

* - indicates a required field.

For questions regarding this template, please send an email to policies@umw.edu

| | |
|------------------------------|--|
| * POLICY NAME: | Policy on Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence ¹ |
| * POLICY TYPE: | Board Policy |
| POLICY #: | B.8.1 |
| *STATUS: | Active |
| *CONTACT OFFICE: | Office of the President- Office of Title IX |
| *OVERSIGHT EXECUTIVE: | Title IX coordinator |
| *APPLIES TO: | All members of the University Campus |
| *PURPOSE: | <p><u>SCOPE OF POLICY</u></p> <p>The <i>Policy on Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence</i> (hereinafter "Policy") applies to:</p> <p>a) all UMW students who are registered or enrolled for credit- or non-credit-bearing coursework; b) all UMW employees, consisting of all full-time and part-time faculty, administrative/professional faculty, classified and wage employees; and c) any contractors, vendors, visitors, guests or other third parties. This Policy pertains to acts of Prohibited Conduct committed by or against students or employees when: (1) the conduct occurs on campus,² in a noncampus building or property,³ or on public property⁴; (2)</p> |

¹ Interpersonal Violence: the intentional use of physical force or power, threatened or actual, against another person or against a group or community that results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation.

² "Campus" means (i) any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner relating to, the institution's educational purposes, including residence halls, and (ii) any building or property that is within or reasonably contiguous to the area described in clause (i) that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes, such as a food or other retail vendor (Va. Code § 23.1-806 (the "Virginia Reporting Statute")).

³ "Noncampus building or property" means (i) any building or property owned or controlled by a student organization officially recognized by an institution of higher education or (ii) any building or property owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not

| | |
|--|--|
| | <p>the conduct occurs in the context of UMW employment or education program or activity, including, but not limited to, UMW-sponsored study abroad, research, on-line, or internship programs; or (3) the conduct occurs outside the context of a UMW employment or education program or activity, but has continuing adverse effects on or creates a hostile environment for students, employees or third parties while on campus or other property owned or controlled by UMW or in any UMW employment or education program or activity.</p> <p>A student or employee determined by the University to have committed an act of Prohibited Conduct is subject to disciplinary action, up to and including separation from the University. The University's ability to take appropriate corrective action against a contractor, vendor, visitor, guest, or third party will be determined by the nature of the relationship of the third party to the University. The Title IX Coordinator will determine the appropriate manner of resolution consistent with the University's commitment to a prompt and equitable process consistent with federal law, federal guidance, and this policy. Third parties who commit Prohibited Conduct may have their relationship with UMW terminated or their privilege of being on UMW premises withdrawn.</p> <p>The procedures referenced below provide for prompt and equitable response to reports of Prohibited Conduct. The procedures designate specific timeframes for major stages of the process and provide for thorough and impartial investigations that afford all parties notice and an opportunity to present witnesses and evidence and to view the information that will be used in determining whether a Policy violation has occurred. UMW applies the Preponderance of the Evidence standard when determining whether this Policy has been violated. "Preponderance of the evidence" means that it is more likely than not that a Policy violation occurred.</p> |
|--|--|

within the same reasonably contiguous geographic area of the institution (Va. Code § 23.1-806 (the "Virginia Reporting Statute"))).

⁴ "Public property" means all public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus (Va. Code § 23.1-806 (the "Virginia Reporting Statute"))).

| | |
|----------------------------|--|
| | |
| <p>DEFINITIONS:</p> | <p><u>CONDUCT PROHIBITED UNDER THIS POLICY</u></p> <p>Conduct under this Policy is prohibited regardless of the sex, sexual orientation and/or gender identity/expression of the Complainant or Respondent. Prohibited Conduct includes the following specifically defined forms of behavior: Sexual Assault, Sexual Exploitation, Intimate Partner Violence, Stalking, Sexual or Gender-Based Harassment, Retaliation, and Complicity.</p> <p>“Complainant” means the individual who presents as the survivor of any Prohibited Conduct under this Policy, regardless of whether that person makes a report or seeks action under this Policy. “Respondent” means the student, employee or third party who has been accused of violating this Policy.</p> <p>A. <u>Sexual Assault</u>: Sexual Assault is non-consensual bodily contact of a sexual nature. It includes any sexual contact when the Complainant does not or is unable to consent through the use of force, fear, intimidation, threats, physical helplessness, ruse, coercion, or incapacitation; intentional and non-consensual touching of or coercing, forcing or attempting to coerce or force another to touch a person's genital area, groin, inner thigh, buttocks or breast, clothed or unclothed; and non-consensual sexual intercourse, defined as anal, oral or vaginal penetration, however slight, with any body part or object.</p> <p>“Consent” is knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity. Silence, in and of itself, does not constitute consent. Past consent to sexual activities, or a current or previous dating relationship, does not imply ongoing or future consent. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred.</p> <p>“Force” is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent.</p> |

“Coercion” is the improper use of pressure to compel another individual to initiate or continue sexual activity against that individual’s will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. A person’s words or conduct are sufficient to constitute coercion if they wrongfully impair another individual’s freedom of will and ability to choose whether or not to engage in sexual activity. The University will evaluate the following in determining whether coercion was used: (a) the frequency of the application of pressure, (b) the intensity of the pressure, (c) the degree of isolation of the person being pressured, and (d) the duration of the pressure.

“Incapacitation” is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why and how” of their sexual interaction). Sexual activity with someone who you should know to be – or based on the circumstances should reasonably have known to be – mentally or physically incapacitated (by alcohol or other drug use or unconsciousness), constitutes a violation of university Policy. University Policy covers a person whose incapacity results from mental disability, sleep, involuntary physical restraints, or from taking drugs or other substances.

Being under the influence by alcohol or other drugs is no defense to any violation of this Policy.

B. Sexual Exploitation: Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited, and that behavior does not meet the definition of sexual assault. Sexual exploitation includes prostituting another person, non-consensual visual or audio recording of sexual activity, non-consensual distribution of photos or other images of an individuals' sexual activity or intimate body parts, non-consensual voyeurism, knowingly transmitting HIV or an STD to another, or exposing one's genitals to another in non-consensual circumstances.

C. Intimate Partner Violence: Intimate Partner Violence includes any act of violence or threatened act of violence that occurs

| | |
|--|--|
| | <p>between individuals who are involved or have been involved in a sexual, dating, spousal, domestic, or other intimate relationship.⁵ Intimate Partner Violence may include any form of Prohibited Conduct under this Policy, including Sexual Assault, Stalking, and Physical Assault (as defined below).</p> <p>“Physical Assault” is threatening or causing physical harm or engaging in other conduct that threatens or endangers the health or safety of any person. Physical Assault will be addressed under this Policy if it involves Sexual or Gender-Based Harassment, Intimate Partner Violence, or is part of a course of conduct under the Stalking definition.</p> <p>D. <u>Stalking</u>: Stalking occurs when a person engages in a course of conduct directed at a specific person under circumstances that would cause a reasonable person to fear bodily injury or to experience substantial emotional distress.</p> <p>“Course of Conduct” means two or more acts, including but not limited to acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person’s property. Substantial emotional distress means significant mental suffering or anguish.</p> <p>Stalking includes “cyber-stalking,” a particular form of stalking in which a person uses electronic media, such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact.</p> <p>E. <u>Sexual or Gender-Based Harassment</u>: Sexual or gender-based harassment is defined as gender-based verbal or physical conduct that unreasonably interferes with or deprives someone of educational access, benefits, or opportunities. It is unwelcome sexual advances, requests for sexual favors, or other conduct of a</p> |
|--|--|

⁵ Intimate Partner Violence includes “dating violence” and “domestic violence,” as defined by Violence Against Women Reauthorization Act of 2013 (“VAWA.”) Consistent with VAWA, UMW will evaluate the existence of an intimate relationship based upon the Complainant’s statement and taking into consideration the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

sexual nature including: verbal, non-verbal, or physical. Sexual harassment can involve persons of the same or different sexes. Sexual harassment may also include sex-based harassment directed toward stereotypical notions of what is female/feminine v. male/masculine or a failure to conform to those gender stereotypes. Sexual harassment constitutes Prohibited Conduct when either of the following conditions is present:

i. *Hostile environment sexual harassment* exists when there is any situation in which there is harassing conduct that is sufficiently severe, pervasive or persistent, and patently offensive, such that it alters the conditions of education or employment, from both a subjective (the alleged victim's) and an objective (reasonable person's) viewpoint. In determining whether conduct is severe, persistent or pervasive, and thus creates a hostile environment, the totality of known circumstances will be considered, including but not limited to: (a) the frequency, nature and severity of the conduct; (b) whether the conduct was physically threatening; (c) the effect of the conduct on the Complainant's mental or emotional state and the perspective of a "reasonable person" in the same situation as the person subjected to the conduct; (d) whether the conduct was directed at more than one person; (e) whether the conduct arose in the context of other discriminatory conduct; (f) whether the conduct unreasonably interfered with the Complainant's educational or work performance or university programs or activities; and (g) where the conduct implicates concerns related to academic freedom or protected speech.

ii. *Quid pro quo sexual harassment* exists when there are unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature and either adverse educational or employment actions are taken or credibly threatened if these behaviors are rejected or advantageous educational or employment actions are taken or credibly threatened if these behaviors are accepted.

F. Retaliation: Any form of retaliation, including intimidation, threats, harassment, and other adverse action taken or threatened against any Complainant or person reporting or filing a complaint alleging any form of Prohibited Conduct or any person cooperating in the investigation of allegations of Prohibited Conduct to include testifying, assisting or participating in any

| | |
|----------------------------------|---|
| | <p>manner in an investigation pursuant to this Policy. Action is generally deemed adverse if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this Policy. Retaliation may result in disciplinary or other action independent of the sanctions or interim measures imposed in response to the underlying allegations of Prohibited Conduct.</p> <p>G. <u>Complicity</u>: is any act that knowingly aids, facilitates, promotes or encourages the commission of Prohibited Conduct by another person.</p> |
| <p>*POLICY STATEMENT:</p> | <p><u>POLICY STATEMENT</u></p> <p>The University of Mary Washington (UMW) is committed to providing a safe and non-discriminatory learning, living, and working environment for all members of the University community. UMW does not discriminate on the basis of sex or gender in any of its education or employment programs and activities. To that end, this Policy prohibits specific forms of behavior that may violate Title IX of the Education Amendments of 1972 (“Title IX”); relevant provisions of VAWA; Title VII of the Civil Rights Act of 1964 (“Title VII”); the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”); and the Virginia Human Rights Act.</p> <p>UMW prohibits Sexual Assault, Sexual Exploitation, Intimate Partner Violence, Stalking, Sexual or Gender-Based Harassment, Complicity, and Retaliation against a person for the good faith reporting of any of these forms of Prohibited Conduct or participation in any investigation or process under this Policy (collectively, “Prohibited Conduct”). These forms of Prohibited Conduct undermine the character and purpose of the University, and will not be tolerated.</p> <p>The specific procedures for investigating, and resolving Prohibited Conduct are based upon the nature of the Respondent’s relationship to the university (student, employee, or third party. In situations where Respondent is both a student and employee: (a) any student-Respondent specific procedures will apply if the Respondent is a full-time student but not a full-time employee; (b) any employee-Respondent procedures will apply if the Respondent is a full-time employee but not a full-time student; and (c) in cases where there is a question as to the</p> |

predominant role of the Respondent, the university's Title IX Coordinator will determine which procedures apply based on the facts and circumstances (such as which role predominates in the context of the Prohibited Conduct). Further, where a Respondent is both a student and an employee, the Respondent may be subject to any of the sanctions applicable to students and/or employees. Each set of procedures referenced below is guided by the same principles of fairness and respect for Complainants and Respondents.

UMW adopts this Policy with a commitment to: (1) eliminating, preventing, and addressing the effects of Prohibited Conduct; (2) fostering a community of trust and mutual respect in which Prohibited Conduct is not tolerated; (3) cultivating a climate where all individuals are well-informed and supported in reporting Prohibited Conduct; (4) providing a fair and impartial process for all parties; and (5) identifying the standards by which violations of this Policy will be evaluated and disciplinary action may be imposed. Employees or students who violate this Policy may face disciplinary action up to and including termination or expulsion. The University will take prompt and equitable action to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects. The University conducts ongoing prevention, awareness, and training programs for employees and students to facilitate the goals of this Policy.

It is the responsibility of every member of the UMW community to foster an environment free of Prohibited Conduct. All members of the UMW community are encouraged to take reasonable and prudent actions to prevent or stop an act of Prohibited Conduct. Community members who take such actions will be supported by the university and protected from Retaliation.

This Policy applies to all reports of Prohibited Conduct occurring on or after the effective date of this Policy. Where the date of the Prohibited Conduct precedes the effective date of this Policy, the definitions of Prohibited Conduct in existence at the time of the alleged incident(s) will be used. The procedures under this Policy, however, will be used to investigate and resolve all reports made on or after the effective date of this Policy, regardless of when the incident(s) occurred.

ROLE OF THE TITLE IX COORDINATOR

Under Title IX, “[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.”

The Title IX Coordinator is charged with monitoring UMW’s compliance with Title IX; ensuring appropriate education and training; coordinating and reviewing UMW’s investigation, response, and resolution of all reports under this Policy; and ensuring appropriate actions to eliminate Prohibited Conduct, prevent its recurrence, and address its effects.

The Title IX Coordinator is available to meet with any student, or employee to discuss this Policy or the accompanying procedures. UMW has also designated two Title IX Deputy Coordinators and a Title IX Investigator who may assist the Title IX Coordinator in the discharge of these responsibilities. The Title IX Coordinator, Title IX Deputies, and Title IX Investigator receive appropriate training to discharge their responsibilities.

Concerns about UMW’s application of Title IX, VAWA, Title VII, the Clery Act, or the Virginia Human Rights Act may be addressed to the Title IX Coordinator; the United States Department of Education, Clery Act Compliance Division (at clery@ed.gov); the United States Department of Education, Office for Civil Rights (at OCR@ed.gov or (800) 421-3481); and/or the Equal Employment Opportunity Commission (at info@eeoc.gov or (800) 669-4000).

The Title IX Coordinator, Title IX Deputies, and Title IX Investigator can be contacted in person during regular office hours or by telephone or email:

Sabrina Johnson, J.D., Interim Title IX Coordinator
Vice President of Equity and Access & Chief Diversity Officer
George Washington Hall, room 113
sjohnson@umw.edu (540) 654-1213 (office)

Myranda Thomson, Title IX Deputy for Students
Area Coordinator
mthomson@umw.edu (540) 654-1184 (office)

| | |
|---------------------------|--|
| | <p>Terri Arthur, Title IX Deputy for Employees Employee Relations Manager Fairfax House tlockhar@umw.edu (540) 654-2051</p> <p>Stefanie Lucas-Waverly, Title IX Investigator Office of Title IX Fairfax House, 1st Floor slucaswa@umw.edu (540) 654-1263</p> |
| <p>PROCEDURES:</p> | <p><u>Resources and Reporting Options</u></p> <p>A. <u>Resources</u>: UMW offers a wide range of resources for both students and employees for support and guidance in response to any report of Prohibited Conduct. See <i>Appendix A</i> for information on accessing University and community resources, including emergency and ongoing assistance; health, mental health, and victim-advocacy services; options for reporting to the University and/or law enforcement; and available support with academics, housing, and employment. See <i>Appendix B</i> for a description of UMW’s educational programs and campaigns to promote awareness of and prevent the occurrence of Prohibited Conduct, including the use of bystander intervention as appropriate.</p> <p>B. <u>Treatment of Reports as Private and Options for Confidential Reporting</u>: UMW is committed to protecting the privacy of all individuals involved in the investigation and resolution of a report under this Policy. UMW is also committed to providing assistance to help students and employees make informed choices. With respect to any report under this Policy, UMW will make reasonable efforts to protect the privacy of participants while balancing the need to gather information to assess the report and to take steps to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects.</p> <p>i. <i>Distinction between Privacy and Confidentiality</i>. Privacy and confidentiality have distinct meanings under this Policy. “Privacy” means that information related to a report of Prohibited Conduct will be shared with a limited circle of UMW employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report. All Employees who are involved in the UMW’s Title IX response receive specific</p> |

training and guidance about safeguarding private information. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), as outlined in the university’s FERPA Policy. The privacy of an individual’s medical and related records generally is protected by Virginia’s Health Records Privacy statute, Va. Code § 32.1-127.1:03. Access to an employee’s personnel records in Virginia may be restricted in accordance with the Virginia Freedom of Information Act, and, where applicable, Department of Human Resource Management (“DHRM”) Policy 6.05 Personnel Records Disclosure and DHRM Policy 6.10 Records Management.

“Confidentiality” exists in the context of laws that protect certain relationships, including with medical and clinical care providers, mental health providers, counselors, and ordained clergy, all of whom may engage in confidential communications under Virginia law. When an individual shares information with a professional who has the ability to have confidential communications, that person cannot reveal the shared information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information shared in a confidential context may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there is a concern that the individual will likely cause serious physical harm to self or others; or (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18.

ii. Responsibility of UMW Employees to Report Information about Prohibited Conduct:

At UMW, a "**Confidential Employee**" is any employee who is a licensed medical, clinical or mental health professional when acting in his or her professional role providing services to a patient who is a student and any employee providing administrative, operational and/or related support for such health care providers as well as the Victim Advocate/Case Manager under the Office on Violence Against Women Grant. A Confidential Employee will not disclose information about Prohibited Conduct to the University’s Title IX Coordinator without the Student’s permission subject to the exceptions set forth above and as required under state and federal law.

| | |
|--|---|
| | <p>At UMW, a “Responsible Employee” is any employee who is not a Confidential Employee. Responsible Employees, who in the course of employment, obtain information (directly or indirectly) about an incident(s) of Prohibited Conduct that may involve a student and/or incident(s) of Prohibited Conduct that may have occurred on campus, in or on a noncampus building or property, or on public property⁶ shall report such information (including dates, times, locations, and names of the parties and witnesses) to the Title IX coordinator as soon as practicable after addressing the immediate needs of the victim.</p> <p>Responsible Employees receiving such reports or complaints should immediately notify the Title IX Coordinator and should not undertake any independent efforts to determine whether or not the report or complaint has merit before reporting it to the Title IX Coordinator. Disclosures at public awareness events (e.g., “Take Back the Night”) and certain research-based disclosures (i.e., where a student is a subject in an Institutional Review Board-approved human subjects research protocol) will not trigger an individual investigation of Prohibited Conduct, although such disclosures may inform the need for community-wide education and prevention efforts.</p> <p>Under this Policy, supervisors, management and human resources professionals are required to report to the University’s Title IX Coordinator all relevant details about an incident of Prohibited Conduct where either the Complainant or the Respondent is an employee. Reporting is required when supervisors, management and human resource professionals knew (by reason of a direct or indirect disclosure) or should have known of such Prohibited Conduct. For academic faculty, supervisors include department chairs, deans, and other unit administrators.</p> <p><i>iii. University’s Responsibility to Report Incidents under the Clery Act:</i></p> <p>Pursuant to the federal Clery Act, UMW includes statistics about certain offenses in its annual security report and provides those statistics to the United States Department of Education in a manner that does not include any personally identifying information about individuals involved in an incident. The Clery</p> |
|--|---|

⁶ Please see above definition for “Campus,” “Noncampus Building or Property,” or “Public Property” Va. Code § 23.1-806 (the “Virginia Reporting Statute”).

Act also requires UMW to issue timely warnings to the UMW community about certain crimes that have been reported and may continue to pose a serious or continuing threat to students and employees. Consistent with the Clery Act, UMW withholds the names and other personally identifying information of Complainants when issuing timely warnings to the university community.

C. Reporting Prohibited Conduct: There are multiple channels for reporting Prohibited Conduct. A Complainant may choose to report to the University, to law enforcement, to both, or to neither. These reporting options are not exclusive. Complainants may simultaneously pursue criminal and disciplinary action. UMW will support Complainants in understanding and assessing their options.

i. Reports to Law Enforcement

Complainants have the right to notify or decline to notify law enforcement. In keeping with its commitment to take all appropriate steps to eliminate, prevent, and remedy all Prohibited Conduct, UMW urges Complainants to report Prohibited Conduct **immediately** to local law enforcement by contacting:

- 911 (for emergencies)
- University Police ((540) 654-1025)(for non-emergencies)
- City of Fredericksburg Police ((540) 373-3122) (for non-emergencies)

Police have unique legal authority, including the power to seek and execute search warrants, collect forensic evidence, make arrests, and assist in seeking Emergency Protective Orders. Although a police report may be made at any time, Complainants should be aware that a one-year statute of limitations may apply to certain misdemeanors in Virginia. UMW will assist Complainants in notifying law enforcement if they choose to do so.

The local Commonwealth's Attorney shall be notified within 48 hours of initiation if a law enforcement investigation is conducted, if an incident involves a felony criminal sexual assault that occurs in a building or on property owned or controlled by the University

and used in direct support of the institution's educational mission or on public property adjacent to campus. Identifying information of the Complainant is not required to be provided in this notification.

ii. Reports to the University

UMW also urges anyone who becomes aware of an incident of Prohibited Conduct to report the incident **immediately** to the University through the following reporting options:

- A. Reports involving student-respondents may be submitted through the following:
 - 1. Through Maxient, the University's website for online reporting (which also allows for anonymous reporting) <http://www.umw.edu/concerns/>; or
 - 2. By contacting UMW's Title IX Coordinator, Title IX Deputies or Title IX Investigator by telephone, email, or in person during regular office hours at their respective locations, email addresses and/or phone numbers listed above.

- B. Reports involving employee-respondents may be submitted through the following:
 - 1. In written format, including email or verbally to the Title IX Coordinator or the Title IX Deputy for Employees or designee(s) regarding the events and circumstances underlying the complaint.

There is no time limit for reporting Prohibited Conduct to the University under this Policy; however, UMW's ability to respond may diminish over time, as evidence may erode, memories may fade, and Respondents may no longer be affiliated with the University. If the Respondent is no longer a student or an employee, UMW will provide reasonably appropriate remedial measures, assist the Complainant in identifying external reporting options, and take reasonable steps to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects. UMW's ability to take appropriate corrective action against a third party will be determined by the nature of the relationship of the third party to the University. The Title IX Coordinator will determine the appropriate manner of resolution consistent with the university's commitment to a prompt and appropriate

| | |
|---|---|
| | <p>process, consistent with federal and state law, federal guidance and this policy.</p> <p>Employee-Complainants are encouraged to report Prohibited Conduct by another employee without undue delay, preferably within one (1) year of the alleged incident. The employee-Complainant must also disclose if a formal complaint has been filed with a state or federal agency for the same offense.</p> <p>D. Amnesty: Complainants or witnesses of Prohibited Conduct frequently have been using alcohol or other drugs at the time of the incident, and might fear that they will be held accountable or “get into trouble” for having violated UMW’s policies related to alcohol or drugs, or other aspects of the Code of Conduct, if they report the Prohibited Conduct. Recognizing the potentially devastating impact of Prohibited Conduct on not just the individual but on the UMW community, UMW will grant limited amnesty to the student(s) from drug, alcohol, and other student conduct policies, if their behavior did not put other individuals at risk. The decision to grant limited amnesty will be made by the Dean of Student Life in consultation with the Title IX Coordinator and the Director of Judicial Affairs and Community Responsibility.</p> <p>E. Preservation of evidence: Even if a Complainant of Prohibited Conduct is unsure whether they want to report the incident, steps can be taken to preserve evidence. A forensic examination by a Sexual Assault Nurse Examiner (SANE nurse) will preserve evidence, and may be done up to five (5) days after an assault. There is no cost to the Complainant. Currently, SANE nurses are available through the Mary Washington Hospital Emergency Room: 540-741-1000 / ‘911’ (emergencies). Preserving evidence, including a forensic exam performed by a SANE nurse, does not obligate the Complainant to pursue criminal charges or to appear in court.</p> |
| <p>* General Procedures for Implementation:</p> | <p><u>Initial University Response</u></p> <p>Reports of Prohibited Conduct are assessed to identify appropriate protections and resources for Complainants and the University Community, to evaluate whether further investigation is needed, and to determine whether criminal reporting must occur under applicable state and federal laws.</p> |

1. Initial Meeting with the Complainant:

After the University receives notice of a reported incident of Prohibited Conduct by a student or employee, the Title IX Coordinator or other as designated by the Title IX Coordinator will meet with the Complainant, as soon as practicable, which will include a discussion of the reported incident and the procedures under this *Policy*. The Title IX Coordinator or designee(s) will make an initial assessment of the information to confirm that the complaint involves an allegation(s) of Prohibited Conduct under this *Policy*. If the conduct alleged is not Prohibited Conduct, but might constitute a violation of a different policy, an appropriate referral will be made.

a) When The Complainant Wishes to Pursue a Title IX Investigation

In every case where the Complainant reports Prohibited Conduct in violation of this *Policy* and requests an investigation and disciplinary action and it is determined by the Title IX Coordinator or designee(s) that there is sufficient evidence to support an investigation under this *Policy*, a fair, neutral, and impartial investigation will be initiated based on the Respondent's relationship to the University (student, employee, third party, etc.) and the procedures outlined in this *Policy*.

Investigations involving student-Respondent(s) shall be coordinated by the Title IX Investigator or other trained investigator(s) at the discretion of the Title IX Coordinator. Investigations involving employee-Respondent(s) shall be coordinated by the Title IX Deputy for Employees or other trained investigator(s) at the discretion of the Title IX Coordinator. In all cases the University will ensure that there is no actual conflict of interest in the investigation and resolution of complaints and will strive to avoid the appearance of conflict of interest.

b) When a Complainant Requests that an Investigation Not Be Continued or that No Disciplinary Action Be Taken

When a Complainant requests that an investigation

| | |
|--|---|
| | <p>not be continued or that no disciplinary action be taken, the Title IX Coordinator, Title IX Deputies, Title IX Investigator or designee(s) will consider the totality of the known circumstances and the risk factors listed above. If it is determined that the investigation will continue against the Complainant's request, the Complainant will be notified in writing.</p> <p><u>2. Threat Assessment</u></p> <p><u>a. Review Committee</u> - Within 72 hours of the Title IX Coordinator's receipt of a report of Sexual Violence⁷, a review committee shall be convened consisting of the Title IX Coordinator or designee(s), a representative of the UMW Police Department, a representative of the Division of Student Affairs and other administrators as appropriate. The review committee shall consider whether to disclose information about the incident, including personally identifiable information, with or without the Complainant's consent in order to protect the health or safety of the student or other individuals to the extent permitted under the federal regulations implementing FERPA (34 C.F.R. §99.36) and Va. Code § 23.1-806 (the "Virginia Reporting Statute.") If such disclosure is made, the Title IX Coordinator or designee(s) shall promptly notify the affected Complainant.</p> <p><u>Risk Factors Considered When Determining the Threat of Safety to the Complainant, other Individuals, or the University Community.</u></p> <ol style="list-style-type: none"> 1) Whether the Respondent has prior arrests, is the subject of prior reports and/or complaints related to any form of Prohibited Conduct, or has any history of violent behavior; 2) Whether the Respondent has a history of failing to comply with any University No-Contact Order, other |
|--|---|

⁷ "Sexual violence" means physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (Va. Code § 23.1-806 (the "Virginia Reporting Statute")).

| | |
|--|--|
| | <p>University protective measures, and/or any judicial protective order;</p> <ol style="list-style-type: none">3) Whether the Respondent has threatened to commit violence or any form of Prohibited Conduct;4) Whether the Prohibited Conduct involved multiple Respondents;5) Whether the Prohibited Conduct involved physical force;6) Whether the report reveals a pattern of Prohibited Conduct (e.g., by the Respondent, by a particular group or organization, around a particular recurring event or activity, or at a particular location);7) Whether the Prohibited Conduct was facilitated through the use of “date-rape” or similar drugs or other substances;8) Whether the Prohibited Conduct occurred while the Complainant was unconscious, physically helpless or unaware that the Prohibited Conduct was occurring; and/or9) Other factors deemed relevant. <p><u>b. Disclosure of Information to Law Enforcement:</u> If the reported Prohibited Conduct constitutes a felony violation of Article 7 of Chapter 4 of Title 18.2 of the Code of Virginia, then the UMW Police Department representative shall consult with the local Commonwealth Attorney or other responsible prosecutor within 24 hours and provide the prosecutor with the information received by the review committee without disclosing personally identifiable information unless such disclosure is deemed necessary as set forth above.</p> <p><u>c. Interim Measures</u> UMW will offer reasonable and appropriate interim measures to protect the Complainant and the University Community as a whole, as well as resources and support (Appendix A) to facilitate the Complainant’s continued access to University employment or education programs and activities. These measures may be both <i>remedial</i> (designed to address a Complainant’s safety and well-being and continued access to educational opportunities) or <i>protective</i> (involving action against a Respondent). Remedial and protective measures, which may be</p> |
|--|--|

temporary or permanent (within applicable federal and state laws), may include, but are not limited to, no-contact orders (which are typically mutual), residence modifications, academic modifications and support, work schedule modifications including temporary reassignment, pre-disciplinary interim suspension, withholding of diploma, pre-disciplinary interim suspension for employees with or without pay, or a combination of interim measures. Such interim measures are reasonably available regardless of whether the victim chooses to report the crime to campus police or local law enforcement.

The University will maintain the privacy of any remedial and protective measures provided under this Policy to the extent practicable and will promptly address any violation of the protective measures. If sufficient grounds exist, a Complainant may also seek a Protective Order from the Fredericksburg General District Court, which, if granted, would be enforced by the UMW Police Department.

The University will promptly notify the Complainant of any remedial or protective measures implemented. The University will notify the Respondent of any remedial or protective measures implemented that directly impact the Respondent. Both the Complainant and Respondent have the right to discuss those remedial and protective interim measures by contacting the Title IX Coordinator. The Title IX Coordinator or designee(s) has discretion to impose or modify remedial and protective interim measures.

INVESTIGATION PROCEDURES AND PROTOCOLS FOR COMPLAINTS INVOLVING STUDENT-RESPONDENTS

The below procedures and protocols will be used when investigating and resolving complaints under this *Policy* committed by students.

A. Notification

If it is determined that an investigation will go forward, the Respondent will be notified in writing. Written notification will state facts sufficient to apprise the Respondent of the nature of the allegation(s). Such notice will:

1. Identify specific alleged Policy violation(s);

2. Identify the Complainant and Respondent;
3. Date(s) of alleged Policy violation(s) (if known);
4. Approximate time of alleged Policy violation(s) (if known);
5. Locations(s) of alleged Policy violations (if known); and
6. Nature of the alleged Prohibited Conduct.

B. Timing of The Investigation

Every effort will be made to investigate and resolve a complaint in a timely fashion, usually within 60 business days (not including appeal) of it being reported. However, this time frame may be extended for good cause, which may exist if additional time is necessary to ensure the integrity and completeness of the investigation, comply with requests from law enforcement for temporary delay for gathering evidence for a criminal investigation, accommodate the availability of witnesses, UMW breaks or vacations, the complexity of the case, including volume of witnesses and information, or other legitimate reasons.

In the interim, UMW will take appropriate steps to support the Complainant and to address the needs of the UMW community. Both the Complainant and the Respondent will be notified, in writing, if the investigation cannot be completed within the timeframe specified above.

C. Standard of Proof and Presumption of Non-Responsibility

The investigator shall determine if there is a Preponderance of the Evidence to substantiate the complaint of allegations of Prohibited Conduct. A Respondent will not be found in violation of this Policy absent a finding of a Preponderance of the Evidence that the violation occurred. The Preponderance of the Evidence standard requires that the weight of the evidence, in totality, supports a finding that it is more likely than not that a violation occurred.

The investigation is a neutral fact-gathering process. The Respondent is presumed to be not responsible. This presumption may only be overcome if the Title IX Investigator(s) or designated investigator(s) conclude that there is sufficient evidence, by a Preponderance of the Evidence, to support a finding that the Respondent's

conduct violated the Policy.

D. Role of the Parties

The Title IX Investigator cannot compel the Complainant, Respondent, or witnesses to share information about the incident. However, whether or not any party or individual has shared information, the Title IX Investigator will issue a finding at the end of the investigation, based on the Preponderance of the Evidence. The finding will address whether or not there is sufficient evidence to find that the Respondent's conduct violated the Policy, and, if applicable, what sanctions and remedies are recommended.

E. Advisors

During the investigation and appeal process, the Complainant and the Respondent may be accompanied by an advisor of their own choosing, who is not otherwise a party or witness to or involved in the investigation. Complainants or Respondents who wish to be accompanied by an advisor are requested to inform the Title IX Investigator or designated investigator(s) the identity of their advisor, in writing, at least 24 hours' prior to the scheduled meeting. The decision of one individual not to exercise rights exercised by another, including the right to choose an advisor, shall not be considered to be an error in the investigation.

Role of Advisor: The advisor does not play an active role and is not allowed to speak on behalf of the individual that they are advising. They are allowed to support the individual during the investigation process; to assist the individual in preparing and submitting evidence and in responding to questions; to advise the individual in suggesting witnesses; to advise the individual in suggesting questions to be asked of witnesses and other individuals in the investigation process; to assist the individual in reviewing the Preliminary Investigative Report and attached relevant evidence; to assist the individual in reviewing the Final Investigative Report, including findings and, if applicable, recommended sanctions and remedies; and to assist the individual in requesting an appeal of the Title IX Investigator's findings or recommendations as permitted under this Policy as described below.

During meetings and hearings, the advisor may talk quietly with the student or pass notes in a nondisruptive manner. The advisor may not intervene in an interview, meeting or hearing or address the Title IX Investigator or Title IX Appeal Board, including by giving evidence, questioning witnesses or making objections. While advisors may provide guidance and assistance, all written submissions must be authored by the student.

All University administrators, including the Title IX Coordinator, Title IX Deputies, Title IX Investigator, staff and other designees, will communicate directly with the Complainant or Respondent, rather than with the advisor. Advisors will not be copied onto any form or written or oral communication. It is the student's responsibility to communicate with their advisor, including but not limited to, information related to scheduling and process updates.

F. Scheduled Interviews

Individuals participating in a Title IX investigation should remember that they are on their honor, and that they are required to attend all scheduled meetings with the Title IX Investigator or designated investigator(s). If a scheduling conflict comes up, it is requested that individuals contact the Title IX Investigator at least 24 hours in advance, if possible.

G. Confidentiality v. Privacy

The Complainant, Respondent, and witnesses should be aware that information shared during the Title IX investigation is private but not confidential. This means that information may be shared on a need to know basis. Also, information shared by the Complainant will be shared with the Respondent, and information shared by the Respondent will be shared with the Complainant; information shared by witnesses will be shared with both the Complainant and the Respondent. Additionally, all information shared during the Title IX investigation is subject to subpoena. Furthermore, if the Complainant or the Respondent appeals and requests that the Title IX Investigator's findings be reviewed, those findings and recommendations, and the information on which they are

based, will be shared with the persons hearing the appeal or reviewing the findings and recommendations.

H. Consolidation of Reports

The University may adjudicate multiple charges at one time if they stem from the same incident or are based on a pattern of behavior close enough in time or related sufficiently by their nature to be reasonably resolved in a single investigation. Matters may be consolidated where they involve multiple Complainants, multiple Respondents, cross-complaints, or related conduct involving the same parties that would otherwise have been heard under the Code of Conduct, Honor Code, or any other Policy (provided that it does not delay the prompt resolution under the *Policy*).

I. Overview of the Investigation

During the investigation, the Title IX Investigator(s) or other designee(s) will meet separately with the Complainant, Respondent, and other relevant witnesses for a statement(s) which may be recorded by the investigator(s). The Complainant, the Respondent, witnesses, advisors or others present during the statement shall not record the interview. The statement will be made available to the parties and witnesses for review in accordance with the procedures under the *Policy*.

The Title IX Investigator(s) will gather relevant and available information and evidence, including, but not limited to, electronic records or communications, photographs, surveillance videos, records or logs, medical records (subject to consent by the party), and other relevant evidence. Follow up interviews may be conducted with both or one of the parties and witnesses who may be asked about or shown specific statements or documentary evidence.

Throughout the investigation, the Complainant and Respondent will have an equal opportunity to be heard, to provide evidence, to suggest witnesses to be interviewed during the course of the investigation, and to submit suggested questions to be directed by the Investigator to each other or to any witness.

I. Sexual History and Prior or Subsequent Conduct

Sexual History: The sexual history of a Complainant or Respondent will never be used to prove character or reputation. Evidence related to the prior sexual history of either of the parties is generally not relevant to the determination of a Policy violation and will be considered only in limited circumstances. For example, where there is a current or ongoing relationship between the Complainant and Respondent, and there is an issue of consent, the prior sexual history between the parties may be relevant to assess the manner and nature of the communications between the parties. However, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. In addition, prior sexual history may be relevant to explain the presence of a physical injury, mistaken identity, or to help resolve other questions raised by the investigation.

Prior or Subsequent Conduct: Prior or subsequent conduct, including sexual misconduct or harassing behavior of the Respondent, regardless of whether there has been a prior finding of responsibility, may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar conduct.

The Investigator will determine the relevance of this information and both parties will be informed, in the Preliminary Investigative Report, if evidence of prior or subsequent conduct or sexual history is deemed relevant to the findings.

K. Relevance

The Title IX Investigator has the discretion to determine the relevance of any proffered evidence and to include or exclude certain types of evidence. In general, the Investigator will not consider statements as to any party's general reputation for any character trait or statements of personal opinion, rather than direct observations or

reasonable inferences from the facts. Polygraph evidence is not considered relevant for the investigation or, if applicable, the appeal.

L. Preliminary Investigative Report

At the conclusion of the investigation, the Title IX Investigator or designee(s) will prepare a Preliminary Investigative Report summarizing the relevant information gathered. The Preliminary Investigative Report will not contain any recommended findings or, if applicable, recommendations for sanctions and remedies. The Investigator or designee(s) will attach relevant statements and evidence obtained during the investigation to the Preliminary Investigative Report. Prior to the completion of the Preliminary Investigative Report, all records gathered or drafted by the Investigator shall be kept in the sole possession of the Investigator and shall not be accessible to any other person except the Title IX Coordinator and/or designee(s). The Title IX Investigator may present to parties or witnesses records or statements gathered or drafted to further the investigation at the Investigator's or designee(s) discretion.

Prior to completion of the Preliminary Investigative Report, a draft of the Report will be given to the Title IX Coordinator or designee(s) for review. The Title IX Coordinator will review the Report to ensure integrity, completeness, and compliance with Policy throughout the investigation. After review by the Title IX Coordinator or designee(s) and upon completion of the Report, the Investigator will make the Preliminary Investigative Report and attached documents available to the Complainant and Respondent. The parties have the same opportunity to review and respond to the Preliminary Investigative Report and attached documents prior to the preparation of the Final Investigative Report. The parties will have (5) five business days to respond to the Preliminary Investigative Report and attached documents. The parties may do the following:

- a. Provide a written statement such as, but not limited to, commenting on the report or attached documents or providing clarity, follow up or

information; and/or

- b. The parties may also request further investigation, including, but not limited to, follow up questions for witnesses or the parties involved, interview(s) of other witnesses, and/or requests for a meeting with the Investigator. The Title IX Investigator or designee(s) will determine the relevance, if any, of the requests by either party for further investigation. If the 60-business day timeline needs to be adjusted, both parties will be notified.

Evidence – It should be noted that if the parties, during the investigation, do not provide evidence or information to the Title IX Investigator or designee(s) that they knew about or with reasonable due diligence should have known about, such as information or evidence (including witnesses), it will not be considered after the review period of the Preliminary Investigative Report has expired (5 business days), including during the appeal process.

M. Impact and Mitigation Statements

The Complainant and Respondent may provide a written statement to the Title IX Investigator or designee(s) to be used to determine the appropriate sanction(s) only if the Respondent is found responsible. The Complainant may submit a written statement describing the impact of the Prohibited Conduct on the Complainant and expressing a preference about the sanction(s) to be imposed. The Respondent may submit a written statement explaining any factors that the Respondent believes should mitigate or otherwise be considered in determining the sanctions(s) imposed. The Respondent's submission of such a statement shall not be considered as evidence of responsibility.

N. Final Investigative Report

At the completion of the investigation and any subsequent investigation after the parties review the Preliminary Investigative Report, the Title IX Investigator or designee(s) will produce a Final Investigative Report, which will recommend a finding(s) and determine whether or not there is sufficient evidence to support that the Respondent's conduct violated the Policy by a

| | |
|--|---|
| | <p>Preponderance of Evidence.</p> <p>If the Respondent is found responsible and in violation of the Policy, the Title IX Investigator or designee(s) will make recommendations for steps that should be taken to prevent recurrence of any such violation and, as appropriate, accommodations and remedies for the Complainant and the community.</p> <p>The findings will also contain recommended sanctions. The recommended sanction will take into account the circumstances of the violation, its impact on the Complainant and on the community, risk of further victimization or risk to the University Community, any prior Code of Conduct violations (not just those related to this <i>Policy</i>), the Complainant's impact statement, the Respondent's mitigation statement and any other relevant information.</p> <p>If interim measures have been implemented, the findings shall include a recommendation regarding continuation, suspension, or modification of any such interim measures.</p> <p>Further, because sexual misconduct is likely to have a negative impact on the Complainant's academic performance, the Title IX Investigator or designee(s) may recommend that the Complainant be allowed to withdraw from academic classes without penalty, be given the opportunity to retake academic classes, or to receive full or partial refunds for tuition and other fees. Other accommodations related to housing, meal plans, academics, participation in extracurricular activities, etc. may be given. The Title IX Investigator or designee(s) may also recommend additional assessment, education, or steps to protect the greater UMW community, or a subset of the community (a specific residence hall or student organization, for example), as appropriate.</p> <p>Prior to the completion of the Final Investigative Report, a draft of the Report will be given to the Title IX Coordinator or designee(s) for review. The Title IX Coordinator or designee(s) will review the recommended findings and, if applicable, the recommended sanctions, remedies, and</p> |
|--|---|

accommodations to ensure integrity, completeness, and compliance with Policy throughout the investigation.

O. Sanctions

Students can receive a range of sanctions including but not limited to: warning; educational project or paper; alcohol education; individual or community restitution; restrictions; disciplinary probation; relocation within or suspension or expulsion from the residence halls; fine; and suspension or expulsion from the University. For a description of these possible sanctions, please refer to *Appendix C*.

P. Notification of Outcome

Both the Respondent and the Complainant will be informed, in writing, of the outcome of the investigation and that the Final Investigative Report is complete and available for review. A copy of the Final Investigative Report will be given to the Title IX Coordinator.

INVESTIGATION PROCEDURES AND PROTOCOLS FOR COMPLAINTS INVOLVING EMPLOYEE-RESPONDENTS

The below procedures and protocols will be used when investigating and resolving complaints under this *Policy* committed by employees. A complaint against a faculty member will be investigated and resolved under the procedures and guidelines of this *Policy*, including sanctions, and **not** under the procedures Faculty Handbook or other university policies.

A. Informal and Formal Investigation

Complaints about faculty, staff, or employee violations under this *Policy* may be resolved either formally or informally. Whether informal investigation is pursued will be based on the facts and must be agreed on by both parties and the Title IX Coordinator, Title IX Deputy for Employees or another trained investigator(s). *The informal investigation process may not be used to address allegations of Sexual Assault.*

1. **Informal Investigation and Resolution (may not be used to address allegations of Sexual Assault)**

An informal investigation may be appropriate in some circumstances if all parties, the Title IX Coordinator, Title

IX Deputy for Employees, or another trained investigator(s) agree. Informal investigation is encouraged when the parties desire to resolve the situation cooperatively and/or when a formal investigation and resolution is not likely to yield a satisfactory outcome. ***Forms of informal investigation and resolution that involve face-to-face meetings between the Complainant and Respondent are not available when the Complainant is a student and the Respondent is an employee or in a position of authority over the Complainant.***

a. Process

The Title IX Deputy for Employees, at the discretion of the Title IX Coordinator, shall attempt to facilitate a resolution that is agreeable to the Complainant, the Respondent, and the University. The Title IX Deputy for Employees will conduct a preliminary investigation, which may include inquiry into the facts and informal discussions with both parties, only to the extent needed to resolve the complaint. Both parties may request witnesses to be interviewed and provide evidence.

If at any point during an informal investigation, the Complainant, Respondent, Title IX Coordinator, Title IX Deputy for Employees, or other trained investigator(s) involved wish to suspend the informal investigation and proceed through a formal investigation, that request shall be granted.

b. Timeframe

Typically, an informal investigation will be completed within 30 days after the University receives notice of the complaint. If informal investigation is extended beyond the 30 days, all parties shall be notified in writing.

c. Possible Outcomes and Remedies

Informal investigation and Resolution outcomes and remedies include, but are not limited, to the following:

1. Targeted training or broad-based education programming or training for relevant individuals or groups;

| | |
|--|--|
| | <ol style="list-style-type: none">2. Behavioral Counseling;3. Actions designed to maximize the Complainant's access to educational, extracurricular, and/or University employment activities;4. Increased monitoring, supervision, and/or security at locations or activities where the Prohibited Conduct occurred or is likely to reoccur;5. Documented performance and conduct warnings of future corrective action, should behavior recur;6. Changes in work locations, assignments, reporting structure, and other relevant workplace circumstances; and/or7. Any other remedial or protective measures that can be tailored to the involved individuals to achieve the goals of the <i>Policy</i>. <p>d. <u>Agreement Between the Parties and the University & Notification of Outcome</u></p> <p>Any resolution of a complaint through an informal investigation must adequately address the concerns of the Complainant, the rights of the Respondent, and the responsibility of the University to prevent, address and remedy alleged violations of Prohibited Conduct under this <i>Policy</i>. If an agreement, acceptable to the University, the Complainant, and the Respondent, is reached through an informal investigation and resolution, the terms of the agreement will be implemented and the matter will be resolved and closed. Both parties will be provided written notification of this agreement, including the outcome and resolution, which must be signed by both parties. When a resolution is reached, the Title IX Deputy for Employees or designee(s) may notify, in writing, the Respondent's supervisor and/or other appropriate administrator. There shall be no right of appeal afforded to Complainant or the Respondent following an informal investigation and resolution.</p> <p>If an agreement is not reached and the Title IX Coordinator determines that further action is necessary or if the Respondent fails to comply with the terms of the agreement, the matter may be referred for a formal investigation and resolution under these procedures</p> |
|--|--|

(see below).

2. Formal Investigation and Resolution

Whenever a formal investigation is commenced, the Title IX Coordinator and/or Title IX Deputy for Employees will notify, in writing, Human Resources and the Respondent's supervisor and/or other appropriate administrator.

a. Process

The Title IX Deputy for Employees and/or other trained investigator(s) will conduct the investigation. The Title IX Deputy for Employees will meet separately with the Complainant, Respondent, and other relevant witnesses for a statement(s) which may be recorded by the investigator(s). The Complainant, the Respondent, witnesses, advisors or others present during the statement shall not record the interview. The statement will be made available to the parties and witnesses for review in accordance with the procedures under the *Policy*.

The Title IX Deputy for Employees will gather relevant and available information and evidence, including, but not limited to, electronic records or communications, photographs, surveillance videos, records or logs, medical records (subject to consent by the party), and other relevant evidence. Follow up interviews may be conducted with both or one of the parties and witnesses who may be asked about or shown specific statements or documentary evidence.

Throughout the investigation, the Complainant and Respondent will have an equal opportunity to be heard, to provide evidence, to suggest witnesses to be interviewed during the course of the investigation, and to submit suggested questions to be directed by the Investigator(s) to the other party or to any witness. Both Complainant and Respondent will have the same opportunity to review and respond to relevant evidence obtained during the investigation.

The following procedures outlined above in the section under *Investigation Procedures and Protocols for*

| | |
|--|---|
| | <p><i>Complaints Involving a Student-Respondents</i> shall apply during a formal investigation involving an alleged violation(s) by an employee:</p> <ol style="list-style-type: none">1. (A) Notification2. (B) Timing of the Investigation3. (C) Standard of Proof and Presumption of Non-Responsibility4. (D) Role of the Parties5. (E) Advisors and Role of Advisors6. (F) Scheduled Interviews7. (G) Confidentiality v. Privacy8. (H) Consolidation of Reports9. (J) Sexual History and Prior or Subsequent Conduct10. (K) Relevance11. (L) Preliminary Investigative Report12. (M) Impact and Mitigation Statements <p><u>b.</u> Final Investigative Report At the completion of the investigation and any subsequent investigation after the parties review the Preliminary Investigative Report, the Title IX Deputy for Employees and/or other trained investigator(s) will produce a Final Investigative Report, which will determine whether or not there is sufficient evidence to support that the Respondent's conduct violated the <i>Policy</i> by a Preponderance of the Evidence and make recommended findings. If appropriate, the report will contain recommended sanctions.</p> <p>If there is a recommended finding of responsibility, the Title IX Deputy for Employees will make recommendations for steps that should be taken to prevent recurrence of any such violation and, as appropriate, remedies for the Complainant and the community. If interim measures, as described above, have been implemented the findings shall include a recommendation regarding continuation, suspension, or modification of any such interim measures.</p> <p>Further, if it is a student Complainant, the Title IX Deputy for Employees may recommend that the Complainant be allowed to withdraw from academic classes without penalty, be given the opportunity to</p> |
|--|---|

retake academic classes, or to receive full or partial refunds for tuition and other fees. Other accommodations related to housing, meal plans, academics, participation in extracurricular activities, etc. may be given.

Prior to the completion of the Final Investigative Report, a draft of the Report will be given to the Title IX Coordinator and the Title IX Coordinator and will review the recommended finding(s) and, if applicable, the recommended sanctions, remedies, and accommodations to ensure integrity, completeness, and compliance with the Policy throughout the investigation.

c. Sanctions

Recommended sanctions may include, but not limited to, dismissal, suspension, reduction in pay, reduction in rank or status, or removal from a research project. For a list, possible sanctions, please refer to *Appendix D*.

Recommended sanctions will take into account the circumstances of the violation, its impact on the Complainant and on the community, risk of further victimization, impact or implications on the University Community, any prior misconduct by the Respondent, including the Respondent's relevant prior disciplinary history at the University or elsewhere and/or any criminal convictions, the Complainant's impact statement, the Respondent's mitigation statement, and any other relevant information.

d. Notification of Outcome

Both the Respondent and the Complainant will be informed, in writing, of the outcome of the investigation and that the Final Investigative Report is complete and available for review. A copy of the Final Investigative Report will be given to the Title IX Coordinator and the Respondent's supervisor or other appropriate administrator as determined by the Title IX Coordinator in consultation with Human Resources.

APPEAL PROCEDURES FOR COMPLAINTS INVOLVING

STUDENTS AND EMPLOYEES**1. Grounds for Appeal**

Either the Complainant or the Respondent may appeal and seek to have the Title IX Investigator, Deputy Title IX Investigator for Employees, or designees' (Investigator) findings or recommended sanctions reviewed by Title IX Appeal Board on one or more of the following grounds:

1. The Investigator exhibited unfair bias which influenced the results of the investigation;
2. The availability of new evidence, unavailable at the time of the investigation, that could substantially impact the Investigator's findings or recommendations;
3. An error in the investigation that is of such magnitude as to deny fundamental fairness; and/or
4. The sanctions recommended by the Investigator are inappropriate for or inconsistent with the violation or with the cumulative conduct record of the Respondent.

This request must be made in writing to the Title IX Coordinator within five (5) business days of being notified of the outcome of the investigation. The request must include specific information to support one or more of the aforementioned grounds for requesting an appeal. It shall be the responsibility of the Title IX Coordinator to decide whether or not the request for an appeal of the investigation meets one or more of the criteria listed above.

If neither the Complainant nor the Respondent seeks an appeal within (5) five business days of being notified of the outcome of the investigation and notice that the Final Investigative Report is complete and ready for review, the Final Investigative Report shall become final and the findings and recommendations contained within the Report shall be implemented by the Title IX Coordinator, who will notify the parties in writing.

2. Hearing Procedures before the Title IX Appeal Board

If either the Complainant or the Respondent submits a timely request for an appeal before the Title IX Appeal

Board and the Title IX Coordinator determines that sufficient grounds for review have been identified, the Title IX Coordinator shall refer the matter to the Chair of the Title IX Appeal Board to conduct a hearing as set forth below. The Title IX Coordinator will notify both the Complainant, Respondent, and the Investigator(s) who produced the Final Investigative Report, in writing, if an appeal has been requested, by what party, on what grounds, whether or not those grounds have been accepted or rejected, and if the matter has been referred to the Chair of the Title IX Appeal Board for an appeal.

New evidence presented (either witnesses and/or documentary evidence) that either party knew about or, if through due diligence, should have known about will not be considered during the appeal by the Title IX Appeal Board. Further, the Title IX Appeal Board review will be limited to the specific grounds identified in the referral by the Title IX Coordinator (e.g. Unfair bias, new evidence, sanctions, and/or fundamental fairness).

The hearing typically will be scheduled within (15) fifteen business days of being referred by the Title IX Coordinator. If more than (15) fifteen business days are necessary (for example, because of scheduled breaks or unscheduled University closings), both parties will be notified of the expected time frame. The parties have the right to advance notice of at least (5) five business days before the hearing is to be conducted. If the hearing is postponed for any reason under this Policy, the parties have the right to advance notice of at least (3) three business days before any postponed hearing. This notice will be given by the Chair of the Title IX Appeal Board.

3. Composition of the Title IX Appeal Board

The Title IX Appeal Board is composed of University administrators and faculty members. A panel of the Board shall be comprised of the Chair and three standing members. The panel will be chaired by a designated University administrator or faculty member at the discretion of the Title IX Coordinator or designee(s). All members of the Title IX Appeal Board receive appropriate training to discharge their responsibilities.

Both the Complainant and the Respondent will be informed, at least (3) three business days in advance as to which three members of the Title IX Appeal Board will be serving on their panel. Concerns about potential conflicts of interest or bias should be brought to the attention of the Chair within (1) one business day of such notification. A party alleging a potential conflict of interest or bias must provide, in writing, specific information to support the claim. A determination that there is sufficient evidence to support a claim of bias or a conflict of interest will be determined by the Title IX Coordinator or designee(s).

4. Procedures and Roles of the Parties

Within (5) five business days of notification by the Chair of the Title IX Appeal Board that the hearing is to take place, the party requesting the appeal must submit a written statement to the Chair that (i) identifies the names of witnesses that are requested to be called at the hearing; (ii) identifies any documents that are requested be used as evidence at the hearing; (iii) describes with specificity the portion of the *Policy on Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence* that allegedly was violated; and (iv) requests a specific remedy.

The other party may also submit to the Chair of the Title IX Appeal Board the information identified above within (5) five business days of notification by the Chair that the hearing is to take place.

The Investigator or designee(s) will provide the Chair of Title IX Appeal Board a copy of the Final Investigative Report and attached documents within (5) five business days of being notified by the Title IX Coordinator or designee(s) that an appeal by either or both party has been submitted and accepted.

If the other party chooses not to participate in the hearing, the Investigator or designee(s) will also provide the following information to the Chair within (5) five business days of being so notified: (i) the names of witnesses whose participation the Investigator requests at the hearing; and (ii) identification and copies of any documents that are

requested to be used as evidence at the hearing. If notice of the need for the Investigator to provide the above information is received fewer than (5) five business days prior to the scheduled hearing, the hearing shall be postponed to give the Investigator up to a full (5) five business days to provide the Chair with the above information.

The Chair shall make available to the selected members of the Title IX Appeal Board who will hear the appeal and to both parties (the original Complainant and Respondent) the Final Investigative Report and attached documents and all witness information and documents identified in the previous paragraph at least (3) three business days prior to the hearing.

The guiding principles outlined in sections E, F, and L above shall apply during the appeals process with the Chair of the Title IX Appeal Board exercising any discretion previously afforded to the Investigator. If either party has identified an advisor, that individual should notify the Chair of the Title IX Appeal Board about the advisor's identity at least 24 hours in advance to the hearing.

Rights given to the Respondent in the hearing process are given to the Complainant as well. For example, either party may request to be in a separate room, or to ask additional questions of the other party when invited to do so. Requests by either party will be resolved at the discretion of the Chair. The decision of one party not to exercise rights exercised by another shall not be considered to be an error in the hearing process.

5. The Role of the Chair

The Chair can request the participation of witnesses, and these witnesses can be questioned by the Complainant, the Respondent, and Title IX Appeal Board members during the hearing. All participants, including both parties, will address the Chair and not each other. Questioning of the Complainant and Respondent, whether by each other or by Title IX Appeal Board members, and of any witnesses and the Investigator, will not occur directly, but through the Chair.

The Chair ensures that the hearing is conducted in accordance with this Policy. The Chair does not determine whether or not a violation occurred (based on Preponderance of the Evidence) or what the sanction(s) should be; the Chair facilitates that discussion among Title IX Appeal Board members serving during that hearing.

Because the purpose of the hearing is not to determine whether or not a law has been violated, but rather to review the findings and recommendations of the Investigator or designee(s), the hearing will be a non-adversarial proceeding and the rules of evidence shall not be strictly applied. The Chair may limit evidence or testimony that is not relevant to whether or not the Investigator's findings or recommendations should be modified. The Chair reserves the right to determine the relevance of and limit any witnesses, questions, and proffered evidence prior to and during the hearing.

The Chair of the Title IX Appeal Board shall arrange for the proceedings of the hearing to be recorded solely for the purpose of providing the Title IX Coordinator and the parties with a record of the hearing in the event that either party, the Complainant or Respondent, has concerns about the process and wishes to present those concerns to the Title IX Coordinator. No recording of the hearing shall be made by other persons. The party requesting the hearing and the other individuals shall be provided reasonable access to the recording for purposes of review, with the understanding that no duplication of the recording shall be permitted.

A Preponderance of the Evidence standard will be used during the hearing. The hearing will be conducted in a fair and impartial manner. The Chair shall be the final decision-maker on all matters of procedure during the hearing. All hearings will be closed to the public.

6. Finding(s) by the Title IX Appeal Board

Within (5) five business days of the hearing, the Chair of Title IX Appeal Board will provide a written decision to the Complainant, the Respondent, the Investigator, and the

| | |
|--|---|
| | <p>Title IX Coordinator. The decision shall include a description of the grounds for requesting the hearing, whether such grounds are accepted or rejected, and the rationale for such determination; and the Title IX Appeal Board's recommendations to uphold or reject the finding(s) and/or the sanction(s) of the Investigator and the rationale for such determination. The Title IX Appeal Board may recommend to uphold any sanctions recommended by the Title IX Investigator, or it may recommend sanctions that are less or more severe.</p> <p>7. <u>Review of the Title IX Appeal Board's Findings</u> Concerns about the appeal process followed by the Title IX Appeal Board or the recommendations reached by the Title IX Appeal Board may be presented, in writing, to the Title IX Coordinator no later than (3) three business days after the Title IX Appeal Board's written decision. Within (7) seven business days of the Title IX Appeal Board's written decision, the Title IX Coordinator shall notify, in writing, the Complainant, the Respondent, the panel members, and the Investigator of the final decision relative to the recommendations and findings of the Title IX Appeal Board. The decision of the Title IX Coordinator is final with no further right to appeal.</p> <p>If a Student-Respondent is found responsible, a copy of the Final Investigative Report will be placed in the responsible student's educational file as maintained by the Title IX Coordinator or designee(s). <u>If an Employee-Respondent is found responsible, a copy of the Final Investigative Report will be placed in the employee's employment file as maintained by Human Resources.</u></p> <p>8. Virginia Personnel Act Alleged violations of this <i>Policy</i> by Employees covered by the Virginia Personnel Act will be reviewed under <i>Policy: 1.60 Standards of Conduct</i>.⁸ http://www.dhrm.virginia.gov/docs/default-source/hrPolicy/pol1_60.pdf?sfvrsn=2</p> |
|--|---|

⁸ If *Policy 1.60 Standards of Conduct* is amended or replaced, alleged violations under this *Policy* will be reviewed under the most up-to-date version.

| | |
|--|--|
| | <p><u>Q. Virginia Law</u></p> <p>In accordance with Virginia law, a notation will be made on a responsible student's transcript if the sanctions of expulsion or suspension are imposed, or if a student who is the subject of a complaint withdraws from the University while the complaint is being investigated. This notation is required only if the complaint is related to sexual violence, which is defined as any physical sexual act perpetrated against a person's will, or against a person incapable of giving consent. The notation will read, '[Suspended/Dismissed/Withdrew while under investigation] for a violation of UMW's <i>Policy on Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence</i>. The notation will be removed from the responsible student's transcript at the end of the period of suspension, or if the student is subsequently found not responsible. The notation will be permanent if the student is dismissed or expelled.</p> |
| <p>* Process for Developing, Approving, and Amending Procedures:</p> | <p>The Title IX Coordinator developed the proposed Policy using best practices and standards recommended by the Office for Civil Rights (OCR), the National Center for Higher Education Risk Management (NCHERM) and the Association of Title IX Administrators (ATIXA), in consultation with the Title IX Deputies, Title IX Investigator, Sexual Assault and Prevention Specialist, Coordinator for Prevention and Advocacy, Student Affairs, undergraduate and graduate students, student groups, the Commonwealth Attorney General's Office.</p> <p>Amendment procedures would include input from Title IX Deputies, Title IX Investigator, sexual assault/ misconduct team, prevention and advocacy coordinator and governing body of the University.</p> |
| <p>* Publication and Communication:</p> | <p>This Policy will be published in the student conduct handbook, and the official record of University Policies. Additionally, this Policy will be disseminated through brochures, flyers, the Title IX website and be presented at freshman orientation, orientation leader and employee training.</p> |
| <p>* Compliance Monitoring and</p> | <p>This Policy is monitored by the Title IX Coordinator who reports directly to the University President.</p> |

| | |
|---|---|
| <p>Reporting: <i>(How is compliance with the Policy monitored and reported?)</i></p> | |
| | |
| <p>RELATED INFORMATION:</p> | <p><i>Appendix A: Sources of Counseling, Advocacy, and Support</i></p> <p>On Campus Confidential Resources:</p> <ul style="list-style-type: none"> • Talley Center Counseling Services, Lee Hall 106, 540-654-1053, assists the needs of students by providing confidential personal counseling and mental health services. • Health Center, Lee Hall 112, 540-654-1040, assists with medical needs for students. <p>Other On Campus Resources:</p> <ul style="list-style-type: none"> • Interim Title IX Coordinator, Sabrina Johnson, provides accommodations and information about rights and responsibilities concerning discriminatory behavior, including the application of Title IX. Answers questions about the university's compliance with Title IX, George Washington Hall 113, sjohnson@umw.edu, 540-654-1213; http://diversity.umw.edu/title-ix/. • Title IX Deputy for Students and Area Coordinator, Myranda Thomson, provides information about this Policy and the process, helps coordinate the procedures and the training of Title IX Appeal Board, and provides education and outreach to the University community, University Center 303G, mthomson@umw.edu, 540 654-1184; http://diversity.umw.edu/title-ix/. • Title IX Deputy for Employees, Terri Arthur, SPHR, Employee Relations Manager, provides information and resources to faculty and staff about employment issues under Title IX and investigates employee related complaints, George Washington Hall #201, tlockhar@umw.edu, 540 654 -2051.; http://adminfinance.umw.edu/hr/. • Title IX Investigator, Stefanie Lucas-Waverly, investigates incidents of reported Prohibited Conduct involving students and provides education and outreach to the University community, Fairfax House, slucaswa@umw.edu, |

| | |
|--|--|
| | <p>540-654-1263; http://diversity.umw.edu/title-ix/.</p> <ul style="list-style-type: none"> • Coordinator of Prevention and Advocacy, Marissa Miller, provides education, resources, advocacy and support for students, faculty and staff regarding prohibited conduct, Fairfax House, mmille23@umw.edu, 540-654-1193; http://diversity.umw.edu/title-ix/ • Dean of Student Life, Cedric Rucker, assists with the academic-related needs of students who have experienced prohibited conduct. May provide changes to academic and living situations and will notify the student as to what changes are reasonably available, Marye House, crucker@umw.edu, 540-654-1200; http://students.umw.edu/student-life/. • Director of Student Conduct & Responsibility, Dr. Ray Tuttle, assists student with reported violations of UMW's Code of Conduct, Marye House, rtuttle@umw.edu, 540-654-1660; http://students.umw.edu/studentconduct/. • Center for International Education, Dr. Jose Sainz, assists students and employees with immigration and visa documents, Lee Hall 4th Floor, jsainz@umw.edu, 540-654-1434; http://international.umw.edu. • Director of the Office of Disability Resources, Jessica Machado, assists University of Mary Washington in providing equal and integrated access for students with disabilities to all of the academic, social, cultural, and recreational programs it offers. In doing so, it complies with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 (ADA), jmachado@umw.edu or odr@umw.edu, 540-654-1266; http://academics.umw.edu/disability/. • Office of Financial Aid assists student with financial aid, finaid@umw.edu, 540-654-2468; http://www.umw.edu/financialaid/. • University Police, accepts formal reports from persons alleging criminal conduct, can provide information and help persons obtain a Protective Order, and attend to the person's immediate safety concern. Provide referrals to appropriate resources on and off-campus, Brent House, 540 654-1025; http://www.umw.edu/police/. <p>Off-Campus Resources</p> <ul style="list-style-type: none"> • Empowerhouse, a local agency that provides confidential |
|--|--|

| | |
|--|---|
| | <p>domestic violence assistance, including a confidential 24-hour hotline, a temporary emergency shelter, information, referrals, and advocacy, 540-373-9373; http://www.empowerhouseva.org</p> <ul style="list-style-type: none"> • Fredericksburg Police Department: 540-373-3122/ '911' (emergencies); http://www.fredericksburgva.gov/index.aspx?nid=428 • Fredericksburg Victim Witness Program, assist individuals involved in the criminal justice system as the victim or witness of a crime and help ensure that crime victims and witnesses receive fair and compassionate treatment while participating in the court system, 540-372-1040; http://www.fredericksburgva.gov/index.aspx?NID=335. • Mary Washington Hospital Emergency Room: 540-741-1000/ '911' (emergencies), assists with medical needs and provides specially trained and compassionate nurses who collect evidence, which can be done even if the victim or survivor is not sure about moving forward with criminal process. • National Domestic Violence Hotline, provides a 24-7 confidential hotline for victims or survivors of domestic violence, 1-800-799-SAFE (7233); http://www.thehotline.org • Rape Abuse Incest National Network's (RAINN) National Sexual Assault Hotline, provides a 24-7 confidential hotline for victims or survivors of sexual violence, 1-800-656-HOPE (4673); https://www.rainn.org <ul style="list-style-type: none"> ○ Confidential, online hotline: https://hotline.rainn.org/online/terms-of-service.jsp • Rappahannock Council Against Sexual Assault (RCASA), a local agency that provides 24-7 confidential hotline as well as support and resources for victims and survivors of sexual violence and abuse): 540-371-6771/540-371-1666 (crisis line); http://www.rcasa.org. • Rappahannock Legal Services, 540-371-1105, rlsfred@rapplegal.com; http://www.rapplegal.com • Virginia Legal Aid, www.valegalaid.org • Virginia Sexual and Domestic Violence Action Alliance: 804-377-0335, an agency that provides advocacy and resources for victims or survivors of sexual or intimate partner violence; http://www.vsdvalliance.org/?view=mobile; |
|--|---|

- Legal Help Hotline: 1-800-838-8238 or www.vadata.org/chat
- Virginia Family Violence & Sexual Assault Hotline: 1-800-838-8238 (text: 804-793-9999)
- LGBTQ Partner Abuse and Sexual Assault Helpline: 1-800-356-6998 (text: 804-792-9999)

Appendix B: Educational and Outreach Programs and Campaigns

- Bystander intervention, It's On Us: <http://www.umw.edu/itsonus/sample-page/bystander-intervention/>
- Consent Campaign: <http://www.umw.edu/yesisthekey/what-is-consent/>
- Domestic Violence Awareness Month programming (October)
- Red Flag Campaign: <http://www.theredflagcampaign.org/>
- Sexual Assault Awareness Month programming (April)
 - Take Back the Night: <http://takebackthenight.org/>
 - The Clothesline Project: <http://www.clotheslineproject.org/photos.htm>
- Team for Empowerment, Advocacy, and Learning (TEAL) Peer Educator Program
- Think About It; <https://home.campusclarity.com>
- White Ribbon campaign: <http://www.umw.edu/yesisthekey/white-ribbon-campaign/>

Appendix C: Possible Sanctions for Student Respondents

The following sanctions may be recommended by the Title IX Investigator or other trained investigator, upheld or recommended by the Title IX Appeal Board, and approved and implemented by the Title IX Coordinator when the Respondent is found responsible (the Respondent's conduct is found, by a Preponderance of Evidence, to have violated this Policy).

1. Restitution* — The Respondent is required to provide monetary reimbursement for repair/replacement of property or service rendered. Restitution, however, generally is not considered sufficient penalty for willful damage or destruction of property;
2. Fine* — The Respondent is required to pay a financial

| | |
|--|---|
| | <p>penalty for their violation;</p> <p>*Restitution and fines are payable in cash or check payable to “University of Mary Washington” and delivered to the Student Accounts Office, Lee Hall.</p> <ol style="list-style-type: none">3. Warning — The Respondent receives a warning for violation of University policies and regulations;4. Community restitution — A task that benefits the individual, campus, or community (such as a service-related activity) is assigned to the Respondent;5. Educational project or paper — The Respondent is required to write an essay or a paper on a given topic, or to complete a project of benefit to their community, such as creating educational flyers or bulletin boards, or organizing an educational program;6. Alcohol education — The Respondent is required to complete an alcohol education course, such as the online “AlcoholEdu” course. The Respondent may be required to pay a user’s fee;7. Assessment — The Respondent is required to complete a behavioral assessment, and to discuss it with an appropriate University official;8. Restrictions —<ol style="list-style-type: none">a. No Contact Order: The Respondent is directed to have no physical, verbal, or written contact with the Complainant or another individual;9. Disciplinary Probation — During a specified period of time the Respondent is placed on probation, and may be required to complete or abide by certain conditions. If the Respondent fails to complete or violates these conditions or is found to have violated this Policy or another University Policy, the Respondent may face additional sanctions, including suspension or expulsion from the University, following a review and determination by the Title IX Coordinator or designee(s);10. Relocation Within Residence Halls — The Respondent must move to a different room or building (as specified), subject to the availability of appropriate alternate vacancies;11. Suspension from the Residence Halls — The Respondent loses the privilege of living in a University residence hall for a specified length of time. At the end of this time, after receiving approval from the Title IX Coordinator or designee(s), the Respondent is allowed to reapply for |
|--|---|

| | |
|--|---|
| | <p>residence hall living. The Respondent may be admitted to a residence hall provided there is space available. During the suspension period, the Respondent may not visit or enter any residence hall at any time for any reason unless otherwise specified. Persons responsible for payment of the Respondent's University bills will be notified by the Title IX Coordinator or designee(s) when a Respondent is suspended from the residence halls. When suspended from living in the residence halls, the Respondent must leave the hall according to the terms of the sanction or within 72 hours after the sanction has been imposed;</p> <p>12. Expulsion from the Residence Halls — The Respondent permanently loses the privilege of living in, visiting, or entering University residence halls. Persons responsible for payment of the Respondent's University bills will be notified by the Title IX Coordinator or designee(s) when a Respondent is expelled from the residence halls. When expelled from the residence halls, the Respondent must leave the residence halls according to the terms of the sanction or within 72 hours after the sanction has been imposed;</p> <p>13. Suspension — The Respondent is separated from the University for a period of time and may be required to complete or abide by certain conditions. If the Respondent fails to complete or violates these conditions or is found to have violated this Policy or another University Policy, the Respondent may face additional sanctions, including suspension or expulsion from the University, following a review and determination by the Title IX Coordinator or designee(s); Individuals responsible for payment of the student's University bills will be notified by the Title IX Coordinator or designee(s) to the extent allowed by FERPA. A letter will be sent to the Respondent, the person responsible for the student's University bills (to the extent allowed by FERPA), Registrar, and Office of Business & Finance, and copies kept on file with the Title IX Coordinator or designee(s). When suspended, the Respondent must leave campus according to the terms of the sanction or within 36 hours after the sanction has been imposed. During the period of suspension, the student is banned from campus, and may only visit administration buildings for business purposes with prior clearance from the Title IX Coordinator or designee(s). As noted in the</p> |
|--|---|

Academic Catalog: "Courses taken at other institutions while a student is on suspension (academic, disciplinary, or honor) from Mary Washington are not accepted by Mary Washington for transfer credit and will not fulfill any degree requirement;"

14. Expulsion — Permanent removal of the Respondent from the University. Persons responsible for payment of the student's University bills will be notified by the Title IX Coordinator or designee(s) to the extent allowed by FERPA. A letter will be sent to the Respondent, the person responsible for the student's University bills (to the extent allowed by FERPA), Registrar, and Office of Business & Finance, and copies kept in the permanent file with the Title IX Coordinator or designee(s). When expelled, the Respondent must leave campus according to the terms of the sanction or within 36 hours after the sanction has been imposed. The Respondent is banned from campus, and may only visit administration buildings for business purposes with prior clearance from the Title IX Coordinator or designee(s). A student expelled from the University is not eligible for readmission; and/or
15. Sanctions other than those described above may be issued.

Please note that students who are accused to have violated specified conditions of the sanction(s) or do not successfully complete the sanctions by given deadlines, are subject to additional review and determination by the Title IX Coordinator or designee(s). The Title IX Coordinator or designee(s) may impose additional sanction(s) up to expulsion, and place an administrative hold on the Respondent's educational records. Students with administrative holds in place cannot register for classes, receive official grade reports, or have official transcripts sent.

Appendix D – Possible Sanctions for Employee Respondents

The following sanctions may be recommended by the Title IX Deputy for Employees or other trained investigator(s), upheld or recommended by the Title IX Appeal Board, and approved and implemented by the Title IX Coordinator when the Respondent is found responsible (the Respondent's conduct is found, by a Preponderance of Evidence, to have violated this Policy).

1. A warning not to repeat the offending conduct;

| | |
|--|---|
| | <ol style="list-style-type: none"> 2. Special monitoring of teaching or research; 3. Separation of the parties involved (including a no contact order); 4. Required participation in an educational program (such as harassment or discrimination); 5. A letter of reprimand; 6. Removal from a research project (including long-term disbarment); Suspension of access to laboratories and/or office; 7. Reassignment of duties; 8. Loss of travel funds, research funds, etc.; 9. Denial of pay increase; 10. Reduction in rank or salary or loss of endowed chair; 11. Probation; 12. Suspension with or without pay; 13. Dismissal. |
| <p>Policy Background:</p> | <p>The University had a Sexual Misconduct Policy that has now been updated to meet the standard of VAWA, Clery and Title IX standards set forth by the Office for Civil Rights (OCR). Due to the recent changes from the Office for Civil Rights regarding the mandates of Title IX, VAWA and SaVe as it applies to sexual assault, the University required a Policy to ensure compliance with best practices in higher education.</p> |
| <p>* Policy Category:</p> | <p>Board of Visitors</p> |
| <p>Category Cross Reference:</p> | <p>E.3, F.4</p> |
| <p>Related Policies:</p> | |
| <p>HISTORY:</p> | |
| <p>* Origination Date:</p> | <p>11/1/2011</p> |
| <p>* Approved by:</p> | <p><i>Board of Visitors</i></p> |
| <p>* Approval Date:</p> | <p>9/15/2017</p> |
| <p>* Effective Date:</p> | <p>03/23/2018</p> |
| <p>* Review Process: <i>(How is this Policy reviewed to ensure that it</i></p> | <p>The Title IX Coordinator will receive reports from campus police and the Office of Student Conduct & Responsibility to determine</p> |

| | |
|--|---|
| <p><i>is effective? By whom? How often?)</i></p> | <p>the effectiveness of the Policy. A comprehensive report will be submitted yearly for review. A committee consisting of campus police, student affairs and human resources will meet once a year to review effectiveness of the Policy and possible updates or changes.</p> |
| <p>* Next Scheduled Review:</p> | <p>The Policy will be reviewed annually prior to the fall academic session. 2018</p> |
| <p>Revision History:</p> | <p>9/18/15; 9/16/16; 1/19/17; 9/15/17; 1/03/18; 3/23/18</p> |
| | |