

Preventing Sexual Misconduct

For University Employees,
Faculty & Staff

Center Administration
Office of Human Resources

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Our Agenda

- Review issues related to Title IX, campus sexual assault and sexual harassment.
- Define prohibited sexual misconduct.
- Describe the reporting obligations and responsibilities of Responsible University Employees under the Sexual Misconduct Policy.
- Review available resources and reporting options for victims of sexual misconduct.

The Law

Title VII – Civil Rights Act of 1964

- Prohibits employment discrimination based on race, color, religion, sex, and national origin.

Title IX – Education Amendments of 1972

- Prohibits discrimination on the basis of sex in any federally funded education program or activity.

Sexual misconduct against employees and students is a form of sex discrimination prohibited by federal law.

These laws make the employer or educational institution responsible for providing education and training to prevent sexual misconduct and to promptly correct it, if it occurs.

Sexual Misconduct on Campus

Sexual misconduct on college campuses across the country is a major problem.

We are committed to strictly following USM and UMCES policies pertaining to Sexual Misconduct.

Sexual Assault on Campus

- 1 in 5 college women will experience sexual assault during their college experience.
- Many acquaintance rape victims do not label their assault as rape.
- Research suggests that many women are in denial about their risk for rape.

Scope of the Problem

- Victims of sexual assault are 3 times more likely to suffer from depression.
- 4 in 10 rape survivors develop sexually transmitted infections (STIs) as a result of sexual assault.
- 8 in 10 rape survivors suffer chronic physical or psychological problems over time.
- Rape survivors are 4 times more likely to contemplate suicide.
- Intimate partner violence is the leading cause of injury to women.

Scope of the Problem

- Less than 1 in 20 college women who are victims of rape or attempted rape *report it to police or college authorities.*
- Acquaintance rape victims offer a range of reasons for not reporting to authorities:
 - Embarrassment and Shame
 - Self-blame
 - Fear

Sexual Harassment on Campus

- 62% of college students say they have encountered some type of sexual harassment.
- 35% of females and 29% of males say they have experienced physical harassment.
- Sexual comments and jokes are the most common form of harassment. More than 50% of female students and just under 50% of male students say they have experienced this type of harassment.

Sexual Misconduct: A Workplace Issue

- Sexual misconduct is not just a student issue.
- In addition to addressing the issue of sexual assault against students, the University's Sexual Misconduct Policy is also designed to protect faculty and staff from all forms of sexual misconduct in the workplace, including sexual harassment.

UMCES Sexual Misconduct Policy

The University implemented a Sexual Misconduct Policy on December 23, 2014.

This policy complies with federal and state statutory and regulatory requirements and replaced the University's previous policies and procedures on sexual harassment and sexual assault.

Policy Statement

UMCES is committed to a working and learning environment free from sexual misconduct including:

- Sexual assault
- Sexual harassment
- Intimate partner violence/abuse
- Sexual exploitation
- Sexual intimidation

Policy Statement

UMCES Sexual Misconduct Policy

- Describes prohibited conduct.
- Explains what to do if you wish to make a complaint of sexual misconduct.
- Describes procedures for promptly and equitably investigating and resolving complaints.
- Identifies available resources and education programs.

Where does this apply?

This policy applies:

- To members of the University community, including students, faculty and staff.
- To contractors and other third parties within the University's control.
- On University premises.
- At University sponsored activities.

What is Sexual Misconduct?

Sexual Misconduct is a broad term used to describe prohibited conduct of a sexual nature, including:

- Sexual harassment – including hostile work environment and quid-pro quo
- Sexual intimidation – such as stalking and using coercion
- Sexual exploitation – including taking advantage of someone sexually
- Unwanted sexual contact
- Relationship violence – or dating/domestic violence
- Rape – penetration however slight of the vagina, anus or mouth

Intent Vs. Impact

- Sexual harassment is not always intended.
- It doesn't have to be intended to be illegal or to violate university policy.
- It is evaluated from the perspective of the recipient, using a reasonable person standard.

Sexual Harassment

The behavior is:

- Sexual or gender-based (the victim and harasser may be of any gender or the same gender)
- Unwelcome, unwanted, and/or uninvited.
- Verbal, nonverbal, and/or physical.

Examples of Sexually Harassing Behavior - Verbal

- Repeated requests for dates and sex
- Sexual comments about clothing or body parts
- Sexually oriented humor or language
- Kissing sounds, whistling and cat calls
- Obscene phone calls
- Comments about sexual likes/dislikes
- Comments about sexual behavior

Examples of Sexually Harassing Behavior - Nonverbal

- Leering or ogling
- Pornographic pictures, calendars, or mugs
- Unwanted Repeated “love” letters
- Sexually oriented electronic messages/images
- Sexting
- Sexual hand or body gestures
- Invading someone’s personal space
- Sexually explicit e-mail / screen savers / desktop “wall paper”

Examples of Sexually Harassing Behaviors - Physical

- Intrusive touching, including pats, hugs, squeezes, pinches, and/or brushing up against someone
- Blocking someone's path
- Kissing
- Fondling
- Stroking
- Rape/sexual assault

Sexual Intimidation & Sexual Exploitation

Sexual Intimidation

- Threatening to sexually assault another
- Stalking
- Cyber-stalking
- Indecent exposure

Sexual Exploitation

- Taking sexual advantage of another without consent for one's own benefit or for benefit of a third party
- Prostitution of another person
- Electronically recording, photographing or transmitting sounds/images of private sexual activity/intimate body parts without consent of all parties involved

Unwanted Sexual Contact

- Any act of sexual penetration with another individual without consent.
- Touching an unwilling person's intimate parts or forcing a person to touch another's intimate parts.
- Includes force, threat, intimidation or victim's mental or physical helplessness.

Relationship Violence

- Acts, threats or a pattern of abusive behavior of a physical or sexual nature by one partner intended to control, intimidate, manipulate, humiliate, frighten, coerce or injure the other.
- Partner may be spouse, ex-spouse, current or former intimate partner.

Quid Pro Quo

Submission to, or rejection of, sexual or gender based conduct that is:

- Made explicitly or implicitly a term or condition of an individual's employment or educational program or activity

OR

- Used as a basis for academic or employment decisions affecting that individual.

Hostile Environment

Sexual or gender based conduct is so severe and/or pervasive that it unreasonably interferes with an individual's academic or work performance.

Consensual Relationships

Why does the UMCES strongly discourage these relationships?

- Imbalance of power
- Conflicts of interest
- Issues of student vulnerability
- Potential for coercion
- May violate professional ethics rules

Consensual Relationships

Persons involved in a consensual sexual relationship with anyone over whom they have supervisory and/or evaluative responsibilities must inform their supervisor of the relationship

- Includes:
 - supervisor/supervisee
 - faculty/student
 - other relationships with an imbalance of power
- Failure to self-report in a timely manner may result in disciplinary action

Consensual Relationships

Examples of Potential Dangers

- A student or employee may feel coerced into an unwanted relationship.
- Conflicts of interest or perceived conflicts of interest in employee evaluations, or personnel or academic decisions.
- Relationship does not end amicably, leading to charges of (and possible liability for) sexual harassment.

Consent

Knowing, voluntary and affirmatively communicated willingness to participate in a particular sexual activity or behavior.

- Only a person who has the ability and capacity can give consent.
- May be expressed in words 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 he/she has consent from the other party, and that the other party is capable of providing consent.

Consent

- Lack of protest or resistance is NOT consent.
- Previous relationship does NOT imply consent.
- Consent to one activity is NOT consent to all others.
- CANNOT be gained through force, threat or coercion.
- CANNOT be legally given by one who is incapacitated (unconscious, under influence of drugs or alcohol, disabled).

What do you do if you
witness or are made
aware of sexual
misconduct?

Responsible Employees

- Who is a **responsible employee**?
- What do you need to know?
- What do you need to do?

Responsible Employees

Responsible Employees includes any employee who:

- has the authority to take action;
- is an employee who has been given the duty of reporting Sexual Misconduct; or
- is someone another individual could reasonably believe has this authority or duty.
- At a minimum, Responsible Employees must include: the Title IX Coordinator and any Title IX Team members, all institution administrators, all non-confidential employees in their supervisory roles, and all faculty.

Responsible Employees

Faculty and Supervisory Staff **Pay Attention!**

If you know – or reasonably should know – that sexual misconduct is occurring you have an obligation to **REPORT IT!**

What To Do

What to do if someone discloses to you:

- First, ***interrupt*** and tell the person you are obligated to report allegations of sexual misconduct to the Title IX Office.
- Listen and acknowledge what they tell you.
- Thank them for sharing with you.
- Don't judge what they tell you.
- Encourage them to reach out directly to the Title IX Coordinator and report the incident.
- Do not try to investigate on your own.
- Refer them to confidential resources who can help them determine what, if anything, they want to do.

What NOT To Do

DO NOT:

- Tell the complainant to ignore the behavior.
- Make light of the situation.
- Attempt to investigate or resolve the situation on your own.
- Wait for someone to complain if you know or suspect sexual misconduct has occurred.
- Promise confidentiality.

What To Report

- Name of parties involved.
- Status of parties.
 - Student, staff, non-student, faculty, etc.
- Date of incident.
- Location of incident.

Reporting Reminders

- For simplicity, report **ANY** incident to the Title IX Coordinator rather than determining whether you need to report or not.
- You are not responsible for investigating or asking questions.
- You must be able to refer someone to the appropriate resources.

Confidential Resources

- Employee Assistance Program 800-346-0110 or www.inova.org/eap
- A local rape crisis center
- Maryland Network Against Domestic Violence
- Maryland Coalition Against Sexual Assault (MCASA)
- A licensed counselor
- A local health care provider
- A member of clergy
- A personal attorney

Resources are confidential only when licensed and doing the job they were licensed to do, and only if there is no imminent danger to the public.

Disclosures

- Disclosures or reports made to any other entities except those specifically defined as confidential, *are not confidential*.
- If you discuss an incident of sexual misconduct with your supervisor or a faculty member, those persons are “Responsible University Employees” and, as such, are obligated to report the sexual misconduct to the Title IX Coordinator.

Reporting Responsibilities

All disclosures of sexual misconduct, as defined by UMCES policy, made to a responsible employee, must be reported to the Title IX Coordinator.

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Crimes should be reported to local law enforcement.

Reporting to Title IX Coordinator

Allows for:

- Increased oversight.
- Identification of patterns.
- Coordinated, consistent, prompt, fair and equitable response.
- Determining interim measures.
- Centralized location for monitoring University's response and ensuring accurate reporting of data.
- Identifying retaliatory conduct.

Preventing Retaliation

- Intimidating, threatening, coercing, or discriminating against someone because they have made a report, filed a complaint, testified, assisted, or participated in an investigation or proceeding related to sexual misconduct.
- Acts of retaliation against faculty, staff and students who report or file a complaint of sexual misconduct or who assist or participate in the investigation of a harassment complaint are strictly prohibited.

Complaint/Investigation Process

Title IX Office will meet with the complainant to

- Determine what immediate accommodations might need to be put in place as interim measures pending the outcome of the investigation.
- Explain the investigation process and the University's process for determining whether sexual misconduct occurred.
- Determine whether the complainant wants to proceed with the University's investigation.
- Inform the complainant of available resources and their right to file a police report if a crime occurred.

Complaint/Investigation Process

Title IX Office will meet with the respondent to

- Determine if an investigation should move forward.
- Conduct an investigation.
- Draft a summary report of the findings of the investigation.

Complaint/Investigation Process

The complainant and the respondent will be informed in writing of the following:

- The outcome of any investigation.
- The final results of proceedings.
- Appeal rights.

Complaint/Investigation Process

What Happens Next?

- Criminal Charges
- Suspension or Expulsion
- Housing Termination
- Disciplinary Probation
- Transcript Notation
- Formal reprimand in personnel file
- Demotion or Termination

Policy Vs. Criminal Action

- 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.
- Conduct may violate this policy even if law enforcement agencies or local prosecutors decline to prosecute.
- University processes may occur prior to, concurrent with, or following criminal proceedings off campus.

Questions??

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