised of a Chair and two members designated by the President, all of whom were not involved in the formal hearing. Appeals will be decided by majority vote.

6.1 Grounds for Appeal

Appeals may be submitted on the following bases:

- A procedural irregularity that affected the outcome of the hearing.
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made which could affect the outcome.
- The Title IX and University Sexual Misconduct Officer or their staff, investigators, any member of the Hearing Panel had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome; and/or

6.2 The Sanctions are not Commensurate with the Violation Appeal Process

A party must electronically submit a written appeal statement to the Executive Associate to the President within five (5) business days of receipt of the written determination or dismissal. The appeal should outline the basis for appeal and the relevant information to substantiate the appeal. The non-appealing party will be provided with a copy of the appealing party's written statement and may submit a written response to the Executive Associate to the President within five (5) business days of receipt of the appealing party's written statement. The non-appealing party's statement will be provided to the appealing party.

The Appeal Panel may consider the case file and any responses, investigative report and any responses, the hearing record, the written determination, and any written appeals or statements by the parties. The parties and their advisers will simultaneously be provided with the written decision describing the result of the appeal and the rationale for the result.

- If the Appeal Panel finds that the earlier decision should stand, the parties will be so informed and the Title IX process is concluded.
- If the Appeal Panel finds that there was procedural irregularity that affected the outcome of the matter, the matter will be remanded to the Presiding Hearing Panelist to determine appropriate further action.

- If the Appeal Panel finds that new evidence is available which was not reasonably available at the time of the determination regarding responsibility or dismissal, and such evidence could alter the outcome of the matter, the matter will be remanded to the Presiding Hearing Panelist for appropriate further action.
- If the Appeal Panel finds that the University Sexual Misconduct/Title IX Coordinator or their staff, investigator(s), member of the Hearing Panel, or Sanction Officer had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter, the Appeal Panel will take appropriate measures to address and remediate the impact of the bias or conflict consistent with the general procedures of this policy.
- If the Appeal Panel finds that the sanctions (or recommended sanctions) are not commensurate with the violation, the matter will be remanded to the Sanction Officer for reconsideration.

The Appeal Panel will seek to complete the appeal review within twenty (20) business days of receipt of the appealing party's written statement.

The determination becomes final either on the date that the parties are provided with the written determination of the result of an appeal if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

6.3 Informal Complaint Resolution Process

The informal complaint resolution process is a voluntary, remedies-based process designed to provide members of the MUIH community with an option to resolve certain disputes with other members of the community in a forum that is separate and distinct from the formal grievance processes for Title IX and Sexual Misconduct. The informal complaint resolution process is available in matters involving a student complainant and a student respondent as well as in matters involving a faculty/staff complainant and a faculty/staff respondent; the informal resolution process is not applicable in matters involving a student and an employee. Prior to participating in the informal resolution process, parties will be notified in writing of the information contained in this Appendix B.

The following are features of the informal resolution process:

- Participation in the informal resolution process is completely voluntary.
- No party will be required to participate in the informal resolution process and the University will not require, encourage, or discourage the parties from participating in the informal resolution process.
- All parties must consent in writing to participation in the informal resolution process.
- The University may offer the informal resolution process only under the following circumstances:
- A formal complaint (as defined in [section II](#)) has been filed by the complainant;
- The Title IX and University Sexual Misconduct Coordinator has determined, through an initial assessment (see [section IV](#)), that the alleged conduct, if substantiated, would constitute Title IX Sexual Harassment or University Sexual Misconduct;
- The Title IX and University Sexual Misconduct Coordinator has determined that the informal resolution process is appropriate for this matter.
- All parties will be provided with a written notice disclosing the allegations, the requirements of the informal resolution process, and any outcomes resulting from participating in the informal resolution process.

- At any time prior to signing an informal resolution agreement, any party has the right to withdraw from the informal resolution process and resume the formal grievance process.
- Under the informal resolution process, there will be no disciplinary action taken against a respondent, and the resolution will not appear on the respondent's disciplinary record. If a formal complaint is filed against the respondent in a subsequent matter under the Title IX Sexual Harassment policy or the University Sexual Misconduct policy, the respondent's participation in a prior informal resolution process will not be considered relevant and will not be taken into account in the resolution of the subsequent complaint.
- Parties may be accompanied by a member of the University community who will serve as a support person to any meeting related to the informal resolution process. However, the University support person may not actively participate in meetings and may not serve as a proxy for the party. Any individual who serves as a University support person is expected to make themselves available for meetings as scheduled by the University. The University (including any official acting on behalf of the University) has the right at all times to determine what constitutes appropriate behavior on the part of a University support person and to take appropriate steps to ensure compliance with this policy.
- Any agreements reached as part of the informal resolution process must be approved by the Title IX and University Sexual Misconduct Coordinator in order to ensure consistency with the University's federal obligations. If the Coordinator determines at any time prior to the signing of the informal resolution agreement that the informal resolution process is no longer appropriate, the Coordinator may terminate the process.
- Upon signing the informal resolution agreement, the parties are bound by its terms and cannot opt for a formal grievance process based on the conduct alleged in the formal complaint.
- Failure to comply with the signed agreement may result in disciplinary action for either party.
- If the parties' circumstances change significantly, they may request a supplemental agreement; the Coordinator will determine whether it is appropriate to proceed.

7. 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 and University Sexual Misconduct 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.

8. 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](#).

9. 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>.

10. Records 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.

11. 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.

12. 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.
- **FORMAL COMPLAINT** – refers to a document filed by a complainant that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the individual filing the formal complaint alleging sexual misconduct against a respondent and requesting that the University investigate the allegation of misconduct.
- **FORMAL COMPLAINT** – may also refer to a document signed by the Title IX Coordinator alleging sexual misconduct against a respondent. The investigation will be conducted following University Sexual Misconduct guidelines.
- **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

- **SEX OFFENSES** – Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
- **SEXUAL ASSAULT** – Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. This includes:
 - Rape: The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
 - Sodomy: Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
 - Sexual Assault with an Object: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
 - Fondling: The touching of private body part of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
 - Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
 - 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.
- **TITLE IX SEXUAL HARASSMENT** – Unwelcome sexual conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies an individual equal access to the University’s education program or activity.

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 ENVIRONMENT 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.
- **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.

13. 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 Student Conduct,

https://my.muih.edu/wp-content/uploads/Policy_7000_Code_of_Student_Conduct.pdf

14. Approval and Revisions

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

- Note: This policy replaces the former "Sexual Harassment, Sexual Misconduct, Sexual Assault and Retaliation Policy" Standards & Practice, which was last reviewed in January 2019. A copy of the "Sexual Harassment, Sexual Misconduct, Sexual Assault and Retaliation Policy" is available from the President's Office.
- Revision 1

Expanded Section 3.1.1.1 Formal Hearing Process to include information on timely written notice, the rights of students participating in disciplinary hearings, and the Panel's decision-making function. Other grammatical edits throughout.

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

- Revision 2

Redefined this policy as Title IX Sexual Harassment and University Sexual Misconduct policies with updated processes for hearings based on the Title IX regulations changes effective August 14, 2020.

Approved September 8, 2020 by President and CEO, Marc Levin.