

**St. Mary's College of Maryland**  
**Policy on Sex Discrimination**

**I. Purpose**

This policy (the Policy) and the accompanying procedures (the Procedures) are established as the formal implementation of St. Mary's College of Maryland (the College) Policy on Sex Discrimination. As stated in the St. Mary's Way, St. Mary's College of Maryland (hereafter referred to as either "the College" or "SMCM") is an aspirational place "where people foster relationships based upon mutual respect, honesty, integrity, and trust." As such, the College is committed to providing an educational, living and working environment free from Sex Discrimination, including Sex-Based Harassment, Sexual Exploitation, Sexual Coercion, and Sexual Intimidation. The College prohibits and will not tolerate Sex Discrimination in any form. Sex Discrimination is prohibited by state and federal laws, including Title IX of the Education Amendments of 1972 as amended (Title IX) and Title VII of the Civil Rights Act of 1964, and may also constitute criminal activity.

The College endeavors to foster a climate free from Sex Discrimination and Retaliation. The College accomplishes this through training, education, prevention programs, through procedures that promote prompt reporting, prohibit retaliation, and provide for timely, fair, and impartial investigation and resolution of Sex Discrimination and Retaliation cases in a manner that eliminates the conduct, prevents its recurrence, and addresses its effects. All College community members are subject to this policy, regardless of sex, sexual orientation, gender identity, or gender expression. This includes all students, faculty, and staff of the College, as well as third Parties and contractors. Nothing in this policy is intended to supersede or conflict with any federal compliance obligation.

**II. Applicability and Scope**

This Policy prohibits Sex Discrimination, Other Sexual Misconduct and Retaliation under federal and state discrimination laws, including Title IX of the Education Amendments of 1972 (Title IX) and Title VII of the Civil Rights Act (Title VII). This Policy applies to all members of the campus community, including Students, faculty, and staff. It also applies to contractors and other third Parties who are engaged in any College Education Program or Activity, or who are otherwise interacting with the College, including, but not limited to volunteers, vendors, and visitors. All College members are prohibited from engaging in or assisting or abetting another's engagement in Sex Discrimination or Retaliation.

This Policy addresses the obligations of the College to address Sex Discrimination prohibited by Title IX of the Education Amendments of 1972 (Title IX) and Sex Discrimination prohibited by other federal laws and Maryland law. This Policy is only applicable to alleged incidents of Sex

Discrimination that occur on or after August 1, 2024. For alleged incidents of Sex Discrimination occurring prior to August 1, 2024, the policy and procedures in place at the time of the alleged incident apply. Applicable versions of those policies and procedures are available from the Title IX Coordinator or at <http://www.smcm.edu/title-ix/>

This Policy applies to Prohibited Conduct committed by or against students, faculty, staff and third Parties when:

1. Conduct occurs on College premises, in any College facility, or on property owned or controlled by the College, including but not limited to, a building owned or controlled by a student organization that is officially recognized by the College, and conduct that is subject to the College's disciplinary authority;
2. Conduct occurs in the context of a College Education Program or Activity (as defined herein), including, but not limited to, College-sponsored academic, athletic, extracurricular, study abroad, research, online, or internship programs or activities; or
3. Conduct occurs outside the context of a College Education Program or Activity or outside the United States, but has continuing adverse effects on or creates a hostile environment for students, employees or third Parties while on premises or other property owned or controlled by the College or in any College Education Program or Activity;

The College has no authority to investigate reported incidents involving members of the campus community that occurred prior to the individual being enrolled at or employed by the College when the incident did not occur on campus or otherwise in connection with a College Education Program or Activity. The College may, however, be able to assist individuals with Supportive Measures.

### **III. Definitions**

For purposes of this Policy and the accompanying Procedures, the following definitions apply:

- A. Advisor** means a person chosen by a Party to provide advice and consultation to that Party, in accordance with this Policy and Procedures. An Advisor may be an attorney or another individual. An Advisor cannot be a witness or provide evidence in a case.
- B. Appellate Officer** means an individual designated to review and decide appeals of Written Determinations and dismissals of Complaints. Appellate Officers shall have had no previous involvement with the substance of the Complaint.
- C. Complainant** is an individual who is alleged to have been subjected to Sex Discrimination who is a student or employee or who was participating or attempting to

participate in the Education Program or Activity at the time of the alleged Sex Discrimination, whether or not that individual initiated the Complaint.<sup>1</sup>

**D. Complaint** means an oral or written request to the College that objectively can be understood as a request to investigate and make a determination about alleged Sex Discrimination.

**E. Confidential Employees** are (1) employees whose communications are privileged<sup>2</sup> or confidential under Federal or State law; (2) employees whose communications are specifically designated as confidential for the purpose of providing services related to potential Sex Discrimination; or (3) employees who are conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination—but the employee’s confidential status is only with respect to information received while conducting the study.

**F. Consent** means a knowing, voluntary, and affirmatively communicated willingness to participate in a particular sexual activity or behavior. Only a person who has the ability and capacity to exercise free will and make a rational, reasonable judgment can give Consent. Consent may be expressed either by words and/or actions, as long as those words and/or actions create a mutually understandable agreement to engage in specific sexual activity. It is the responsibility of the person who wants to engage in sexual activity to ensure that the person has Consent from the other Party, and that the other Party is capable of providing Consent.

- Lack of protest or resistance is not Consent. Nor may silence, in and of itself, be interpreted as Consent. For that reason, relying solely on non-verbal communication can lead to misunderstanding.
- Previous relationships, including past sexual relationships, do not imply Consent to future sexual acts.
- Consent to one form of sexual activity cannot automatically imply Consent to other forms of sexual activity.
- Consent must be present throughout sexual activity and may be withdrawn at any time. If there is confusion as to whether there is Consent or whether prior Consent has been withdrawn, it is essential that the participants stop the activity until the confusion is resolved
- Consent cannot be obtained by use of physical force or Sexual Coercion.
- An individual who is Incapacitated is unable to give Consent.

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<sup>1</sup> A parent, guardian, or other authorized legal representative with the legal right to act on behalf of the Complainant may also file a Complaint on behalf of a Complainant.

<sup>2</sup> The employee’s confidential status is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies.

- G. Dating Violence** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- H. Domestic Violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant, or by any other person against an adult or youth Complainant protected from those acts by domestic or family violence laws of Maryland.
- I. Education Program or Activity** of the College includes all operations of the College in the United States, including, but not limited to, all conduct<sup>3</sup> over which the College exercises disciplinary authority and all conduct that occurs in any building owned or controlled by a student organization that is officially recognized by the College. The College must address a sex-based hostile environment under its Education Program or Activity even when some conduct alleged to be contributing to the hostile environment occurred outside the College’s Education Program or Activity or outside the United States.
- J. Employees with Authority** are employees, other than Confidential Employees, who have authority to institute corrective measures or who are responsible for administrative leadership, teaching, or advising.
- K. Incapacitated** mean means an individual’s decision-making ability is impaired such that the individual is incapable of understanding the “who, what, where, why, or how” of their sexual interaction/encounter. A person may be Incapacitated if they are asleep, unconscious, coming in and out of consciousness, being physically restrained by another person or device (e.g., handcuffs, rope, tape), or any other state where the individual is unaware that sexual contact is occurring. Incapacitation may also exist because of a temporary or permanent mental or developmental disability that impairs the ability to Consent to sexual contact. Alcohol or drug use is one of the primary causes of Incapacitation. Being “drunk” or “high”, by most individuals’ understanding, is not the same as being Incapacitated. Because the impact of alcohol or other drugs varies from person to person, evaluating whether an individual is Incapacitated, and therefore

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<sup>3</sup> Such conduct may occur in person or through the use of technology such as e-mail, texts, social media applications, etc.

unable to give Consent, requires an assessment of whether the consumption of alcohol or other drugs results in a person being unable to:

1. make decisions about the potential consequences of sexual contact;
2. evaluate one's own conduct;
3. communicate to another person, Consent to sexual contact; or
4. communicate an unwillingness to another person, to engage in sexual contact.

**L. Investigator** means a trained College faculty or staff member or third-Party contractor designated to conduct an impartial, fair, and unbiased investigation into an alleged violation of this Policy.

**M. No Contact Order** means an official directive that serves as notice to an individual that the individual must not have verbal, electronic, written, or third-Party communications with another individual.

**N. Other Sexual Misconduct** means the following conduct:

1. **Sex-Based Harassment prohibited by Md. Code Ann., State Gov't § 20-601<sup>4</sup>** means unwelcome and offensive conduct, which need not be severe or pervasive, when the conduct is based on sex, sexual orientation, or gender identity or consists of unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature; and
  - a. Submission to the conduct is made either explicitly or implicitly a term or condition of the employment of an individual;
  - b. Submission to or rejection of the conduct is used as a basis for employment decisions affecting the individual; or
  - c. Based on the totality of the circumstances, the conduct creates a working environment that a reasonable person would perceive to be abusive or hostile.
2. **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 Sexual 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 intimidation, manipulation, express or implied threats of emotional or physical harm, and/or blackmail. Examples of Sexual Coercion include but are not limited to causing the deliberate Incapacitation of another person;

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<sup>4</sup> This definition applies only to Sex-Based Harassment of employees that does not constitute Sex-Based Harassment prohibited by Title IX. *See* Md. Code Ann., State Gov't §§ 20-601 through 20-611.

conditioning an academic benefit or employment advantage on submission to the sexual contact; threatening to harm oneself if the other Party does not engage in sexual contact; or threatening to disclose an individual's sexual orientation, gender identity, gender expression, or other personal sensitive information if the other Party does not engage in the sexual contact.

3. **Sexual Exploitation:** Taking 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.
4. **Sexual Intimidation:** Threatening behavior that is verbal and/or physical of a sexual nature directed at another person, such as threatening to sexually assault another person or engaging in indecent exposure.
5. **Attempted Sexual Assault:** An attempt to commit Sexual Assault.

**O. Parental Status** means the current, potential, or past status of an individual who is, with respect to any person under the age of 18 or over the age of 18 but incapable of self-care because of a disability: (1) a biological, step, adoptive, or foster parent; (2) a legal custodian or guardian; (3) in loco parentis; or (4) actively seeking legal custody, guardianship, visitation, or adoption.

**P. Party** means either Complainant or Respondent or collectively "Parties."

**Q. Pregnancy or Related Conditions** means the current, past, or potential presence of any of the following conditions:

1. Pregnancy, childbirth, termination of pregnancy, or lactation
2. Recovery from pregnancy, childbirth, termination of pregnancy, or lactation
3. Medical conditions related to pregnancy, childbirth, termination of pregnancy or lactation.

**R. Preponderance of the Evidence** means that it is more likely than not that a Policy violation has occurred.

**S. Prohibited Conduct** means conduct listed in Section IV of this Policy.

**T. Relevant** means related to the allegations of Sex Discrimination under investigation as part of these Procedures. Questions are Relevant when they seek evidence that may aid an Investigator in determining whether the alleged Sex Discrimination occurred. Evidence is Relevant when it may aid an Investigator in determining whether the alleged Sex Discrimination occurred.

- U. Remedies** means actions designed to restore or preserve the Complainant’s equal access to the College’s Education Program or Activity. Remedies are similar to Supportive Measures but may be punitive and burden the Respondent.
- V. Respondent** means an individual alleged to be the perpetrator of conduct that could constitute Sex Discrimination.
- W. Retaliation** means intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because an individual has reported information, made a Complaint, testified, assisted, participated or refused to participate in any manner in an investigation, proceeding, or hearing related to Sex Discrimination. Retaliation includes bringing charges against an individual for violations of other College policies that do not involve Sex Discrimination but arise out of the same facts or circumstances as a Complaint, for the purpose of interfering with any right or privilege secured by Title IX.
- X. Sanctions** mean disciplinary and other consequences imposed on a Respondent who is found to have violated this Policy.
- Y. Sexual Assault** means an offense classified as a sex offense in the uniform crime reporting system of the Federal Bureau of Investigation. Sex offenses are sexual acts directed against another person and include:
1. **Non-Consensual Sexual Penetration**— Penetration, no matter how slight, of the genital or anal opening of the body of another person with any body part or object, or oral penetration by a sex organ 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.
  2. **Fondling**—The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
  3. **Incest**—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  4. **Statutory Rape**—Nonforcible sexual intercourse with a person who is under the statutory age of consent.<sup>5</sup>
- Z. Sex-Based Harassment** means Sex Discrimination prohibited by Title IX that satisfies one or more of the following:

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<sup>5</sup> See Md. Code Ann., Crim. Law §§ 3-301 through 3-307.

1. **Quid pro quo harassment**— An employee, agent, or other person authorized by the College to provide an aid, benefit, or service under the College’s Education Program or Activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct.
2. **Hostile Environment Harassment**— Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the College’s Education Program or Activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
  - i. The degree to which the conduct affected the Complainant’s ability to access the College’s Education Program or Activity;
  - ii. The type, frequency, and duration of the conduct;
  - iii. The Parties’ ages, roles within the College’s Education Program or Activity, previous interactions, and other factors about each Party that may be Relevant to evaluating the effects of the conduct;
  - iv. The location of the conduct and the context in which the conduct occurred; and
  - v. Other Sex-Based Harassment in the College’s Education Program or Activity.

**3. Sexual Assault, Dating Violence, Domestic Violence, or Stalking.**

**AA. Sex Discrimination** means exclusion from participation in or being denied the benefits of any Education Program or Activity on the basis of sex, including sex stereotypes, sex characteristics, sexual orientation, gender identity, and Pregnancy or Related Conditions. Sex-Based Harassment is a form of Sex Discrimination.

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

**CC. Student** means a person who has gained admission to the College.

**DD. Supportive Measures** are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to:



1. Restore or preserve that Party's access to the College's Education Program or Activity, including measures that are designed to protect the safety of the Parties or the College's educational environment; or
2. Provide support during the College's grievance procedures.

Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, restrictions on contact applied to one or more Parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, training and education programs related to Sex-Based Harassment, and other similar measures.

**EE. Written Determination** means a written report that summarizes the allegations, the policies and procedures applicable to the allegations, all evidence reviewed, all interviews conducted and provides the Investigator's determination as to whether the alleged Prohibited conduct occurred and any sanctions or remedies. The Written Determination memorializes the outcome of the case and is subject to appeal.

#### **IV. Prohibited Conduct**

This Policy prohibits Sex Discrimination, Other Sexual Misconduct and Retaliation as defined in this Policy. Prohibited Conduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Prohibited Conduct can occur between people of the same or different sex, sexual orientation, or gender identity.

#### **V. Title IX Administration**

##### **A. Title IX Coordinator**

The Title IX Coordinator is responsible for monitoring the Education Program or Activity for barriers to reporting information about conduct that reasonably may constitute Sex Discrimination and taking steps reasonably calculated to address such barriers. The Title IX Coordinator leads, coordinates, and oversees the College's efforts regarding compliance, training, prevention programming, and educational programs. The Title IX Coordinator is available to meet with any student, employee, or third Party to answer any questions about this Policy. The Title IX Coordinator may delegate appropriate responsibilities under this Policy to other members of the Title IX Team or any other qualified representative under the Title IX Coordinator's supervision. The use of the term "Title IX Coordinator" in this Policy and Procedures will include any person to whom the Title IX Coordinator has delegated any responsibilities under this Policy or the accompanying Procedures.

Individuals can contact the Title IX Coordinator to seek resources under this Policy at:

**Title IX Coordinator:** (240) 895-4105, [titleix@smcm.edu](mailto:titleix@smcm.edu), Office of Title IX Compliance and Training, Glendening Annex Suite 190, 47645 College Drive, St. Mary's

City, MD 20686. While the Title IX Coordinator has oversight over all complaints, the Deputy Title IX Coordinator serves as a valuable additional resource within the employee context to address complaints against staff, faculty, and third parties. The Deputy Title IX Coordinator can be contacted at:

**Deputy Title IX Coordinator:** Assistant Vice President of Human Resources, (240) 895-4309, Glendening Hall 170

## **B. Confidential Employees**

The College has designated Counseling and Health professional staff as Confidential Employees. Contact information for Confidential Employees can be found at <https://www.smcm.edu/title-ix-office/>

Wellness Center: (240) 895-4289, [wellnesscenter@smcm.edu](mailto:wellnesscenter@smcm.edu), Ethel Chance Hall, 47665 Margaret Brent Way, St. Mary's City, Maryland 20686

## **C. Training**

### **1. All Students and Employees – Preventative Education**

The College will develop and implement preventative education, for all employees and students, to help identify and reduce the occurrence of Sex Discrimination. The training will contain information regarding what constitutes Sex-Based Harassment, definitions of Consent and Prohibited Conduct, the College's Procedures, bystander intervention, risk reduction, and the consequences of engaging in Sex-Based Harassment. These educational initiatives shall be for all incoming students and new employees. The College will also develop ongoing prevention and awareness campaigns for all students and employees addressing the same information. Educational initiatives for employees shall comply with Md. Code Ann., State Pers. & Pens. § 2-203.1.

### **2. Employee Training**

The College will develop and implement training for all employees regarding the College's obligation to address Sex Discrimination. All employees shall be trained upon hire, upon change of position that alters their duties under Title IX or this Policy, and annually thereafter. Training materials will not rely on sex stereotypes. The training will include: the scope of conduct that may constitute Sex Discrimination, the definition of Prohibited Conduct and all applicable notification requirements (set forth in Section VI.B of this Policy) and responsibilities that apply to each employee's specific designation.

## **VI. Reporting Information to College Employees**

All College employees must notify the Title IX Coordinator or provide Students or other persons with the contact information of the Title IX Coordinator under the following circumstances:

- A. Pregnancy or Related Conditions** – If a Student, or a person who has the legal right to act on behalf of the Student, informs any employee of the Student’s Pregnancy or Related Conditions, the employee must provide that person with the Title IX Coordinator’s contact information and inform them that the Title IX Coordinator can coordinate specific actions to ensure equal access and prevention of discrimination. Employees need not provide the Title IX Coordinator’s contact information if the employee reasonably believes that the Title IX Coordinator has been notified.
- B. Prohibited Conduct** – When an employee becomes aware of information about conduct that reasonably may constitute Prohibited Conduct, they are required to take the following action based on their designation:
1. **Confidential Employees** must inform any person who communicates information about conduct that may reasonably constitute Prohibited Conduct that they are Confidential Employees, circumstances in which they are not required to notify the Title IX Coordinator about conduct that reasonably may constitute Prohibited Conduct, how to contact the Title IX Coordinator, and how to initiate a Complaint, and that the Title IX Coordinator may be able to offer and coordinate Supportive Measures as well as initiate an informal resolution process or investigation under the procedures.
  2. **Employees with Authority** must notify the Title IX Coordinator when they obtain information about conduct that may reasonably constitute Prohibited Conduct.
  3. **All Employees** who are not Confidential Employees or Employees with Authority shall either (1) notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute Prohibited Conduct or (2) provide the contact information of the Title IX Coordinator and information about how to make a Complaint to any person who provides the employee with information about conduct that may reasonably constitute Prohibited Conduct.

Any person may also directly report Prohibited Conduct at any time by contacting the Title IX Coordinator or any member of the Title IX team at any time regardless of whether the reporting person is the Complainant.

## **VII. Parental, Family and Marital Status**

The College prohibits any policy, practice, or procedure, or any employment action, concerning the current, potential, or past Parental Status, family status, or marital status of a student, employee, or applicant (for admission or employment), that treats persons differently on the basis of sex.

## VIII. Pregnancy and Related Conditions

**A. Nondiscrimination.** The College shall not discriminate on the basis of current, past, or potential Pregnancy or Related Conditions. The College will not require any Student to provide certification that they are physically able to participate in a class, program, or activity, unless:

1. The certified level of physical ability or health is necessary for the class, program, or activity;
2. The College requires such certifications of all students participating in the class, program, or activity; and
3. The information obtained through the certification is not used as a basis for prohibited discrimination.

**B. Reasonable Modifications.** The College will provide reasonable modifications to policies, practices, or procedures for students experiencing Pregnancy or Related Conditions.

1. **Requesting Reasonable Modifications.** Students experiencing Pregnancy or Related Conditions are entitled to reasonable modifications to prevent Sex Discrimination and ensure equal access to the College's Education Program or Activity. Any student seeking reasonable modifications should contact the Title IX Coordinator to discuss appropriate and available reasonable modifications based on their individual needs. Students are encouraged to request reasonable modifications as promptly as possible. Not all reasonable modifications are appropriate for all contexts. Students may request reasonable modifications for Pregnancy or Related Conditions by contacting the Title IX Coordinator (see Section V.A. of this Policy.). The Title IX Coordinator may request documentation from the Student's medical provider which is necessary and Relevant to determining what reasonable modifications are appropriate for the Student's needs. The Title IX Coordinator will initiate the interactive process, in consultation with the Student, Faculty members, and any other necessary Parties to determine reasonable modifications based on the Student's individualized needs. **Consideration of reasonable modifications.** Reasonable modifications may include but are not limited to: An accommodation that would fundamentally alter the nature of the University's Education Program or Activity is not reasonable and will not be granted under this Policy. Depending on the unique needs of the Student, reasonable modifications may include, but are not limited to:

- Breaks to attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom
- Intermittent absences to attend medical appointments
- Access to remote learning options
- Changes in schedule or course sequence

- Time extensions for coursework and rescheduling of tests and examinations
- Allowing a student to sit or stand, or carry or keep water nearby
- Counseling
- Changes in physical space or supplies (for example, access to a larger desk)
- A larger uniform or other required clothing or equipment

Students experiencing disabilities related to Pregnancy or Related Conditions may also be entitled to request reasonable accommodations under the Americans with Disabilities Act (ADA) or Section 504 of the Rehabilitation Act. Students may request additional accommodations and the Title IX Coordinator may consult with the Office of Accessibility to determine what additional resources and options are available.

2. **Leaves of Absence.** Students experiencing Pregnancy or Related Conditions may take a voluntary leave of absence for a period of time determined by the Student's medical provider, or the period of time permitted by the College's policy, whichever is greater. Upon return from a leave of absence, the student will be reinstated to the same academic status and (to the extent possible) extracurricular status that the student held when the leave began.

**C. Employee Accommodations Modifications** The College will provide reasonable modifications for qualified employees with known limitations related to Pregnancy or Related Conditions.

1. **Requesting Reasonable Modifications.** Employees may request modifications for Pregnancy or Related Conditions by contacting the Title IX Coordinator (see Section V.A. of this Policy). The Title IX Coordinator may request documentation from the Employee's medical provider which is necessary and Relevant to determining what modifications are appropriate for the Employee's needs. The Title IX Coordinator will initiate the interactive process, in consultation with the Employee, Supervisor, and any other necessary Parties to determine reasonable modifications based on the Employee's individualized needs.
2. **Consideration of Reasonable Modifications.** A modification that causes an undue hardship on the part of the College is not reasonable and will not be granted under this Policy. Depending on the unique needs of the Employee, reasonable modifications may include, but are not limited to:
  - Breaks to attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom
  - Allowing an employee to sit or stand, or carry or keep water nearby
3. **Employee Leave.** The College shall consider Employee Leave if there is no other reasonable modification that will enable the Employee to perform their essential job functions for the duration of a known limitation based on Pregnancy or a Related Condition. If an employee has no remaining paid leave pursuant to the

College's employee leave Policy on Annual, Holiday, Personal, and Sick Leave, the College will consider unpaid leave as a possible accommodation, in consideration of the unique needs and circumstances of the employee.

**D. Lactation Space.** The College provides a lactation space for all members of the campus community and visitors which may be used for expressing milk or breastfeeding as needed. Designated lactation spaces may be found in the Health Center, Montgomery Hall, Room 154 and Nancy R. and Norton T. Dodge Performing Arts Center, Room 113.

## **IX. Supportive and Interim Measures**

Reports of conduct in violation of this policy may require immediate protective measures to protect the safety and well-being of the Parties and/or the College community pending the outcome of the investigative and adjudicative processes. Any Party may request that the College implement Supportive Measures at any time during the investigation and adjudicatory process, as necessary. Supportive Measures include but are not limited to:

- A. For students:** No Contact Orders, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus and other similar measures.
- B. For employees:** No Contact Orders, Employee Assistance Program, temporary reassignment, other work locations, changing work shifts.

The College may also institute Interim Measures prior to the adjudication of any Complaint as necessary. Interim Measures may include the following:

### **C. Emergency Removal**

An emergency removal is for the purpose of addressing imminent threats posed to any person's physical health or safety, which might arise out of Prohibited Conduct. The College may remove a Respondent on an emergency basis from the College's Education Program or Activity when the College:

1. Undertakes an individualized safety and risk analysis;
2. Determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of Sex Discrimination justifies removal; and
3. Provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

The College will not remove a Respondent from the College based solely on an accusation. The Respondent will be offered an opportunity to meet with the Title IX Coordinator to review the reliability of the information within five (5) days from the effective date of the emergency removal. However, there is no guarantee that the Student Respondent will be permitted to return to campus.

#### **D. Administrative Leave - Employee Respondents**

The College in consultation with the Title IX Team, Public Safety, and any other necessary campus department may take interim measures for employee Respondents such as changing an employee's work responsibilities or work location or placing the Respondent on administrative leave during the resolution process. Such action may be appropriate when there is a legitimate concern that without interim measures: 1) the employee will engage in Prohibited Conduct while the investigation is ongoing, or 2) the employee would be unduly disruptive to College members or the College's Education Programs or Activities.

#### **X. Reporting to Law Enforcement**

Prohibited Conduct, particularly Sexual Assault, may be a crime. Individuals who are experiencing an emergency should call 911 immediately. The Title IX Team will assist Complainants who wish to report Prohibited Conduct to law enforcement authorities. To make a report directly to law enforcement, contact the following police department(s): St. Mary's County Sheriff's Office. For emergencies: 911. For concerning situations: (301) 475-4200 x1900. St. Mary's County Sheriff's Office may have access to law enforcement resources upon request and as appropriate. Members of the Title IX team can assist Complainants in reporting to law enforcement, seeking medical care, and obtaining confidential or other resources.

Because the standards for a violation of criminal law are different from the standards for a violation of this Policy, criminal investigations and proceedings are not determinative of whether a violation of this Policy has occurred. In other words, conduct may violate this Policy even if law enforcement agencies or local prosecutors decline to prosecute. Complaints of Prohibited Conduct and related internal College processes may occur prior to, concurrent with, or following criminal proceedings off campus.

**SMCM Public Safety** are Employees with Authority under this Policy and are required to notify the Title I. SMCM Public Safety may be contacted at (240) 895-4911 or x4911 from any campus phone.

- A. **Preservation of Evidence.** In addition to prompt reporting, the preservation of physical and other evidence may be important to prove criminal conduct or to obtain a civil or criminal order of protection. Complainants should contact law enforcement and/or medical personnel, as needed and as soon as possible following the incident to receive guidance on the preservation of evidence needed for proof of Sexual Assaults and the apprehension and prosecution of assailants. For instances of Sexual Assault, the nearest hospitals equipped with the Maryland Department of State Police Sexual Assault Evidence Collection Kit are:

St. Mary's Hospital  
(301) 475-8981  
Provides Sexual Assault Forensic Exams

Calvert Memorial Hospital  
(410) 535-4000  
Provides Sexual Assault Forensic Exams

**B. Co-Occurring Criminal Proceeding.** Proceeding under these Policy and Procedures is independent of any criminal investigation or proceeding. Reporting to law enforcement does not preclude a person from proceeding with a report or Formal Complaint of Prohibited Conduct under this Policy. The College is required to conduct an investigation in a timely manner, which means, in most cases, the College will not wait until a criminal investigation or proceeding is concluded before conducting its own investigation, implementing Supportive Measures, and taking appropriate action. However, at the request of law enforcement, the Title IX Coordinator may defer its fact-gathering until the initial stages of a criminal investigation are complete. If such a request is made by law enforcement, the applicable police department will submit the request in writing and the Complainant will be notified. In addition, when possible, in cases where there is a co-occurring criminal investigation by law enforcement or the local prosecutor's office, the Title IX Team will work collaboratively and supportively with each respective agency within the parameters outlined above. The Title IX Team will communicate any necessary delays in the College's investigative process to both Parties in the event of a deferral.

**C. Counseling and Mental Health Services.** The College offers counseling and mental health services at:

Ethel Chance Hall  
47665 Margaret Brent Way  
St. Mary's City, Maryland 20686  
(240) 895-4289 wellnesscenter@smcm.edu  
Provides counseling and medical treatment  
Monday through Friday, 8:00 a.m. – 5:00 p.m.

**D.** Individuals who experience a sexual assault or other sexual violence can also seek services at:

**The Southern Maryland Center for Family Advocacy**  
<https://www.smcfa.net/rape-crisis-center>  
(240) 925-0084

## **XI. Off-Campus Confidential Resources (Counseling and Advocacy)**

**Maryland Coalition Against Sexual Assault (MCASA):**  
(410) 974-4507



The Maryland Coalition Against Sexual Assault can provide resources for survivors as well as legal services through the Sexual Assault Legal Institute (SALI). MCASA is under no obligation to notify the College when providing services to students.  
[www.mcasa.org](http://www.mcasa.org)

**The Southern Maryland Center for Family Advocacy:**

(301) 373-4141

The Southern Maryland Center for Family Advocacy can provide advocacy, resources, referral and legal assistance to victims of relationship violence. The Center is under no obligation to notify the College when providing services to students.  
[www.smcfa.net](http://www.smcfa.net)

**Rape, Abuse and Incest National Network (RAINN):**

(800) 656-4673

A confidential, anonymous national sexual assault hotline. [www.rainn.org](http://www.rainn.org)

**ProtoCall:**

A toll-free crisis hotline and available 24/7 by licensed professionals. Dial 240-895-4200 or 855-826-1869 for immediate support, crisis intervention, and/or stabilization.

## **XII. Amnesty**

The College encourages the reporting of prohibited conduct under this Policy. It is in the best interest of this community that as many Complainants as possible choose to report to College officials, and that witnesses come forward to share what they know. To encourage reporting, an individual who reports Sex-Based Harassment, either as a Complainant or a third-party witness, will not be subject to disciplinary action by the College for violation of the College's policy for one's own personal consumption of alcohol or drugs (except for a mandatory intervention for substance abuse), if the College determines that:

- the violation occurred during or near the time of the alleged Sex-Based Harassment,
- the individual made the report of Sex-Based Harassment or is participating in an investigation as a witness, in good faith, and
- the violation was not an act that was reasonably likely to place the health and safety of another individual at risk.

The College may initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs.

### **XIII. Rights of the Parties**

The College will ensure Procedures that provide the Parties with a fair, prompt, equitable and impartial investigation and resolution of the complaint, including the following rights:

- A.** Treatment with dignity, respect and sensitivity by College officials during all phases of the disciplinary proceedings;
- B.** A fair and impartial investigation;
- C.** Disciplinary proceedings and resolutions that are prompt and equitable and provide an opportunity for the parties to be heard;
- D.** Timely written notice of:
  - 1. The reported violation, including the date, time and location of the alleged violation, and the range of potential sanctions associated with the alleged violation;
  - 2. The party's rights and responsibilities under the College's policies and procedures and information regarding other civil and criminal options;
  - 3. The date, time and location of each hearing, meeting, or interview that the party is required or permitted to attend;
  - 4. A final determination made by the adjudicating official or body regarding whether a policy violation occurred and the basis for the determination;
  - 5. Any sanction imposed, as permitted by law; and
  - 6. The party's rights to appeal and a description of the appeal process;
- E.** Participation in the disciplinary proceedings, including:
  - 1. Access to the case file and evidence regarding the incident obtained by the College during the investigation or considered by the adjudicating official or body, with personally identifiable or other information redacted as required by applicable law;
  - 2. Offering testimony at a hearing;
  - 3. Submitting evidence, witness lists, and suggested specific questions to be posed to the other party involved in the disciplinary proceedings by investigators or the adjudicating official or body;
  - 4. 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;
  - 5. Reviewing and providing written responses to reports and proposed findings; and
  - 6. Appealing a determination or sanction;
- F.** Assistance by an advisor or licensed attorney throughout the disciplinary proceedings:

1. Attendance at hearings, meetings, and interviews with the party;
  2. Private consultations with the party during hearings, meetings, and interviews, except during questioning of the party at a hearing; and
  3. Assistance with the party's exercise of any right during the disciplinary proceedings;
- G.** Notwithstanding whether a student accesses an attorney paid for by the Maryland Higher Education Commission (MHEC), the presence of no more than two people, including a personal supporter of the party's choice, an attorney, or an advisor, at any hearing, meeting, or interview during the disciplinary proceedings;
- H.** Notice to a student party, presented in an appropriate and sensitive format, before the start of the disciplinary proceedings, of:
1. The student's right to the assistance of an attorney or an advisor;
  2. The legal service organizations and referral services available to the student; and
  3. The student's right to have a personal supporter of the student's choice at any hearing, meeting, or interview during the disciplinary proceedings;
- I.** Access to an attorney paid for by MHEC for a current or former student who makes a Complaint or responds to a Complaint on which a Title IX investigation is initiated, and who was enrolled as a student at the College at the time of the incident that is the basis of the Complaint, unless the student knowingly and voluntarily chooses not to have counsel, in accordance with COMAR 13B.09.01:
1. A student may select and retain an attorney before the conclusion of the formal Title IX proceedings;
  2. A student may obtain from MHEC, through MHEC's website, a list of licensed attorneys who have indicated that they will represent such students in Title IX proceedings on a pro bono basis or for reduced legal fees; and
  3. 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.

#### **XIV. Recordkeeping**

The College will maintain for a minimum of seven (7) years, records of the following:

- A. Each Complaint of Sex Discrimination, records documenting the informal resolution process or grievance procedure, and the resulting outcome.

- B. For each notification, the Title IX Coordinator or designee receives of information about conduct that reasonably may constitute Sex Discrimination, records documenting any action taken.
- C. All materials used for Title IX training of students or employees.

#### **XV. Campus Sexual Assault Climate Survey**

At least every two (2) years, the College will (1) develop an appropriate Sexual Assault campus climate survey using nationally recognized best practices for research and climate surveys; and (2) administer the Sexual Assault campus climate survey to students in accordance with the procedures set by MHEC. The College will submit to MHEC a report in accordance with the requirements set forth in Md. Code Ann., Educ. § 11-601(g).

#### **XVI. Clery Act Compliance**

The College remains responsible for complying with the requirements of the Crime Awareness and Campus Security Act of 1990 (Clery Act) and its amendments. The College must comply with Clery Act requirements, including crime recording and reporting requirements, where compliance is not otherwise achieved by actions under this Policy.

If a report of Prohibited Conduct discloses a serious and ongoing threat to the campus community, Public Safety may issue a timely warning of the conduct in compliance with the Clery Act in the interest of the health and safety of the campus community. This notice will not contain any personally identifying information related to the Parties.

#### **XVII. Conflicts with other Policies**

To the extent that this Policy conflicts with any other College policy, procedure, handbook, faculty or employee bylaw, agreement, or process, this Policy shall prevail.