



VI-1.60 UMCES Policy and Procedure on Sexual Misconduct Approved by the President – December 23, 2014

I. Purpose and Scope

This Policy and the accompanying procedures are established as the formal implementation of USM VI-1.60 Policy on Sexual Misconduct. The University of Maryland Center for Environmental Science (UMCES) is committed to providing a working and learning environment free from Sexual Misconduct, including sexual and gender-based harassment, sexual violence, dating violence, domestic violence, sexual exploitation, and sexual intimidation. UMCES prohibits and will not tolerate Sexual Misconduct. Sexual Misconduct is a form of sex discrimination 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.

UMCES endeavors to foster a climate free from Sexual Misconduct through training, education, prevention programs, and through procedures that promote prompt reporting, prohibit retaliation, and provide for timely, fair, and impartial investigation and resolution of Sexual Misconduct cases in a manner that eliminates the Sexual Misconduct, prevents its recurrence, and addresses its effects. All UMCES 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 UMCES, as well as third parties and contractors under UMCES control. This Policy applies to Sexual Misconduct in connection with any UMCES laboratory, office, education program, or activity, including Sexual Misconduct (1) in any UMCES facility or on any UMCES property; (2) in connection with any UMCES or UMCES-sponsored, recognized, or approved program, visit or activity, regardless of location (including field work and assignments on vessels); (3) that impedes equal access to any UMCES education program or activity or adversely impacts the employment of a member of the UMCES community; or (4) that otherwise threatens the health or safety of a member of the UMCES community. Nothing in this policy is intended to supersede or conflict with any federal compliance obligation.

II. Definitions

For purposes of this Policy, the following definitions apply.

A. Consent means a knowing, voluntary, and affirmatively communicated willingness to mutually participate in a particular sexual activity or behavior. It must be given by a person with the ability and capacity to exercise free will and make a rational and reasonable judgment. Consent may be expressed either by affirmative words or actions, as long as those words or actions create a mutually understandable permission regarding the conditions of sexual activity. Consent may be withdrawn at any time. Consent cannot be obtained by force, threat, coercion, fraud, manipulation, reasonable fear of injury, intimidation, or through the use of one’s mental or physical helplessness or incapacity. Consent cannot be implied based upon the mere fact of a previous consensual dating or sexual relationship. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. In order to give consent, one must be of legal age for sexual consent and be both sober and conscious enough to understand what is being agreed to.



B. 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.

C. Domestic Violence means 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.

D. Interim Measures means reasonably available steps an institution may take to protect the parties while a Sexual Misconduct investigation is pending.

E. Responsible Employee includes any employee who (1) has the authority to take action regarding Sexual Misconduct; (2) is an employee who has been given the duty of reporting Sexual Misconduct; or (3) 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, all faculty, all athletic coaches, institution law enforcement, and all other non- confidential first responders.

F. Retaliation means intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or USM policy relating to Sexual Misconduct, or because an individual has made a report, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing related to Sexual Misconduct. Retaliation includes harassment that is motivated by retaliatory animus.

G. Sexual Assault

Sexual Assault I. – Non-Consensual Sexual Intercourse

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.

Sexual Assault II. – Non-Consensual Sexual Contact

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 clothing covering them, or any other body part that is touched in a sexual manner. Sexual contact also includes attempted sexual intercourse.

H. Sexual Exploitation means 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.



I. Sexual Harassment is any unwelcome sexual advance, unwelcome request for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature when: (1) Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, evaluation of academic work, or participation in any aspect of a UMCES or UMCES program or activity; (2) Submission to or rejection of such conduct by an individual is used as the basis for academic, employment, or activity or program participation related decisions affecting an individual; or (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, i.e., it is sufficiently severe or pervasive to create an intimidating, hostile, humiliating, demeaning or sexually offensive working, academic, residential or social environment.

J. Sexual Intimidation means (1) threatening to sexually assault another person; (2) gender or sex-based Stalking, including cyber-Stalking; or (3) engaging in indecent exposure.

K. Sexual Misconduct is an umbrella term that includes Dating Violence, Domestic Violence, Sexual Exploitation, Sexual Harassment, Sexual Intimidation, Sexual Violence, and Stalking.

L. Sexual Violence is a form of Sexual Harassment and refers to physical sexual acts perpetrated without Consent. Sexual Violence includes rape, Sexual Assault, sexual battery, and sexual coercion. Rape has the meaning given to it in Md. Ann. Code, Crim. §§3-301 *et seq.* For the purposes of this Policy, Sexual Battery means For the purposes of this Policy, Sexual Coercion means Sexual Violence, in any form, is a criminal act.

M. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. Stalking under this policy is limited to stalking that is motivated based on the sex, gender, sexual orientation, gender identity, or gender expression of the victim.

III. Title IX Administration

A. Title IX Coordinator

The Director of Human Resources is the UMCES Title IX Coordinator, as designated by the President. The Director of Human Resources is located at 2020 Horns Point Road, Cambridge, MD, which is the location of Center Administration. The office phone number is 410-221-2017 and the Title IX Coordinator can be reached via email at titleix@umces.edu. The Title IX Coordinator is responsible for coordinating UMCES efforts to comply with and carry out its responsibilities under Title IX. The Title IX Coordinator will be trained on the requirements of Title IX and will ensure that training is provided for students, faculty and staff on Sexual Misconduct issues. The Title IX Coordinator will also oversee the UMCES's response to reports of Sexual Misconduct and identify and address any patterns or systemic problems revealed by such reports and complaints; conduct sexual misconduct investigations; oversee, review content, and, in collaboration with other UMCES offices, coordinate training for students, faculty, and staff on Sexual Misconduct issues; ensure that appropriate policies and procedures are in place for responding to complaints of Sexual Misconduct against faculty, staff and students; and work with UMCES officials and local law enforcement to ensure coordinated responses to Sexual Misconduct cases.



B. Title IX Team

Headed by the Title IX Coordinator, UMCES has established a Title IX Team which members include the Vice President for Education, Graduate Student Representative, Environmental Safety Compliance Officer, and staff representative chosen by the UMCES Staff Council, and faculty representative chosen by the Faculty Senate. The Title IX Coordinator shall be responsible for coordinating the activities of the Title IX Team, which will include assistance in the training and other activities for the Title IX Coordinator cited above.

More details on contact information for the Title IX Coordinator and Title IX Team are located at <http://www.umces.edu/sexual-misconduct-resources>.

IV. Prohibited Conduct

A. Sexual Misconduct

The University System of Maryland (USM) Policy on Sexual Misconduct and the UMCES Sexual Misconduct Policy and Procedures clearly prohibit Sexual Misconduct, which includes Dating Violence, Domestic Violence, Sexual Assault, Sexual Exploitation, Sexual Harassment, Sexual Intimidation, Sexual Violence, and Stalking by UMCES faculty, staff, contractors, volunteers, and students. Every member of the UMCES community should be aware that all non-consensual sexual conduct is prohibited.

B. Retaliation

Individuals who engage in retaliatory behavior against a reporting party or party participating in an investigation, are in violation of this policy, and will be subject to appropriate disciplinary action pursuant to the procedures set forth in this policy. Individuals who believe they have experienced retaliation in violation of this policy should immediately report such conduct to the Title IX Coordinator.

V. How to Report Sexual Misconduct and Retaliation

Individuals who believe they are a victim of Sexual Misconduct or Retaliation are encouraged to report the incident. A third party, including an anonymous third party, may report Sexual Misconduct to UMCES as well. The individual may choose to report to a Responsible Employee, that is, an UMCES employee who must relay the incident to the Title IX Coordinator for appropriate investigation and resolution, or to a Confidential Resource. In some instances, the Sexual Misconduct alleged may constitute a criminal offense, and in those instances, the victim may desire to report to the local police. It is important that victims understand the roles and obligations of each of these individuals before making a report. These roles and obligations are detailed below.

A. Responsible Employees

A “Responsible Employee” is an employee who (1) has the authority to take action regarding Sexual Misconduct; (2) is an employee who has been given the duty of reporting



Sexual Misconduct; or (3) is someone another individual could reasonably believe has that authority or duty. At UMCES, Responsible Employees include all administrators, supervisors, and faculty members. Responsible Employees **cannot guarantee confidentiality**. Rather, Responsible Employees must promptly notify the Title IX Coordinator of any report of Sexual Misconduct brought to their attention. The Title IX Coordinator will work collaboratively with the reporting entity, making every effort to operate with discretion and maintain the privacy of the individuals involved.

If a complainant reports Sexual Misconduct to a Responsible Employee and subsequently requests that their name not be disclosed or that UMCES refrain from investigating or taking action against the respondent, the Title IX Coordinator will determine whether or not it can honor such a request while still providing a safe and nondiscriminatory environment for all students, faculty, and staff. The Title IX Coordinator shall make a determination as to whether the complainant's request can be honored, by considering the following factors:

- Circumstances that suggest there is an increased risk of the respondent committing additional acts of Sexual Misconduct or other violence;
- Whether the respondent has any documented history of violence known to the University;
- Whether the respondent threatened further Sexual Misconduct or other violence against the complainant or others that is known to the University;
- Whether the Sexual Misconduct was committed by multiple persons;
- Whether the Sexual Misconduct was perpetrated with a weapon;
- The age of the complainant subjected to the Sexual Misconduct;
- Whether the lab/site possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence); and
- Whether any other health or safety concerns are implicated.

B. Confidential Resources

An individual can speak confidentially with certain people in legally-protected roles. Notification to Confidential Resources does not constitute notice to UMCES. The following entities are Confidential Resources:

1. The Employee Assistance Program (EAP)

All UMCES employees and students have access to the Employee Assistance Program (EAP). Services include providing a general overview of sexual assault, steps to prevention of sexual assault, and helping employees recover from sexual assault. More information can be found at www.inova.org/eap (User ID UMCES, password UMCES EAP) or by calling 1-800-346-0110.

2. Other Resources.

The following website provides the locations of state designated rape crisis programs throughout the State of Maryland

<http://www.mcasa.org/for-survivors/maryland-rape-crisis-and-recovery-centers-5/>



It is important that if you seek confidential assistance from an agency that is not affiliated with UMCES that you first inquire about the parameters of confidentiality before disclosing any information that you desire to keep confidential.

C. Reporting to the Police

Some forms of Sexual Misconduct constitute criminal offenses. UMCES encourages victims of criminal Sexual Misconduct to report these crimes to the local police. Reports to the local police are not confidential. UMCES authorities will assist in notification of off-campus authorities at the request of the alleged victim. Additionally, UMCES personnel will retain the right to contact law enforcement personnel directly where an issue of UMCES site security is involved.

D. Timeline for Reporting Instances of Sexual Misconduct

Although UMCES will investigate any report of Sexual Misconduct, regardless of how much time has elapsed since the alleged incident occurred, prompt reporting is encouraged. Persons are encouraged to report Sexual Misconduct promptly in order to maximize the University's ability to obtain evidence, identify potential witnesses and conduct a thorough, prompt, and impartial investigation. While there are no time limits to reporting Sexual Misconduct, if too much time has passed since the incident occurred, the delay may result in loss of relevant evidence and witness testimony, impairing UMCES ability to respond and take appropriate action.

V. Procedures

A. General

Once UMCES knows or reasonably should know of possible Sexual Misconduct, it must take prompt and appropriate action, in accordance with these procedures set forth below, to review the allegations of misconduct or otherwise determine what occurred. This obligation applies to Sexual Misconduct covered by this Policy regardless of where the Sexual Misconduct allegedly occurred, regardless of whether a parallel law enforcement investigation or action is pending, and regardless of whether a formal complaint is filed. The Title IX Coordinator is responsible for investigating and resolving allegations of Sexual Misconduct. The Title IX Coordinator is not an advocate for any party.

B. Preliminary Steps

Upon receipt of a complaint or report, the Title IX Coordinator will notify the Respondent(s) in writing of the alleged policy violation. The Title IX Coordinator will ensure that all parties are provided with a copy of the relevant UMCES policies and procedures.

In addition, the Title IX Coordinator will explain to the parties the following:

1. The informal and formal resolution options, if applicable.



2. As appropriate, provide to both parties information about options for obtaining medical and counseling services; information about making a criminal report, information about receiving advocacy services, and information about other helpful campus and community resources.
3. Offer to coordinate with other campus officials, when appropriate, to implement interim remedial measures such as no-contact orders, rearrangement of living or working arrangements, or academic accommodations.
4. Explain the investigation and adjudication process. The Title IX Coordinator will explain the parties' rights to have similar and timely access to information, to present witnesses and evidence, and to be accompanied to any proceeding by an advisor.
5. If the complainant does not want to participate in the complaint process, the Title IX Coordinator will inform the individual that the University may be limited in the actions it can take without the cooperation of the individual and also that UMCES may nonetheless proceed in absentia, depending on the health and safety implications of the circumstances.
6. Inform both parties that Retaliation for reporting Sexual Misconduct or participating in a Sexual Misconduct investigation is strictly prohibited and that any Retaliation should be immediately reported to the Title IX Coordinator to be promptly addressed.
7. Notify the parties that in some cases, UMCES may have a legal obligation to investigate the complaint, even if the Complainant does not choose to pursue it.

C. Initial Assessment

When a Responsible Employee is made aware of a report of alleged Sexual Misconduct, the Responsible Employee will immediately notify the Title IX Coordinator. The Title IX Coordinator will conduct a prompt initial assessment. The assessment, which typically consists of an initial meeting between the Title IX Coordinator and the Complainant, will determine whether the alleged conduct, if deemed to be true, would constitute a violation of the UMCES Sexual Misconduct Policy. In its initial assessment, the Title IX Coordinator will work with relevant UMCES officials to determine the risk of harm to the broader campus community and take steps necessary to address any risks, implement any interim measures, assess the nature and circumstances of the allegation, assess for pattern evidence or other similar conduct by the alleged Respondent, assess Complainant's expressed preference regarding resolution and any request for confidentiality, and assess whether the alleged misconduct necessitates a timely warning notification under the Clery Act.

If an initial assessment reveals that the Title IX Coordinator lacks jurisdiction over any alleged action, the Title IX Coordinator will, if warranted and available, forward the complaint to any appropriate body for consideration and action.



D. Interim Measures

Reports of Sexual Misconduct in violation of this policy may require immediate protective measures to protect the safety and well-being of the parties and/or the UMCES community pending the outcome of the investigative and adjudicative processes. Any participant in the investigation process may request that UMCES implement Interim Measures to assist or protect the parties during the investigation and adjudicatory process, as necessary. Interim Measures may include the following:

1. For Students and Employees

No Contact Order. A no contact order is an official UMCES directive that serves as notice to an individual that they must not have verbal, electronic, written or third party communications with another individual.

Referral to the Employee Assistance Program for confidential counseling services

2. For Students:

Academic accommodations such as assistance in transferring to another section of a lecture or laboratory, assistance in arranging for incompletes, leaves or withdrawal from campus, or rearranging class schedules,

Housing accommodations such as facilitating changes in on-campus housing location to alternate housing, assistance in exploring alternative housing off-campus,

Employment accommodations such as arranging for alternate UMCES employment, different work shifts, etc.

3. For Employees:

Employment accommodations: Any party may request a temporary reassignment, if appropriate, to other work duties and responsibilities, or other work locations, or other work groups/teams or alternative supervision/management.

The Title IX Coordinator will also advise the participants in the investigation of existing options for counseling, health, mental health, victim advocacy, and other known services available on and off campus.

UMCES operates at multiple sites across the State. Each UMCES site is unique and offers different resources. The Title IX Coordinator will work with individuals to explore which Interim Measures are reasonably available at the different sites.



E. Advisers

Parties involved in a Sexual Misconduct proceeding are entitled to be accompanied to any related meeting or a proceeding by an adviser of their choice, which means any person who has been chosen by a Complainant or Respondent and who has agreed to provide advice, review documents, and generally provide moral support. Advisers are bound by the same confidentiality requirements applicable to the parties and are not permitted to speak on behalf of their advisees. Notice of the identity of any adviser and their expected appearance must be given to the Title IX Coordinator least 24 hours prior to any meeting or proceeding that an adviser will attend. UMCES may bar an advisor from the proceedings and from advising in future matters if the advisor does not adhere to the limitations of the advising role that are defined in this section.

F. Resolution

There are two avenues for resolution of allegations of Sexual Misconduct: informal and formal resolution.

1. Informal Process and Resolution

Except in instances of Sexual Assault, the Complainant generally has the option to proceed informally at any time during any adjudication process. However, the Complainant is never required to proceed informally. In cases involving allegations of Sexual Assault, informal resolution is not appropriate at any step in the process, even if both the Complainant and Respondent indicate a preference for informal resolution.

If a Complainant desires to proceed informally, the Title IX Coordinator should obtain written consent from Complainant to pursue informal resolution and should notify the Complainant that he or she may terminate the informal process at any time and proceed with a formal process. Thereafter, the Title IX Coordinator will facilitate discussions with the parties to determine how best to resolve the complaint through an informal process. Informal complaints may be resolved by mediation, facilitated by the Title IX Coordinator; by written agreement of the parties, provided that the agreement has been approved by the Title IX Coordinator; or by any other resolution that the parties propose and that Title IX Coordinator approves. Resolution agreements may include, but are not limited to: providing training to an individual or group; having an informal discussion with an individual whose conduct, if not stopped, could rise to the level of harassment or discrimination; implementing long-term remedial measures; increasing security at specified locations; mediation; and any other remedy that can be tailored to the parties in order to achieve their goals through the informal process. In all instances, the informal resolution must adequately address the concerns of the Complainant, as well as the rights of the Respondent and the overall intent of UMCES to stop, remedy and prevent Sexual Misconduct and related Retaliation.

At all times, the Complainant, the Respondent, and the Title IX Coordinator retain the discretion to initiate a formal investigation. If at any point during the informal process, the Complainant, the Respondent, or the Title IX Coordinator wishes to cease the informal process and to proceed through formal grievance Procedures, the formal process outlined



below will be invoked.

2. Formal Process

a) How to Start the Formal Process

A party wishing to initiate a formal process (i.e., a formal investigation and adjudication) should generally file his/her complaint in writing or in person with the Title IX Coordinator as promptly as possible to permit UMCES to accurately investigate the allegations and appropriately remedy any violation(s). The complaint should be signed by the Complainant and should include the following information: a description of the allegations with relevant dates, places and statements made, the name(s) of the person(s) involved, the names of any witnesses to the events in question, any documentation to support and substantiate the claim (e.g. emails, text messages, photographs, social media posts, and any other documented evidence that bears on the allegations in the complaint), and the remedy requested. In lieu of a written Complaint, the Title IX Coordinator may interview the Complainant, document the Complainant's statements, and attempt to obtain the Complainant's signature on those notes to signify that the Complainant agrees with the description of the alleged Sexual Misconduct as recounted in the Title IX Coordinator's notes. If the Complainant refuses to cooperate with the investigation, is reluctant to pursue the investigation, or for any reason refuses to sign the alleged complaint, the Title IX Coordinator may go forward with formal investigatory and adjudicatory procedures, as required, to address the allegations of Sexual Misconduct, prevent its recurrence, and remedy its effects on the Complainant and the UMCES community.

b) **Notice of Investigation**

The Respondent, the person accused in the complaint, shall be notified in writing of the initiation of the formal process by the Title IX Coordinator and will be invited to submit a written response to the Title IX Coordinator within ten (10) calendar days of receiving the notification. In the event that UMCES is the Complainant, the person alleged to have experienced Sexual Misconduct will also be notified that UMCES is pursuing a formal resolution of the alleged misconduct.

c) **Investigation**

Upon receipt of the written complaint, the Title IX Coordinator shall begin an investigation into the claims. The investigation ordinarily will include a discussion with the Complainant, a discussion with the Respondent, interviews of any witnesses to the events, a review of any pertinent documents and any other actions deemed appropriate by the Title IX Coordinator. As additional evidence, party testimony, witness testimony, and other relevant information comes to light during the course of the investigation, the Title IX Coordinator will follow up on the new information, as appropriate. The Title IX Coordinator shall make every effort to keep the investigation confidential, although this cannot be guaranteed. Where privacy is not strictly kept, it will still be tightly controlled on a need-to-know basis. In these cases, privacy and confidentiality should be maintained to the extent possible.



All parties will be apprised of any evidence before the Title IX Coordinator and will have the opportunity to be heard with regard to any evidence to be considered for or against them. All parties will have the same access to information to be used and considered during the process, and the same opportunity to present names of relevant witnesses and identify and provide evidence during the process.

d) Standard of Proof and Evidence

The required standard of proof in all Sexual Misconduct matters is “preponderance of the evidence.” Preponderance of the evidence means that the information and facts establish that it is “more likely than not” that the alleged Sexual Misconduct occurred.

In determining whether the alleged conduct constitutes Sexual Misconduct or Retaliation, the Title IX Coordinator will look at the record of the particular complaint as a whole and the totality of the circumstances of the complaint, including, but not limited to, the nature of the behavior, the particular facts of the case, the nature of the relationship between the parties and the context in which the alleged conduct occurred. The Title IX Coordinator may also consider any relevant prior conduct between the parties in making the determination.

e) Outcome

i. Outcome

A written decision (Outcome) shall be prepared by the Title IX Coordinator at the conclusion of the investigation, setting forth (1) a statement of the findings of fact concerning the alleged events; (2) a statement identifying relevant elements of the policy to support the conclusion that a violation of UMCES policy did or did not occur based on a preponderance of the evidence; (3) sanction(s), if applicable; and (4) notification of right to appeal (hereinafter “Outcome”). The Title IX Coordinator will notify the parties concurrently, in writing, about the Outcome of the complaint and whether or not Sexual Misconduct was found to have occurred.

ii. Possible Sanctions

In instances where Sexual Misconduct and/or Retaliation are found to have occurred by a preponderance of the evidence, the range of sanctions for students includes, but is not limited to, one or more of the following: alteration of class schedule, disciplinary reprimand, loss of privilege, restitution, disciplinary probation, disciplinary suspension, disciplinary dismissal, and disciplinary expulsion. Sanctions for faculty and staff range from a formal reprimand to employment termination, depending on the nature and severity of the misconduct.

iii. Other Due Process Implications



Where a tenured or tenure-track faculty member is found responsible for Sexual Misconduct, or where further University action is required prior to implementing any discipline for any employee, per applicable policies or agreements, any Outcome should indicate that the institution will take necessary steps to proceed with the specified sanction. At that point, the institution would take steps pursuant to the USM Appointment, Rank & Tenure Policies, applicable MOU, or other applicable separate procedures to seek implementation of the sanction.

G. Appeals

1. The parties may appeal the portions of the Outcome notice that directly relate to that party. This means that the complainant and the respondent may only appeal the portions of the Outcome articulated in the notice of Outcome as described above. Mere dissatisfaction with the Outcome is not a valid basis for appeal. The appeal must be submitted in writing to the Title IX Coordinator within five (5) business days of receipt of the notice of Outcome and must list at least one of the grounds for appeal as listed below.

The scope of the appeal is limited only to the three permissible grounds that have been accepted for review (listed below). If the appeal request moves forward, the other party will be notified and given five (5) business days to respond. Responses shall be submitted directly to the Title IX Coordinator or designee. Appeals filed by each party will be considered together in one appeal review process. Receipt of the written appeal will be acknowledged in writing. The parties may have their Attorney or Non-Attorney Advisor submit written responses on their behalf.

2. Grounds for appeal shall be limited to:

- a. **Procedural Error:** A violation of procedural due process means that the decision was negatively influenced by a failure of the Title IX Coordinator to take a procedural step or fulfill a procedural requirement established by this policy.
- b. **New Evidence:** New evidence is significant evidence that could not have been previously discovered and presented by the appellant through reasonable diligence.
- c. **Substantive Due Process:** A violation of substantive due process means that the Title IX Coordinator decision was based upon an illegal or constitutionally impermissible consideration (e.g. party's gender, race, age, national origin, sexual orientation or a party's exercise of first amendment freedoms)

If neither party submits an appeal, the Title IX Coordinator Outcome becomes final after five (5) business days. Appeals submitted after five (5) business days will be denied.

Considerations In any request for an appeal, the burden of proof lies with the party requesting the appeal because the Title IX Coordinator Outcome is presumed to be a



reasonable and just determination. Appeals are not intended to allow for a rehearing of the complaint. A review of the matter will be prompt and narrowly tailored to the stated appeal grounds. In most cases, appeals are confined to a review of the written record and the pertinent documentation regarding the grounds for appeal (i.e. the Final Investigative Report, Outcome, and the written record as contained in the Notice of Appeal submitted by the appellant. The Title IX Coordinator will concurrently inform the parties of any change to the Outcome that occurs before the results of the appeal become final.

H. Timeframe

1. 60-Day Timeframe

The investigatory and adjudicatory process will be conducted promptly and fairly. "Prompt" generally means within 60 calendar days from the time a report is brought to the institution's attention until an initial decision is rendered. The 60-day timeframe does not include the appeals' process.

2. Extension of Timeframe

UMCES strives to take appropriate action, including investigation and resolution of complaints within sixty (60) calendar days from when the complaint was filed; however there may be circumstances that prevent an institution from meeting the 60-day timeline. UMCES may extend the time frames set forth in this policy for good cause, with written notice to both parties of the delay and the reason for the delay. Exceptions to this timeframe may vary depending on the complexity of the investigation, access to relevant parties, and the severity and extent of the misconduct.

I. Concurrent Criminal Investigations

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 sexual misconduct and related internal UMCES processes may occur prior to, concurrent with, or following criminal proceedings off campus. In addition to making a criminal report, the complainant also has the right to file a complaint with UMCES and engage the UMCES investigation and adjudicative processes.

UMCES is required to conduct an investigation in a timely manner, which means in most cases, the University will not wait until a criminal investigation or proceeding is concluded before conducting its own investigation, implementing interim protective measures, and taking appropriate action. However, *at the request of law enforcement*, the Title IX Officer, may defer its fact gathering, until the initial stages of a criminal investigation are complete, provided that the delay does not cause the investigation and adjudication process to extend



beyond the 60-day timeframe. The Title IX Coordinator will communicate any necessary delays in UMCES's investigative process to both parties in the event of a deferral.

J. Complaints Against Third Parties Not Affiliated With UMCES.

If a member of the UMCES community (student, faculty or staff) is subjected to Sexual Misconduct by a third party not affiliated with UMCES on UMCES premises or during UMCES sponsored activities, the matter may still be reported to the Title IX Coordinator (and must be reported to the Title IX Coordinator if disclosed to a Responsible Employee). The matter may be referred to law enforcement with a request that a formal letter be issued to the third party denying access to UMCES's buildings or grounds for acting in a manner that disrupts or disturbs the normal functions of the institution. The Title IX Coordinator will confer with the complainant to implement any other appropriate and readily available interim and remedial measures. UMCES is authorized to deny campus access to a third party engaged in disruptive behaviors under Maryland State law (see Sections 26-101 and 26-102, Education Article, Annotated Code of Maryland).

K. Amnesty for Students Who Report Sexual Misconduct

The UMCES recognizes that a student who is under the influence of alcohol and/or drugs at the time of an incident may be hesitant to make a report of Sexual Misconduct because of the threat of disciplinary sanctions for his or her own violation of the Code of Student Conduct (i.e., alcohol or drug use violation) they are subject to under the institutions at which they matriculate. UMCES will honor any amnesty policies that are in effect at the matriculating institutions for students who report Sexual Misconduct, either as a complainant or a third party witness.

L. Other Applicable Policies

Violation of the UMCES Sexual Misconduct Policy may also constitute a violation of policies at a student's matriculating institution or an employee's home institution. Students and employees who are found to have engaged in Sexual Misconduct or Retaliation may be subject to discipline under this policy or multiple policies in instances where a student or employee is affiliated with more than one institution.

VII. Training

A. Prevention and Awareness Education

UMCES is implementing preventive education, directed toward both employees and students, to help reduce the occurrence of Sexual Misconduct. These educational initiatives aspire to inform the UMCES community regarding what constitutes Sexual Misconduct; they define consent and prohibited conduct; they apprise the UMCES community regarding the institution's procedures; and they educate the UMCES community about bystander intervention, risk reduction, and the consequences of engaging in Sexual Misconduct. These educational initiatives are available to all incoming students and new employees. UMCES is also developing ongoing prevention and awareness campaigns for all students and employees.



B. Training for Persons Involved in Sexual Misconduct Cases

All persons involved in any way in responding to, investigating, or adjudicating Sexual Misconduct reports, including but not limited to, the Title IX Coordinator and Responsible Employees must have annual training in receiving, reporting and handling complaints of Sexual Misconduct; must be familiar with the institution's procedures; and must understand the parameters of confidentiality.

VIII. Resources for Victims of Sexual Assault

A. Confidential Counseling Resources

All UMCES employees and students have access to the Employee Assistance Program (EAP). Services include providing a general overview of Sexual Assault, steps to prevention of Sexual Assault, and helping employees recover from Sexual Assault. More information can be found at www.inova.org/eap (User ID UMCES, password UMCES EAP) or by calling 1-800-346-0110.

B. Other Resources

Joint degree seeking students may have resources available at their home campus where they currently matriculate. Campus health centers may be able to provide support. Links to campus resources is available at <http://www.umces.edu/sexual-misconduct-resources>.

In addition, the following website provides the locations of state designated rape crisis programs throughout the State of Maryland

<http://www.mcasa.org/for-survivors/maryland-rape-crisis-and-recovery-centers-5/>

C. Contact Information for a Victims of Sexual Misconduct

Title IX Coordinator/ Director of Human Resources/Title IX Coordinator—410-221-2017

Based on physical location:

Appalachian Laboratory (AL) HR - 301-689-7111
AL - MD State Police, Cumberland - 301-729-2101

Center Administration (CA) HR - 410.221.2017
CA - MD State Police, Easton - 410-822-3101 or
Dorchester County Sheriff Department - 410-228-4141

Chesapeake Biological Laboratory (CBL) HR - 410-326-7365
CBL—MD State Police, Prince Frederick - 410-535-1400 or
Calvert County Sheriff Department - 410-535-2800

Horn Point Laboratory (HPL) HR - 410-221-8241
HPL - MD State Police, Easton - 410-822-3101 or
Dorchester County Sheriff Department - 410-228-4141



Institute of Marine and Environmental Technology (IMET) HR - 410-234-8839
IMET - Central District Station Baltimore Police Department – 410-396-2411

MD Sea Grant College (MDSG) HR -301-405-6385
MDSG - University of Maryland Police Department -310-405-3555

Annapolis Office/ IAN Business Manager-410-622-3891
IAN - Annapolis Police Department - 410-268-9000 or
MD State Police, Glen Burnie – 410 -761-5130

D. Self-Care and Safety for the Victim

If you are a victim of Sexual Misconduct, it is important that you get to a safe location. After an assault, you may be in a state of shock.

Although the first reaction may be to clean up, DO NOT. Instead, you should wrap in something warm, such as a blanket or coat. Staying warm, instead of cleaning up right away will accomplish two important things:

It will help in recovering from the shock;

It is less likely that the evidence will be disturbed or destroyed if you decide to report the assault to law enforcement.

It is important that you seek medical attention as soon as possible after a sexual assault. A medical exam is important for two reasons:

It ensures that you receive appropriate medical treatment;

A Sexual Assault Forensic Exam (SAFE) is essential in the collection of physical evidence if the victim decides to make a formal report to law enforcement.

You can receive an anonymous SAFE that will collect evidence to assist in the investigation of the crime, and also attend to their medical needs at no cost. Individuals who obtain SAFE exams will be registered as a patient of the hospital, but their identity will be anonymous to the police.

UMCES personnel will assist the alleged victim in obtaining medical attention, if the victim chooses, including providing transportation to the nearest hospital or other emergency medical facility during normal business hours. For off-hours emergencies call 911.

The following hospitals are equipped with the Maryland State Police sexual assault evidence collection kit and are nearby UMCES sites:

AL - Western MD Health System Cumberland - 240-964-7000

CA - Dorchester General Hospital - 410-228-5511



University of Maryland
CENTER FOR ENVIRONMENTAL SCIENCE

CBL - Calvert Memorial Hospital - 410-535-4000

HPL - Dorchester General Hospital - 410-228-5511

IAN Annapolis—Anne Arundel Medical Center - 443-481-1000

IMET - University of Maryland Medical Center - 410-328-8667

MDSG - University of Maryland Health Center - 301-314-8180
or Doctors Community Hospital—310-552-8118

IX. Clery Act Compliance

In handling Sexual Misconduct reports and in accordance with the requirements of the Crime Awareness and Campus Security Act of 1990 (“Clery Act”) and its amendments, the Title IX Coordinator with appropriate Title IX Team member and Lab Officials will ensure MOU’s with local law enforcement are in place to meet the crime reporting and information obligations.

X. Record Keeping

The Title IX Coordinator will keep records of actions taken under this policy, including, but not limited to, records of any reports of Sexual Misconduct, records of any proceedings or resolutions, and records of any Sexual Misconduct trainings (including, but not limited to, lists of trainees, dates of training, and training content), and must maintain such records in accordance with the institution’s Records Retention Schedule.

XI. Complaints

Inquiries concerning the application of Title IX may be referred to the Title IX Coordinator or to the Department of Education Office for Civil Rights.