

MORGAN STATE UNIVERSITY
GENDER AND SEXUAL-BASED HARASSMENT AND VIOLENCE POLICY

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I. POLICY STATEMENT

Morgan State University (the “University”) is committed to maintaining an academic and working environment in which students, faculty, and staff feel safe and are free to develop intellectually, professionally, personally, and socially. Such an environment must be free from all forms of Gender and Sexual-Based Harassment and Violence (collectively, “Prohibited Conduct”) in addition to free from Retaliation. It is the responsibility of all members of the University community to create a safe and inclusive environment that is free from Gender-Based Harassment and Violence. Such Prohibited Conduct subverts the mission of the University and threatens the well-being, and employment, academic, and social opportunities and experiences of students, faculty and staff; thus it is expressly prohibited and will not be tolerated.

The University does not discriminate on the basis of sex or gender in employment or any of its programs or activities. Sexual harassment, sexual assault, and other categories of sexual misconduct are forms of sex discrimination that are not only prohibited under the Morgan State University Gender And Sexual-Based Harassment And Violence Policy (the “Policy”), but also under federal and state discrimination laws. In accordance with Title IX of the Education Amendments of 1972 (“Title IX”), the federal law that prohibits discrimination on the basis of sex in federally funded educational programs and activities, the Violence Against Women Reauthorization Act of 2013 (“VAWA”), Title VII of the Civil Rights Act of 1964 (“Title VII”), and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), this Policy is designed to provide for the prompt, equitable, and impartial investigation and resolution of incidents of Prohibited Conduct.

This Policy provides the expectations for maintaining a safe, inclusive, and nondiscriminatory environment and the process for reporting and resolving alleged violations of the Policy. Students, faculty, and staff who violate this Policy may face disciplinary action up to and including expulsion or termination from the University.

This Policy applies to all reported incidents of Gender and Sexual-Based Harassment and Violence and replaces both the University’s Sexual Harassment Policy and Sexual Assault Policy.

II. SCOPE AND APPLICABILITY

A. Individuals covered and protected by this Policy

This Policy applies to the conduct of, and protect all University students, faculty, and staff—regardless of gender, sexual orientation, gender identity or gender expression.

This Policy also applies to contractors and other third parties within the University’s control. This includes individuals doing business with the university and/or working on behalf of the University in any capacity, volunteers, visitors, and guests.

B. Jurisdiction

This Policy applies to Prohibited Conduct that occurs:

- (1) On campus, which includes any University facility or University property;
- (2) Off campus, if the conduct:

- occurred in connection with a University sponsored, recognized, or approved program (e.g., University- sponsored study abroad or internship program);
- occurred within facilities that are located on University-owned land and/or leased property;
- impedes equal access to any University education program or activity or has the effect of creating a hostile education or employment environment for a member of the University community, or
- otherwise threatens the health and/or safety of a member of the University community.

In determining whether the University has jurisdiction over off-campus conduct that is not part of a University sponsored, recognized, or approved program, the University will consider the following factors:

- the seriousness of the alleged conduct,
- the risk of harm involved,
- whether both parties are members of the University community, and
- whether the off-campus conduct is part of a series of actions that occurred both on and off campus.

C. Reports involving minors or suspected child abuse and neglect¹

All members of the University community are required to comply with applicable laws and regulations regarding the reporting of child abuse and neglect. Under Maryland law , University employees who learn or have reason to believe that a child under the age of 18 has been subjected to abuse or neglect, including sexual abuse, must report this abuse or neglect to law enforcement or the appropriate child protective services agency. This reporting obligation includes past incidents of abuse or neglect – meaning individuals must report suspected child abuse or neglect even if the abuse occurred in the past and the victim is now an adult. In order to ensure compliance with the law, employees shall notify University Police within 48 hours of the event that caused them to believe that a child has been subjected to abuse or neglect. University Police will take immediate steps to assist with the protection of the child and comply with all applicable legal reporting requirements.

III. DEFINITIONS

For the purposes of this Policy, the following terms have the definitions provided below. Please note that some of these terms may also be used in other contexts, such as in connection with criminal or legal proceedings, and their meaning may be different in those contexts.

A. Consent

Clear, voluntary and unambiguous agreement, expressed in mutually understandable words or actions, to engage in a specific sexual activity.

¹ Md. Code Ann. Fam. Law §§ 5-701, 5-704, 5-705. More information on mandatory reporting of child abuse and neglect can be found on the Maryland Department of Human Resources website.

Consent must be obtained. It is the responsibility of the person who wants to engage in the sexual activity to ensure that they have consent from the other party, and that the other party is capable of consent. Accordingly, when there is a dispute as to whether sexual activity was consensual, the University's investigation will assess whether the person initiating the sexual activity knew, or should have known, that the sexual activity was not consensual or that the other party was incapable of providing consent.

Consent must be affirmative. Consent requires an affirmative demonstration, through words or actions that conveys a clear willingness to engage in the sexual activity.

As a result:

- An individual cannot infer consent through silence, lack of resistance, or absence of a verbal "no" or "stop."
- Consent cannot be inferred by the existence of a current or prior dating or sexual relationship between individuals.
- Consent to any one form of sexual activity does not automatically imply consent to other forms of sexual activity.
- Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.
- Consent cannot be obtained from someone who is incapacitated.

Consent must be ongoing. Consent must be present throughout the sexual activity and may be withdrawn at any time. However, withdrawal of consent requires an outward demonstration, through understandable words or actions, which clearly conveys that a party is no longer willing to engage in the sexual activity. If there is any confusion as to whether there is consent or whether prior consent has been withdrawn, the parties should stop the activity until the confusion is resolved.

Consent must be voluntary. Consent can never be obtained by use of physical force, threats, intimidating behavior or coercion. Furthermore, consent cannot be obtained by taking advantage of an individual's inability to give consent because of incapacitation.

B. Coercion

Words and/or conduct that substantially impairs an individual's ability to voluntarily choose whether to engage in a sexual activity. It exists when a person applies an unreasonable amount of pressure on another for sex. For example, when a person makes clear that they do not want sex, want to stop, or that going past a certain point of sexual interaction is unwanted, continued pressure can be coercive. Coercion is evaluated based on the intensity, frequency, and duration of the words or actions.

C. Complainant

Individual who experienced the reported Prohibited Conduct, regardless of whether that individual made the report, participated in the University's investigation, or filed a formal complaint alleging violations of this Policy. If an individual who experienced Prohibited Conduct chooses not to file

a formal complaint, the University may at its discretion initiate an investigation and serve as the Complainant in any proceeding under this Policy.

D. Complicity

Any act that knowingly aids, facilitates, promotes, or encourages the commission of Prohibited Conduct by another person.

E. Confidential Employees

University employees who are not required to report incidents of Prohibited Conduct to the University's Title IX Coordinator. The only confidential employees at the University are employees at the:

- Harriet A. Woolford University Health Center
- University Counseling Center
- University Memorial Chapel

F. Employee

Faculty or staff employee, regardless of type (*i.e.*, regular or contractual).

G. Force

Physical violence and/or imposing on someone physically to gain sexual access. Force can include threats, intimidation, and coercion that are used to overcome resistance.

H. Gender-Based Harassment

Unwelcome verbal, physical, or electronic conduct of a nonsexual nature based on sex, sex-stereotyping, sexual orientation, gender identity or gender expression that has the purpose or effect of unreasonably interfering with an individual's academic or work performance (*i.e.*, it is sufficiently severe, persistent, or pervasive to create an intimidating, hostile, humiliating, demeaning, or offensive working or learning environment). For example, harassment for exhibiting what is perceived as a stereotypical characteristic for one's sex or for failing to conform to stereotypical notions of masculinity or femininity, regardless of the actual or perceived sex, gender, sexual orientation, gender identity, or gender expression may violate this Policy.

I. Incapacitation

A state where an individual cannot make an informed and rational decision to engage in sexual activity because the individual lacks the mental and/or physical ability to understand the nature of the sexual activity (*i.e.*, the who, what, where, why, or how of the sexual activity). There are a number of causes for incapacitation, including, but not limited to:

- Being asleep or unconscious
- Intermittent consciousness
- Existence of a mental, physical, or developmental disability
- Consumption of alcohol or other drugs (includes prescription and illegal drugs)

Alcohol or drug use is one of the primary causes of incapacitation, but consumption alone is insufficient to establish incapacitation. Incapacitation is a state beyond intoxication, impairment

of judgment, or “drunkenness.” The impact of alcohol and drugs vary from person to person, and evaluating whether an individual is incapacitated and unable to give consent, requires an assessment of whether the consumption of alcohol or other drugs has rendered the individual physically helpless and substantially incapable of:

- Making decisions about the potential consequences of the sexual activity;
- Appraising the nature of one’s own conduct;
- Communicating consent to the sexual activity; or
- Communicating unwillingness to engage in the sexual activity.

An individual who is incapacitated is unable to consent to sexual activity. Under this Policy, in evaluating incapacitation, the University will assess whether the Respondent knew or should have known, the Complainant was incapacitated.

J. Interim Measures

Temporary actions taken by the University to protect the safety and wellbeing of the parties and to foster a more stable and safe environment during the University’s investigation and resolution process. Interim Measures are initiated based on information gathered when an incident of Prohibited Conduct is reported to the University. Interim Measures are not intended to be permanent and thus may be amended or withdrawn as additional information is gathered.

K. No Contact Order

An official University directive that serves as notice to an individual that they are prohibited from physical, verbal, electronic, written, and/or third party contact and communications with another individual. The University may issue a No Contact Order as a remedial and protective measure, including as an interim measure, in order to enhance the safety of all parties, the broader University community, and/or to protect the integrity of the University’s investigation and resolution process.

L. Parties

Refers to the Complainant and Respondent collectively.

M. Prohibited Conduct

All gender and sexual-based conduct prohibited under this Policy to include, but not limited to, sexual harassment, gender-based harassment, sexual violence, sexual exploitation, sexual intimidation, relationship violence, stalking, complicity, and all other conduct of a sexual nature. Prohibited Conduct can occur between people of the same sex or between people of different sexes. It can also include both intentional conduct and conduct that results in negative effects, even if those negative effects were unintended.

N. Relationship Violence

Relationship violence is a broad term that encompasses Domestic Violence and Dating Violence.

1. *Domestic Violence*²

Domestic violence refers to sexual or physical abuse committed by any of the following individuals:

- a current or former spouse or intimate partner of the Complainant;
- a person with whom the Complainant shares a child in common;
- a person who is cohabitating with or who has cohabitated with the Complainant as a spouse or intimate partner;
- a person similarly situated to a spouse of the Complainant; or
- any other person against an adult or youth complainant who is protected from those acts by Maryland's domestic and family laws.

For the purposes of this Policy, individuals are not covered within the scope of this definition solely by virtue of their status as a roommate or former roommate in University housing or as a co-tenant or former co-tenant in off- campus housing shared with other students.

2. *Dating Violence*

Physical or sexual abuse committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. Whether the relationship is of a romantic or intimate nature is determined by a variety of factors, which include:

- the length of the relationship;
- the type of relationship; and
- the frequency of interaction between the persons involved in the relationship.

O. Respondent

An individual accused of engaging in conduct that violates this Policy.

P. Responsible Employee

All non-confidential employees are strongly encouraged to report incidents of Prohibited Conduct. However, individuals identified as Responsible Employees have a duty to report incidents of Prohibited Conduct.

Responsible Employees are individuals: 1) who have the authority to address Prohibited Conduct; 2) who have a duty to report incidents of Prohibited Conduct; or 3) whom a member of the University community could reasonably believe has such authority or duty. The University has designated the following individuals as Responsible Employees:

² In addition to violating this Policy, domestic abuse is also a crime under Maryland law. Complainants may seek relief from the court by filing a petition for a peace or protective order against the Respondent. Maryland law provides criminal penalties for violations of certain orders of protection.

- Every employee who has been designated as a Campus Security Authority.³ This includes the following:
 - Vice President for Student Affairs
 - Associate Vice President for Student Affairs
 - Chief Judicial Officer
 - Judicial Coordinator
 - Executive Director of Campus and Public Safety
 - Chief of Police
 - Director of the Office of Residence Life and Housing
 - Assistant Director of Student Life, Office of Residence Life and Housing
 - Resident Directors, Resident Assistants, and Desk Attendants in the Office of Residence Life and Housing
 - Director of Diversity and Equal Employment Opportunity
 - Director of Human Resources
 - Director of Athletics
 - Athletic Coaches and Trainers
 - Director of Student Activities
 - Assistant Coordinator of Student Activities
 - Assistant Coordinator of University Events
 - Faculty Advisors for Student Clubs and Organizations
- University Administrators. This includes the following:
 - University President
 - Chief of Staff
 - Provosts
 - Vice Presidents
 - Deans
- Employees with supervisory responsibilities for other employees or students
- Faculty Members (including regular and adjunct faculty)
- Campus Police
- Any employee who accompanies students abroad or is a local contact for students abroad

Responsible Employees who learn of or witness Prohibited Conduct involving a student, employee, or third-party are required to immediately report such Prohibited Conduct to their supervisor or Department Chair and to the University's Title IX Coordinator. Responsible Employees may also report Prohibited Conduct to the University Police when needed.

Q. Retaliation

Acts or words against an individual because of the person's participation in a complaint, investigation, and/or resolution of an allegation of Prohibited Conduct.

³ Campus Security Authorities are individuals required to report certain crimes to the University's Office of Police and Public Safety in compliance with the Clery Act.

- Retaliation can be committed by one individual or a group of individuals, not just by a Respondent or Complainant.
- Retaliation may include intimidation, threats, coercion, harassment, and adverse employment or educational actions.

Individuals who report violations of this Policy in good-faith will be protected from Retaliation.

Retaliation is strictly prohibited under Title IX and this Policy. Accordingly, any individual who is found to have engaged in retaliation is subject to discipline, which can include expulsion or termination of employment. A report of retaliation will be viewed as a separate offense under this Policy; this means that an individual may be found responsible for retaliation even if no one is found responsible in the underlying report of Prohibited Conduct. Individuals who believe they are being subjected to retaliation should promptly contact the University's Title IX Coordinator.

R. Sexual Coercion

The use of unreasonable pressure in an effort to compel another individual to initiate or continue sexual activity against the individual's will. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Sexual Coercion includes, but is not limited to, sexual intimidation, manipulation, threats of emotional or physical harm, and blackmail. Examples of sexual coercion include threatening to disclose another individual's private sexual information, or threatening to harm oneself if the other party does not engage in the sexual activity.

S. Sexual Exploitation

Non-consensual or abusive sexual advantage of another person for one's own advantage or benefit or for the advantage or benefit of anyone other than the person being exploited, or taking advantage of another person's sexuality.

Examples of sexual exploitation include, but are not limited to:

- observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
- non-consensual sharing or streaming of images, photography, video, audio recordings of nudity or sexual activity, or distribution of such without the knowledge and consent of all parties involved (includes, but is not limited to, posting and/or distribution of such images/audio via social media, text messages, group chats, etc.);
- knowingly exposing another individual to a sexually transmitted disease or virus without his or her knowledge;
- inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity; and
- threatening to disclose an individual's sexual orientation, gender identity, or gender expression.

T. Sexual Harassment

Sexual Harassment is a form of unlawful sex discrimination and means any unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome verbal, physical, or electronic conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, evaluation of academic work, or participation in a University-sponsored educational program or activity;
2. Submission to or rejection of such conduct by an individual is used as a basis for an academic, employment, or activity or program participation decision affecting that individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance, (*i.e.*, it is sufficiently severe, persistent, or pervasive to create an intimidating, hostile, humiliating, demeaning or sexually offensive working or learning environment).

Sexual harassment:

- May be blatant and involve an overt action, threat, or reprisal; or may be subtle and indirect, with a coercive aspect that is unstated but implied.
- May or may not include an intent to harm.
- May not always be directed at a specific individual.
- May be committed by anyone, regardless of gender, age, position, or authority. While there may be a power differential between the parties, often due to differences in age, educational, employment, or social status, harassment can occur in any context.
- May be committed by a stranger, an acquaintance, or someone with whom the Complainant has a current or previous relationship, including a romantic or sexual relationship.
- May be committed by or against an individual or may be a result of the actions of an organization or group.
- May occur in the classroom, in the workplace, in residential settings, or in any other setting.
- May occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation.
- May be committed in the presence of others or when the parties are alone.
- May occur through electronic communications, including email, text message, and social media.

The following are examples of behavior of a sexual nature that if unwelcome, may constitute sexual harassment:

Physical Conduct: touching, hugging, kissing, fondling, or touching oneself sexually for others to view.

Verbal Conduct: sexual or “dirty jokes,” comments on physical attributes or an individual’s body, spreading sexual rumors, bragging about one’s sexual activity in front of others, using sexually degrading words or sounds to a person or to describe a person, sexually explicit statements or stories that are not legitimately related to employment duties.

Visual Conduct: leering, displaying or distributing sexually explicit drawings, pictures, and/or written material.

Written Conduct: letters, emails, instant messaging, text messaging, blogs, web pages, and social media containing comments, words, or images of conduct described above.

Quid pro quo: making an academic or employment decision dependent on whether an individual submits to sexual advances, threatening reprisals after an individual has turned down sexual advances, offering academic or employment benefits in exchange for sexual favors.

A person’s subjective belief alone that a behavior is offensive does not necessarily make that behavior sexual harassment. The behavior must be objectively offensive meaning that a reasonable person in similar circumstances would find the behavior hostile, intimidating, or abusive based upon a totality of the circumstances.

A single isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to create a hostile environment, particularly if the harassment is physical.

U. Sexual Intimidation

Threatening behavior of a sexual nature directed at another person.

Sexual intimidation includes, but is not limited to:

- threatening to sexually assault another person;
- engaging in indecent exposure; and
- gender-based stalking, including cyber-stalking

V. Sexual Violence⁴

Physical sexual acts perpetrated without consent. Sexual violence includes rape, sexual assault, sexual battery, and sexual coercion.

1. *Sexual Assault I – Nonconsensual sexual intercourse* involves any act of sexual intercourse with another individual without consent. Sexual intercourse includes vaginal or anal penetration, however slight, with any body part or object, or oral penetration involving mouth to genital contact.

⁴ In addition to violating this Policy, certain acts of sexual violence are crimes in the State of Maryland. Additional information on Maryland’s sexual assault laws can be found on the Maryland Coalition Against Sexual Assault (MCASA) website.

2. Sexual Assault II – Nonconsensual sexual contact involves any intentional touching of the intimate parts of another person, causing another to touch one’s intimate parts, or disrobing or exposure of another without consent. Intimate parts may include genitalia, groin, breast, or buttocks, or the clothing covering them, or any other body part that is touched in a sexual manner. Sexual contact also includes attempted sexual intercourse.

W. Stalking⁵

A course of gender-based physical or verbal conduct directed at another individual that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

- A “course of conduct” consists of at least two acts.
- “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical treatment or professional counseling.
- A “reasonable person” means a reasonable person under similar circumstances and with similar identities to the victim.
- Stalking includes cyber-stalking (i.e., using electronic means such as the Internet, social media, blogs, cell phones, texts, etc., to pursue, harass, or make unwelcome contact with another person in an unsolicited fashion).

IV. TITLE IX COORDINATOR AND TITLE IX TEAM

The Title IX Coordinator is responsible for the administration of this Policy and oversees the University’s response to, and investigation and resolution of, all reports of Prohibited Conduct. The Title IX Coordinator leads the University’s Office of Diversity and Equal Employment Opportunity (“Office of Diversity and EEO”), which is also staffed by the Deputy Title IX Coordinator. The Deputy Title IX Coordinator is primarily responsible for investigating complaints of Prohibited Conduct and assists the Title IX Coordinator with case management, training, and prevention.

The Office of Diversity and EEO is located on the University’s West Campus, in the new Martin D. Jenkins Hall, Room 327. The University’s Title IX Coordinator can be reached at 443-885-3559 or 443-885-3580. Individuals may also send an email to titleixcoordinator@morgan.edu.

The Title IX Coordinator also leads the University’s Title IX Team. Members of the Title IX Team include the Title IX Coordinator, Deputy Title IX Coordinator, Chief Judicial Officer, and Chief of University Police. On some occasions, based on the nature of the Prohibited Conduct, members of the Title IX Team may also include Title IX investigators, members of the Office of General Counsel, and/or members from Student Affairs, the Provost’s Office, and Human Resources.

Individuals are encouraged to contact the Title IX Coordinator with any concerns about this Policy or the University’s application of Title IX. Parties also have the right to seek redress from state and federal governmental agencies, including the Department of Education’s Office of Civil Rights

⁵ In addition to violating this Policy, stalking is a crime in Maryland.

at 215.656.8541 or ocr.philadelphia@ed.gov; U.S. Equal Employment Opportunity Commission at 1.800.669.4000; and the Maryland Commission on Civil Rights at 410.767.8600.

V. REPORTING OPTIONS

It is important for individuals who experience Prohibited Conduct to be aware of their options in order to make informed choices when reporting their experience. The information below discusses the various options available for reporting an incident of Prohibited Conduct. Individuals who experience Prohibited Conduct are encouraged to explore all available options for resolution, including resolution under this Policy and with law enforcement. The University and criminal justice processes are not mutually exclusive; and an individual can choose to pursue both a report under this Policy and criminal investigation at the same time.

A. Reports to Law Enforcement

Individuals who experience Prohibited Conduct are strongly encouraged to report the incident to law enforcement. Reporting an incident of Prohibited Conduct to law enforcement does not preclude an individual from also reporting the incident to the University. Reports made to the University and law enforcement may be pursued simultaneously; and the outcome of one investigation does not determine the outcome of the other.

University Police can assist individuals in reporting an incident of Prohibited Conduct to the appropriate law enforcement agency. Individuals who report incidents of Prohibited Conduct to University Police should understand that University Police are Responsible Employees under this Policy and will forward the report to the University’s Title IX Coordinator, regardless of whether the incident constitutes a crime under the law.

Contact Information	
Morgan State University Police	Baltimore City Police, Northeast District
The police station is open 24-hours a day and located in the Washington Service Center Emergency: 443-885-3103 Non-emergency: 443-885-3100 msupolice@morgan.edu	1900 Argonne Drive, Baltimore, MD 21228 Emergency: 911 Non-emergency: 410-396-2444

When a Complainant wishes to pursue criminal charges related to an incident of Prohibited Conduct, the criminal investigation will be handled by the University Police Department and/or Baltimore City Police Department.

B. Reports to the University

The University can only take corrective action and provide support when it becomes aware of a problem. Accordingly, individuals who believe they have experienced conduct that violates this Policy are encouraged to promptly report the incident to the University by:

- Contacting the Office of Diversity and EEO
West Campus, new Martin D. Jenkins Hall, Room 327 • titleixcoordinator@morgan.edu • 443885-3559 or 443-885-3580
- Contacting the Office of Student Rights and Responsibilities

George W.F. McMechen Hall, Room 602 • 443-885-3527

- Contacting the Office of Police and Public Safety • 443-885-3100
- Contacting other Responsible Employees

Deciding whether to report and choosing how to proceed are personal decisions. When reporting an incident of Prohibited Conduct, a Complainant does not need to decide whether to request any particular course of action. Choosing to report an incident and deciding how to proceed after making the report is a process that unfolds over time. The University makes every effort to respect an individual's autonomy in how to proceed with a report of Prohibited Conduct. Resources are available to support an individual regardless of the course of action ultimately chosen.

1. Time period for reporting

The University does not impose a time limit for reporting incidents of Prohibited Conduct. However, individuals are strongly encouraged to report the incident as soon as possible after the incident occurred in order to maximize the University's ability to respond promptly and effectively. Delays may make it more difficult to gather relevant and reliable information and impair the University's ability to respond and take appropriate action.

2. Responsible Employees

The University has designated the following people as Responsible Employees:

- Every employee who has been designated as a Campus Security Authority.⁶ This includes the following:
 - Vice President for Student Affairs
 - Associate Vice President for Student Affairs
 - Chief Judicial Officer
 - Judicial Coordinator
 - Executive Director of Campus and Public Safety
 - Chief of Police
 - Director of the Office of Residence Life and Housing
 - Assistant Director of Student Life, Office of Residence Life and Housing
 - Resident Directors, Resident Assistants, and Desk Attendants in the Office of Residence Life and Housing
 - Director of Diversity and EEO
 - Director of Human Resources
 - Director of Athletics
 - Athletic Coaches and Trainers
 - Director of Student Activities
 - Assistant Coordinator of Student Activities
 - Assistant Coordinator of University Events
 - Faculty Advisors for Student Clubs and Organizations

⁶ Campus Security Authorities are individuals required to report certain crimes to the University's Office of Police and Public Safety in compliance with the Clery Act.

- University Administrators. This includes the following:
 - University President
 - Chief of Staff
 - Provosts
 - Vice Presidents
 - Deans
- Employees with supervisory responsibilities for other employees or students
- Faculty Members (including regular and adjunct faculty)
- Campus Police
- Any employee who accompanies students abroad or is a local contact for students abroad

Responsible Employees will safeguard an individual’s privacy, but are **required** to immediately share all known details about alleged violations of this Policy. Responsible Employees are obligated to report allegations of Prohibited Conduct to their supervisor or Department Chair and to the University’s Title IX Coordinator in order for the University to provide timely support for all parties and to allow for an effective institutional response. Responsible Employees may also report Prohibited Conduct to the University Police when needed.

Responsible Employees should not attempt to investigate or resolve the matter on their own. The Title IX Coordinator will make every effort to work collaboratively with the Responsible Employee in order to operate with discretion and maintain privacy of the individuals involved.

Responsible Employees cannot remain anonymous when reporting Prohibited Conduct they learn of, witness, or is disclosed to them by students, employees, or third-parties.

3. Reports by Students and Employees Not Required to Report

All students and employees who are not otherwise required to report as a Responsible Employee are **strongly encouraged** to report any Prohibited Conduct perpetrated by a member of the University community or occurring at a University program or activity.

4. Public Awareness Events and Programs

Public awareness events and programs (*e.g.*, Take Back the Night) at which students or employees disclose experiences of Prohibited Conduct are **not considered notice** to the University for the purpose of this Policy unless the individual disclosing their experience also initiates a complaint under this Policy. Disclosures of incidents of Prohibited Conduct made to faculty or as part of classroom discussion or coursework are considered “reports” to the University and will be forwarded to the University’s Title IX Coordinator.

5. IRB-Approved Research

Disclosures of incidents of Prohibited Conduct that are made as part of an Institutional Review Board-approved human subjects research study, including the University’s campus climate study, are **not considered notice** to the University for the purpose of this Policy unless the individual disclosing their experience also initiates a complaint under this Policy.

VI. PRIVACY AND CONFIDENTIALITY

The University is committed to protecting the privacy of all individuals involved in an incident reported under this Policy. Every effort will be made to respect and safeguard the privacy interests of the individuals involved in a manner consistent with the need for a careful assessment of the allegations and any necessary steps to eliminate the misconduct, prevent its recurrence, and address its effects.

A. Distinction between privacy and confidentiality

1. Privacy

Privacy generally means that information related to a reported incident will only be shared with a limited number of individuals “who need to know” the information in order to assist in the review, investigation and/or resolution of the incident. While not bound by confidentiality, these individuals will be discrete and respect the privacy of all individuals involved in the process. If a decision is made to pursue disciplinary action against a Respondent, information related to the report will be shared with him or her.

When the parties involved are students, information regarding a reported incident will not be shared with either party’s parents or guardians unless the party has signed a waiver that complies with FERPA or there is an articulable threat to the health or safety of the party or other individuals.

While a Responsible Employee cannot offer confidentiality to an individual who discloses an incident of Prohibited Conduct, the Responsible Employee will maintain the privacy of all individuals involved by sharing the information related to the report with only those who “need to know” as outlined above.

2. Confidentiality

Confidentiality means that information shared with a designated campus or community professional will only be disclosed with the individual’s express written permission, unless there is an imminent threat of harm to self or others. An individual can seek confidential assistance and support by speaking with specifically designated Confidential Employees as identified in section III.E. of this Policy and using the Confidential Resources identified in section VII.C. of this Policy.

B. Requests for Confidentiality

When a Complainant requests that their name or other identifiable information not be shared with the Respondent or that no formal action be taken, the Title IX Coordinator, in consultation with the Title IX Team, will balance this request with the University’s obligation to provide a safe and non-discriminatory environment to the Complainant and the rest of the University community.

If the University honors the request for confidentiality, it will still take all reasonable steps to investigate and respond to the report, but its ability to do so may be limited based on the nature of the Complainant’s request. At times, in order to maintain safety and a non-discriminatory environment, the University will not be able to honor a Complainant’s request for confidentiality. In such circumstances, the Title IX Coordinator will inform the Complainant prior to starting a formal investigation. The Complainant can choose not to participate in the University’s

investigation and in such cases the University's ability to meaningfully investigate the incident and/or pursue disciplinary action against the alleged perpetrator may be limited.

C. Records

The Title IX Coordinator will maintain records of all incidents reported, and all complaints made under this Policy as well as their outcomes in order to track patterns and systematic concerns. Reports that end at the Initial Review stage or that are resolved through Voluntary Resolution are not part of a student's conduct file or an employee's personnel record. Affirmative findings of responsibility in matters resolved through the Investigation and Determination of Responsibility process are part of a student's conduct record and an employee's personnel record. Such records shall be used in reviewing any further conduct, or developing sanctions, and shall remain a part of a student's conduct record or an employee's personnel record. Student conduct records are maintained in the Office of Student Rights and Responsibilities in accordance with the University's document retention schedule. Personnel records are maintained in the Office of Human Resources in accordance with the University's document retention schedule.

D. Release of Information

If a report made under this Policy discloses a serious and immediate threat to the University community, University Police will issue a timely warning notification to protect the health or safety of the community as required by the Clery Act. This timely warning notification will not include any identifying information about the Complainant.

Pursuant to the Clery Act and state law, anonymous statistical information regarding reported criminal incidents must be shared with University Police for inclusion in the daily crime log. This information will also be included in the University's Annual Security Report and annual report to the Maryland Higher Education Commission. The University may also share aggregate and not personally identifiable data about reports, outcomes, and sanctions.

All University proceedings are conducted in accordance with the requirements of Title IX, the Clery Act, FERPA, state and local law, and University policy. No information, including the identity of the parties, will be released from such proceedings except as required or permitted by law or under University policy.

VII. OBTAINING HELP AND SUPPORT

Members of the University community who experience Prohibited Conduct are urged to immediately seek help. In addition to filing a report with law enforcement and the University, help also includes seeking medical treatment and obtaining confidential counseling or crisis response. It is important for individuals who experience Prohibited Conduct to attend to any physical injuries as well as their emotional well-being.

A. Finding a Safe Place

Prohibited Conduct can be traumatic and shatter a person's sense of security. In the immediate aftermath of an incident, it is important to seek a safe place. Individuals who are in immediate danger or seriously injured should dial 911.

B. Seeking Medical Attention and Preserving Evidence

If it is safe to do so, individuals are encouraged to take precautions in order to preserve any evidence that may help with a criminal prosecution or University investigation. Regardless of whether a person intends to file criminal charges, they are encouraged to obtain a forensic medical exam in order to preserve evidence that may be on their body and clothes. A forensic examination will allow a trained healthcare professional to assess the individual's medical needs and collect evidence that can later be used if the person decides to pursue a criminal complaint. Mercy Medical Center located at 345 St. Paul Street, Baltimore MD 21202, has specially-trained nurses who can perform a forensic exam and provide medical care to individuals who have experienced sexual violence.

If possible, individuals should refrain from showering or bathing, brushing their teeth, washing their hands, and urinating or defecating. The best way to preserve evidence is to go to the hospital in the clothing worn at the time of the assault. Individuals who end up changing their clothes should take the clothes worn during the assault with them to the hospital. Try to use a paper bag to store any clothing rather than a plastic bag, which can degrade or contaminate forensic evidence. In addition to the physical evidence on the body and clothes, evidence may also include text messages, emails, voicemail messages, social network postings, photographs, and written documents such as cards, notes, and letters. Individuals should preserve this evidence as well in order to assist investigators if a person decides to file a complaint with law enforcement and/or the University.

Individuals who experience sexual violence are encouraged to be examined by a healthcare professional even if they have no visible injuries and do not want a forensic exam. Individuals may go to Mercy Medical Center and have a medical exam performed without having any forensic evidence collected. In addition, students can go to the Harriet A. Woolford University Health Center ("University Health Center"), located on campus, where medical staff can perform a physical exam and screen and provide treatment for STIs and pregnancy. The University can also arrange transportation to the hospital for any student wanting a forensic medical examination performed.

C. Obtaining Support

It is important to find people who can provide support after experiencing a form of Prohibited Conduct. Individuals may use any of the confidential resources listed below to access confidential assistance or to explore reporting options without initiating further action from the University. This means that Confidential Employees and the other confidential resources listed below will not share information about an individual (including whether that individual has received services) without the individual's consent, unless there is an imminent threat of harm to self or others.

Individuals who choose to discuss incidents of Prohibited Conduct with Confidential Employees or utilize only Confidential Resources should understand that the University will not be able to conduct an investigation into the particular incident, or pursue disciplinary action against the alleged perpetrator, unless the incident is reported to the University's Title IX Coordinator directly by the victim, law enforcement, or someone who does not have the obligation to keep it

confidential. Individuals who initially choose only to disclose Prohibited Conduct to Confidential Employees or Confidential Resources may report the incident to the University's Title IX Coordinator or law enforcement at a later time to initiate an investigation.

1. On-Campus Resources: Confidential

University Counseling Center

Carter Grant Wilson Administration Building, Room 202 • 443-885-3130 •
www.morgan.edu/counselingcenter

The University Counseling Center is staffed by trained counselors who can provide confidential support and assistance to current students. The University Counseling Center offers individual and group counseling for those who experience sexual misconduct, relationship violence, and stalking as well as to students who may need support in assisting a friend who is a survivor. There is no cost for counseling services. Counselors are available for appointments from 8:00 am to 5:00 pm Monday through Friday. If you are coming to the University Counseling Center for a brief consultation, for the first time or in an emergency, you may speak with the counselor on Walk-In duty for up to thirty minutes. Walk-in hours are Monday-Friday, 10 a.m. - 3 p.m. A counselor is also available on call 24 hours a day, 7 days a week in case of emergency. Students may contact their Residence Hall Director or the Campus Police (x3103) to get in touch with the counselor on call.

University Memorial Chapel

443-885-5105 • www.morgan.edu/universitychapel

Clergy of various faiths are available for students, faculty, and staff to discuss religious, spiritual, and personal issues.

University Health Center

443-885-3236 • www.morgan.edu/healthservices

The University Health Center is staffed by confidential licensed healthcare providers. The University Health Center offers complete physical exams, screening and treatment for sexually transmitted infections (STIs), emergency contraception, and pregnancy tests. The closest hospital that can conduct a forensic medical examination is Mercy Medical Center in Downtown Baltimore.

2. On-Campus Resources: Non- Confidential

Title IX Coordinator/Deputy Title IX Coordinator - Office of Diversity & EEO

West Campus, new Martin D. Jenkins Hall, Room 327 • 443-885-3559/443-885-3580 •
titleixcoordinator@morgan.edu • www.morgan.edu/eo

The Office of Diversity and EEO is charged with the day-to-day implementation of the University's nondiscrimination policies as well as the coordination of Title IX related policies, procedures, training and prevention efforts.

Office of Student Rights & Responsibilities

George W. F. McMechen Hall, Room 602 • 443-885-3527

The Office of Student Rights and Responsibilities has the primary responsibility to manage and direct the University's efforts in matters involving student conduct. The Office of Student Rights and Responsibilities enforces the Code of Student Conduct and oversees the adjudication of an extensive range of student misconduct.

University Police

Washington Service Center • 443-885-3103 • msupolice@morgan.edu • www.morgan.edu/police

The University Police and Public Safety Department serves to provide a safe and secure campus environment conducive to education for Morgan State University students, faculty, staff and visitors. The Department provides police coverage and response 24 hours a day, 365 days a year. The Department is comprised of sworn police officers, civilian personnel, police communication operators, parking enforcement officers, and security officers. The Department responds to criminal offenses, service requests, complaints, and incidents. In addition, the Department is responsible for issuing timely warnings as needed, maintaining campus crime logs, and compiling the Annual Campus Security and Fire Safety Report (Clery Report).

3. Off-Campus and Community Resources

House of Ruth

2201 Argonne Drive, Baltimore, MD 21218 • 410-889-7884 • www.hruth.org

Provides confidential transitional shelter, legal (including assistance with obtaining protective/peace orders), counseling, and advocacy services to individuals who have experienced intimate partner violence.

Maryland Coalition Against Sexual Assault (MCASA)

P.O. Box 8782, Silver Spring, MD 20907 • 301-328-7023 • www.mcasa.org

Sexual assault advocacy and referral organization. MCASA provides valuable information and resources for sexual assault survivors, including the locations of rape crisis and recovery centers located across the state of Maryland so survivors can find help when they are home and away from the campus.

TurnAround, Inc.

8503 LaSalle Road, Towson, MD, 21286 • 410-377-8111 • www.turnaroundinc.org

Provides confidential counseling, crisis intervention, referral and support services to individuals who have experienced sexual assault and domestic violence.

National Domestic Violence Hotline

1-800-799-SAFE (7223)

The National Domestic Violence Hotline operates 24-hour confidential and free support for survivors. Individuals who have experienced abuse, have abused, or are trying to help a friend in an abusive relationship can speak with an advocate via telephone or instant message.

National Sexual Assault Hotline

1-800-656-HOPE (4673) • <https://ohl.rainn.org/online>

The National Sexual Assault Hotline was created by the Rape, Abuse & Incent National Network (RAINN). It provides 24-hour confidential support and referral information for survivors. Individuals can also use online instant messaging to connect with a confidential support specialist.

Sexual Assault Legal Institute (SALI)

P.O. Box 8782, Silver Spring, MD 20907 • 301-565-2277 •
www.mcasa.org/for-survivors/sali/

Provides legal assistance to sexual assault survivors.

Tahirih Justice Center

571-282-6161 • <http://www.tahirih.org/>

The Tahirih Justice Center works to protect immigrant women and girls seeking justice in the United States from gender-based violence. Tahirih provides holistic legal services, case management, advocacy, and education. It can assist domestic violence and sexual assault survivors with adjustment to their immigration status and with family law matters.

The Pro Bono Counseling Project (PBCP)

1-877-323-5800

PBCP links Maryland individuals and families with limited resources with licensed mental health professionals who can provide counseling and therapy at no cost.

Protective Orders and Peace Orders

<http://mdcourts.gov/courtforms/joint/ccdcvpo001br.pdf>

Under certain circumstances, a person may be entitled to obtain a protective order or a peace order. A protective order can require the abuser to stay away from you and your residence and provide other relief for up to one year with the possibility of being renewed for an additional period of time. A peace order can require the abuser to stay away from you for up to 6 months and can be renewed for an additional period of time.

Maryland Criminal Injuries Compensation Board

www.dpscs.state.md.us/victimservs/cicb/index.shtml

Provides aid and assistance to victims of crime such as reimbursement for medical and dental expenses, counseling expenses, loss earnings, disability, and crime scene clean up.

Office of the Public Defender for Baltimore City

The Office of the Public Defender provides low-cost representation for individuals in criminal cases.

Office of the Baltimore City State's Attorney

The Office of the State's Attorney prosecutes crimes occurring in Baltimore City and provides victim/witness assistance.

U.S. Department of Education, Office for Civil Rights

The Wanamaker Building, 100 Penn Square East, Suite 515, Philadelphia, PA 19107 •
215-656-8541 • ocr.philadelphia@ed.gov • www2.ed.gov/ocr

Federal agency where individuals may file an external Title IX complaint.

Equal Employment Opportunity Commission

10 S. Howard Street, 3rd Floor, Baltimore, MD 21201 • 1-800-669-4000 • www.eeoc.gov

Federal agency where employees may file an external sex discrimination/harassment complaint.

Maryland Commission on Civil Rights

6 St. Paul Street, Suite 900, Baltimore, MD 21202 • 410-767-8600 •

www.mccr.maryland.gov

State agency where employees may file an external sex discrimination/harassment complaint.

VIII. REMEDIAL AND PROTECTIVE MEASURES

The University may implement remedial and protective measures for the parties involved and/or for the larger University community in order to enhance safety and protect the integrity of the University's process. The University will offer reasonable and appropriate measures to protect the parties and facilitate their continued access to University employment or education programs and activities. These measures may be both remedial (designed to address an individual's safety and well-being and continued access to educational opportunities) or protective (involving action against another individual). Remedial and protective measures may be temporary or permanent. Remedial and protective measures are available regardless of whether the Complainant pursues disciplinary action through the University's process or pursues criminal charges with law enforcement.

The Title IX Coordinator has the discretion to determine the appropriateness of remedial and protective measures, including any interim measures. All individuals are encouraged to report concerns to the University's Title IX Coordinator about the adequacy of remedial and protective measures or failure of another person to abide by any restrictions imposed by a remedial or protective measure. Violations of remedial and protective measures, including any interim measures, will be addressed under this Policy and the University will take appropriate, responsible, and prompt action to enforce such measures.

A. Types of Remedial and Protective Measures

Remedial and protective measures may include, but are not limited to:

- Issuance of a No Contact Order
- Access to counseling services and assistance setting up initial appointments, both on and off campus
- Arranging for medical services
- Academic accommodations and support services such as tutoring
- Academic schedule modification, including the ability to drop a course without penalty or to transfer sections
- Work schedule or job assignment modifications
- Residence modification
- Escort service to assure safe movement to and from classes, activities, and/or job site.
- Limiting access to certain University facilities
- Restrictions on campus activities

- Voluntary leave of absence
- Pre-disciplinary leave (with or without pay)
- Suspension from employment
- Any other measure that can be tailored to achieve the goals of this Policy

B. Interim Suspension or Separation from University

In certain circumstances, the alleged Prohibited Conduct may require the University to place a student or student organization on interim suspension or impose leave for an employee. Pending the resolution of an incident of Prohibited Conduct, the individual or organization may be denied access to campus, campus facilities and/or all other University activities or privileges for which the individual or organization might otherwise be eligible.

Students. The Title IX Coordinator or designee shall make a request for interim suspension to the Division of Student Affairs. Upon receipt of the request, the Vice President for Student Affairs or designee shall hold a show cause hearing to provide the Respondent with the opportunity to demonstrate why the interim suspension should not be imposed. Such interim suspension and/or loss of privileges, including removal from housing, is to become immediately effective without prior notice, if the Vice President for Student Affairs or designee determines that the continued presence of the student or student organization on the University campus poses a substantial and immediate threat of harm to the safety or well-being of an individual, the broader University community, or to the performance of normal University functions.

Employees. The Title IX Coordinator or designee may request that an employee be suspended or assigned other duties pending the outcome of the investigation and determination of responsibility of an incident of Prohibited Conduct. Such requests shall be made to the Provost (faculty) or Vice President for Finance and Management (non-faculty staff) in consultation with the appropriate area Vice President and/or Director of Human Resources (non-faculty staff) and proceed in accordance with the appropriate faculty handbook, collective bargaining agreement, and/or applicable employee policies and procedures.

IX. ACADEMIC FREEDOM AND FIRST AMENDMENT PROTECTION

This Policy shall not be interpreted to infringe on First Amendment rights, academic freedom or freedom of expression. The fact that speech or a particular expression is offensive is not, standing alone, a sufficient basis to establish a violation of this Policy. In order to violate this Policy, the conduct must be sufficiently serious to interfere with an individual's ability to participate in employment or educational programs and activities from both a subjective and objective perspective. Prohibited Conduct, as described in this Policy, is neither a legally protected expression nor the proper exercise of academic freedom.

X. AMNESTY FOR ALCOHOL AND DRUG POSSESSION AND CONSUMPTION

Sometimes students may be reluctant to seek help after experiencing Prohibited Conduct, or reluctant to help others who may have experienced Prohibited Conduct because they fear being disciplined for underage alcohol consumption and/or consumption of other drugs. To encourage

reporting, a student who reports Prohibited Conduct, either as a Complainant or third party witness, will not face disciplinary action for their consumption of alcohol or drugs at or near the time of the incident. Because alcohol and drug misuse can negatively impact a student's physical and emotional well-being, the University may still refer a student for health or medical intervention related to their alcohol or drug use.

XI. CONSENSUAL RELATIONSHIPS AND PROFESSIONAL CONDUCT

Sexual or other intimate relationships between a faculty or staff member and a student or between supervisor and employee, while not expressly forbidden, are generally deemed very unwise. Power differences between faculty and students or between supervisors and supervisees make the subordinate's voluntary consent to even an apparently consensual relationship questionable. Romantic or sexual relationships where there is a differential in power or authority produce risks for every member of the University community and undermine the professionalism of faculty and supervisors. Individuals should also be aware that these relationships may impact third parties based on perceived or actual favoritism or special treatment based on the relationship. Wherever a power differential exists between persons who are romantically or sexually involved, the parties must realize that if a complaint alleging Prohibited Conduct is subsequently filed, mutual consent will not necessarily be accepted as a reasonable defense.

XII. FALSE REPORTS

The University will not tolerate the false reporting of Prohibited Conduct. The University takes the accuracy of information very seriously as an accusation of Prohibited Conduct may carry severe consequences for the accused. A good-faith complaint that results in a finding of not responsible is not considered a false or fabricated accusation of Prohibited Conduct. However, when a Complainant or third party witness is found to have fabricated allegations or given false information with malicious intent or in bad faith, the Complainant or third party witness may be subject to disciplinary action, including termination of employment or expulsion from the University. Not only is it a violation of this Policy to make an intentionally false report, but such conduct may also violate state criminal statutes and civil defamation laws.

XIII. EDUCATION, TRAINING, AND PREVENTION PROGRAMS

The University is committed to preventing Prohibited Conduct on its campus. To that end, the University provides regular and ongoing prevention education and awareness programs. Incoming students and new employees are exposed to primary prevention and awareness programs as part of their orientation. Current students, faculty, and staff receive ongoing training on how to prevent gender-based harassment, sexual misconduct, relationship violence, stalking, and related retaliation. Educational initiatives for employees shall comply with Md. Code Ann., State Pers. & Pens. § 2-203.1. The Title IX Coordinator is responsible for overseeing the University's training and educational programs related to this Policy. To learn more about the University's prevention programs or to request training, please contact the Office of Diversity and EEO at 443-885-3559 or 443-885-3580 or titleixcoordinator@morgan.edu.

As part of the University's commitment to provide a learning and work environment free from Prohibited Conduct, this Policy will be disseminated widely to the University community through

email communication, publications, websites, new employee orientations, student orientations, and other appropriate channels of communication.

XIV. RIGHTS AND DISCIPLINARY PROCEEDINGS FOR ALLEGATIONS OF PROHIBITED CONDUCT

The University offers a number of options for conducting disciplinary proceedings for allegations of Prohibited Conduct made against University students and University employees in a prompt, fair, and impartial manner. All reported incidents of Prohibited Conduct are investigated and resolved under the oversight of the Title IX Coordinator or designee and use a preponderance of evidence standard (i.e., it is more likely than not that the alleged misconduct occurred). If the alleged Prohibited Conduct occurred during the course and scope of a respondent's ("Respondent") enrollment and/or employment at the University, the Respondent may be subject to sanctions related to their student and/or employment status.

A. Rights of University Students Alleging or Responding to Allegations of Prohibited Conduct

University students are entitled to the specific rights described within this subsection. University students who are alleging or responding to allegations of Prohibited Conduct are entitled to the following:

1. The right to treatment with dignity, respect, and sensitivity by the University during all phases of the disciplinary proceedings;
2. The right to a fair and impartial investigation;
3. The right to experience a safe living, educational, and work environment;
4. The right to be informed in writing of available on and off campus counseling and support services;
5. The right to employment, housing, and academic accommodations as necessary;
6. The right to be free from retaliation;
7. The right to have a complaint investigated by individuals who receive annual training on sexual misconduct, relationship violence, and stalking;
8. The right to disciplinary proceedings and resolutions that are prompt and equitable and provide an opportunity for the Complainant and the Respondent to be heard;
9. The right of the Complainant to be notified in writing of the availability of interim measures;
10. The right, where possible, for the Complainant not to be negatively impacted by the interim measures employed by the University;
11. The right for the Respondent to be presumed not responsible for violating this Policy and for an outcome based solely on the evidence presented during the investigation and resolution of a complaint;
12. The right not to be discouraged by University officials from reporting an incident to law enforcement;

13. The right to timely written notice of:

- i.** The reported violation, including the date, time, and location of the alleged violation, and the range of potential sanctions associated with the alleged violation;
- ii.** The student's rights and responsibilities under this Policy and information regarding other civil and criminal options;
- iii.** The date, time, and location of each hearing, meeting, or interview that the student is required or permitted to attend;
- iv.** A final determination made by the University regarding whether Prohibited Conduct occurred and the basis for the determination;
- v.** Any sanction(s) imposed, as permitted by law; and
- vi.** The student's rights to an appeal of the final determination and a description of the appeal process;

14. The right to participate in the disciplinary proceedings, including:

- i.** Access to the case file and evidence regarding the incident obtained by the University during the investigation or considered by the University's adjudicating official or body, with personally identifiable or other protected information redacted as required by applicable law;
- ii.** Offering testimony at a hearing or, in the alternative, to the University's adjudicating official or body;
- iii.** Submitting evidence, witness lists, and suggested specific questions to be posed to the other student involved in the disciplinary proceedings by investigators or the University's adjudicating official or body;
- iv.** Providing and reviewing testimony electronically or in a way in which the students are not required to be in the physical presence of one another;
- v.** Reviewing and providing written responses to reports and proposed findings; and
- vi.** Appealing a determination or a sanction; and

15. The right to assistance by a licensed attorney, an advocate supervised by an attorney, or a trained advocate throughout the disciplinary proceedings, including by the attorney or advocate's:

- i.** Attendance at hearings, meetings, and interviews with the party;
- ii.** Private consultations with the party during hearings, meetings and interviews, except during questioning of the party at a hearing, and
- iii.** Assistance with the party's exercise of any right during the disciplinary proceedings; and

16. Notwithstanding whether the student accesses counsel paid for by the Maryland Higher Education Commission (MHEC) as described Section XIV(B)(4) of this Policy, the presence of no more than two (2) people, including a personal supporter of the student's choice, an

attorney, or an advocate, at any hearing, meeting, or interview during the disciplinary proceedings.

B. Procedures for Investigating Allegations of Prohibited Conduct Involving a University Student.

When the University investigates allegations of Prohibited Conduct involving a University student, the following procedures shall apply:

1. The University shall provide each student involved in disciplinary proceedings with notice, presented in an appropriate and sensitive format, before the start of the disciplinary proceedings, of:
 - i. The student's right to the assistance of an attorney or an advocate;
 - ii. The legal service organizations and referral services available to the student; and
 - iii. The student's right to have a personal supporter of the student's choice at any hearing, meeting, or interview during the disciplinary proceedings.
2. The University shall use the preponderance of the evidence standard when reviewing allegations of Prohibited Conduct. Preponderance of the evidence means that the evidence gathered and information provided during an investigation supports a finding that it is more likely than not that the Respondent violated the Policy.
3. The University is authorized to use mediation or other informal mechanisms for resolving an allegation of Prohibited Conduct under this Policy only if:
 - i. The student who made the allegation requests an informal mechanism;
 - ii. All parties to the allegation, and the University, agree to the use of the informal mechanism;
 - iii. The University participates in the informal mechanism by providing trained staff;
 - iv. Any party may end the informal mechanism at any time in favor of a formal resolution proceeding; and
 - v. The alleged Prohibited Conduct does not involve Sexual Assault or Sexual Coercion.
4. The University must permit a current or former student who makes a complaint or responds to a complaint on which a formal Title IX investigation is initiated, and who was enrolled as a student at the University at the time of the incident that is the basis of the complaint, to access counsel paid for by MHEC, unless the student knowingly and voluntarily chooses not to have counsel, and provide that in accordance with COMAR 13B.09.01.
 - i. A student may select and retain an attorney prior to the conclusion of the formal Title IX proceedings.
 - ii. A student may obtain from MHEC, through MHEC's website, a list of licensed attorneys and legal services programs willing to represent students on a pro bono basis or at fees equivalent to those paid to attorneys under civil legal services programs

administered by the Maryland Legal Services Corporation, established under Title II of the Human Services Article.

- iii. The University may not discourage a student from retaining an attorney.
 - iv. A student's attorney may seek reimbursement of certain legal costs and fees from MHEC's Legal Representation Fund for Title IX Proceedings, subject to the availability of funding.
 - vi. MHEC is not required to pay a student's attorney's fees for representation in a criminal or civil matter.
5. The University shall not allow questioning or consider certain evidence during any adjudication proceeding, including:
- i. A student's prior sexual history with an individual other than a party to the proceedings, except to:
 - a. Prove the source of injury;
 - b. Prove prior sexual misconduct;
 - c. Support a claim that a student has an ulterior motive; or
 - d. Impeach a student's credibility after that student has put their own prior sexual conduct at issue; and
 - ii. A student's history of mental health counseling, treatment, or diagnosis, unless the student consents.

C. Rights of University Employees Responding to Allegations of Prohibited Conduct

University employees are entitled to the rights described within this subsection. University employees who are alleging or responding to allegations of Prohibited Conduct are entitled to the following:

- 1. The right to treatment with dignity, respect, and sensitivity by other University employees during all phases of the disciplinary proceedings;
- 2. The right to a fair and impartial investigation;
- 3. The right to disciplinary proceedings and resolutions that are prompt and equitable and provide an opportunity for the Complainant and the Respondent to be heard;
- 4. The right to timely written notice of:
 - i. The reported violation, including the date, time, and location of the alleged violation, and the range of potential sanctions associated with the alleged violation;
 - ii. The employee's rights and responsibilities under this Policy;
 - iii. The date, time, and location of each hearing, meeting, or interview that the employee is required or permitted to attend;
 - iv. A final determination made by the University regarding whether Prohibited

- Conduct occurred and the basis for the determination;
 - v. Any sanction(s) imposed; and
 - vi. The employee's rights to an appeal of the final determination and a description of the appeal process;
5. The right to participate in the disciplinary proceedings, including:
- i. Access to the case file and evidence regarding the incident obtained by the University during the investigation or considered by the University's adjudicating official or body, with personally identifiable or other protected information redacted as required by applicable law;
 - ii. Offering testimony at a hearing or, in the alternative, to the University's adjudicating body or official;
 - iii. Submitting evidence, witness lists, and suggested specific questions to be posed to the other party involved in the disciplinary proceedings by investigators or the University's adjudicating body or official;
 - iv. Providing and reviewing testimony electronically or in a way in which the parties are not required to be in the physical presence of one another;
 - v. Reviewing and providing written responses to reports and proposed findings; and
 - vi. Appealing a determination or a sanction;

D. Procedures for Investigating Allegations of Prohibited Conduct Involving a University Employee.

When the University investigates allegations of Prohibited Conduct involving a University employee, the following procedures shall apply:

1. The University shall use the preponderance of the evidence standard when reviewing allegations of Prohibited Conduct. Preponderance of the evidence means that the evidence gathered and information provided during an investigation supports a finding that it is more likely than not that the Respondent violated the Policy.
2. The University is authorized to use mediation or other informal mechanisms for resolving an allegation of Prohibited Conduct under this Policy only if:
 - i. The employee who made the allegation requests an informal mechanism;
 - ii. All parties to the allegation, and the University, agree to the use of the informal mechanism;
 - iii. The University participates in the informal mechanism by providing trained staff;
 - iv. Any party may end the informal mechanism at any time in favor of a formal resolution proceeding; and
 - v. The alleged Prohibited Conduct does not involve Sexual Assault or Sexual

Coercion.

3. The University shall not allow questioning or consider certain evidence during any adjudication proceeding, including:
 - i. An employee's prior sexual history with an individual other than a party to the proceedings, except to:
 - a. Prove the source of injury;
 - b. Prove prior sexual misconduct;
 - c. Support a claim that an employee has an ulterior motive; or
 - d. Impeach an employee's credibility after that employee has put their own prior sexual conduct at issue; and
 - ii. An employee's history of mental health counseling, treatment, or diagnosis, unless the employee consents.

XV. Allegations of Prohibited Conduct against Third Parties Not Affiliated with the University

The University does not tolerate Prohibited Conduct by third parties when the third party has been brought into contact with members of the University community through a University program or activity. While individuals who are not students or employees of the University are not subject to discipline under the University's internal process, the University will provide a prompt and equitable response that is consistent with this Policy and the law. For example, the University may refer the matter to local law enforcement or may deny the third party access to University's buildings or grounds.