

VI-1.40-POLICY ON SEXUAL MISCONDUCT

I. POLICY AND PURPOSE

Bowie State University (the “University”) is committed to providing an academic and work environment free from all forms of discrimination, including discrimination on the basis of sex. Title IX of the Education Amendments of 1972 (“Title IX”) and Title VII of the Civil Rights Act of 1964 (“Title VII”) prohibit discrimination on the basis of one’s sex in federally-funded educational programs and activities, as well as in the terms and conditions and privileges of employment. The University prohibits discrimination on the basis of sex in its education programs and activities.

Sexual Misconduct, as defined by this Sexual Misconduct Policy is a type of sex discrimination. Sexual Misconduct includes sexual harassment, sexual assault, sexual violence, domestic violence, dating violence, sexual exploitation, sexual intimidation, and stalking. Sexual Misconduct is strictly prohibited by state and federal law, as well as this Policy.

The University must take steps to prevent the occurrence of Sexual Misconduct and remedy its discriminatory effects. The University promotes safe and healthy interactions wherein each of its members is responsible for maintaining an environment free from Sexual Misconduct. Any employee or student at Bowie State University found in violation of this Policy will be subject to disciplinary action by the University and may be subject to criminal prosecution.

The purpose of this Policy is to define prohibited conduct; describe how to report or make a complaint of Sexual Misconduct; explain procedures for prompt and fair investigation and resolution of complaints; and identify available resources for Sexual Misconduct assistance, prevention and education for the campus community.

The University is committed to providing an impartial, timely and equitable process for parties to a Sexual Misconduct matter, such as ensuring protections under Title IX and due process to faculty, staff and students, including a presumption of innocence until otherwise proven, consistent with this Policy.

This Policy is not intended to curtail rights guaranteed by the First Amendment. The University is committed to its educational mission, including academic discourse and freedom. This Policy does not limit classroom teaching and/or scholarly research, publication and discourse regarding gender and sexual-related topics or material relevant to course content or subject-matter.

This Policy replaces BSU VI-1.20 Policy on Sexual Harassment and BSU VI-1.30 Policy on Sexual Assault in their entirety.

II. APPLICABILITY

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Employees and students are required to comply with this Policy. The Policy also applies to contractors and third parties within the University's control. This Policy applies to Sexual Misconduct on University property; at University-sponsored events or programs; posing a potential threat to the health and/or safety of a member of the University community; or negatively impacting the education or employment of members of the University community.

Sexual Misconduct is prohibited by Bowie State University VI-1.30-Policy on Sexual Assault; Bowie State University VI-1.20-Policy on Sexual Harassment, Bowie State University Equal Employment Opportunity Non-Discrimination Statement and the Student Affairs Handbook ("University Misconduct Policies"). This Sexual Misconduct Policy consolidates and clarifies the information contained within the University Misconduct Policies. The provisions within the Sexual Misconduct Policy define prohibited sexual and gender-based conduct and outline the University's procedures for responding to Sexual Misconduct allegations.

III. PROHIBITED CONDUCT

Sexual Misconduct is a type of sexual harassment and is non-consensual behavior that is sexual or gender-based in nature. Sexual Misconduct can occur between acquaintances or strangers, including individuals involved in an intimate or sexual relationship. It can be committed between a male and female or members of the same sex.

Prohibited Sexual Misconduct can be also be committed by force, intimidation, coercion or incapacitation (physical, mental or through the use of drugs and alcohol). Sexual Misconduct is an umbrella term that includes Sexual Harassment, Sexual Assault, Sexual Violence, Sexual Exploitation, Sexual Intimidation, Stalking, Dating Violence and Domestic Violence.

- A. **SEXUAL HARASSMENT.** Sexual Harassment is defined as unwelcome sexual advances; unwelcome requests for sexual favors; or other verbal or physical conduct of a sexual or gender-based nature where:
1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, evaluation of academic work, or participation in an educational program or activity;
 2. submission to or rejection of such conduct by an individual is used as the basis for academic, employment, or activity or program participation related decisions affecting that individual; or
 3. such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, i.e., it is sufficiently severe or

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pervasive to create an intimidating, hostile, humiliating, demeaning or sexually offensive working, academic, residential or social environment.

The determination of whether conduct is “hostile” is based on the severity, persistence, or pervasiveness of the behavior, and is evaluated based upon both the subjective (the Complainant’s) and objective (reasonable person’s) perspective.

Sexual harassment can be committed based upon an individual’s sex, gender identity, sexual orientation or gender expression.

Sexual harassment is one-sided, is undeterred, and usually involves unequal power status and/or intimidation (e.g., faculty member to student, supervisor to subordinate, coach to athlete). Sexual harassment can also occur between equals (e.g., student to student, staff to staff, faculty member to faculty member) or unequal power status (e.g., student to faculty member).

Examples of Sexual harassment include, but are not limited to:

- Sexual pranks or repeated sexual teasing, jokes or innuendo
- Unnecessary touching or grabbing another’s body or clothing
- Repeated unwelcome invitations for dates or to socialize during off-duty or non-class hours
- Requests or pressure for sexual favors accompanied by implied or overt promise of rewards or threats
- Gender-based bullying/cyber bullying

B. **SEXUAL ASSAULT.**

Sexual Assault I - Non-Consensual Sexual Intercourse: Any act of sexual intercourse with another individual without consent. Sexual intercourse includes vaginal or anal penetration, however slight, with any body part or object, or oral penetration involving mouth to genital contact.

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

C. **SEXUAL VIOLENCE.** Sexual Violence is a form of Sexual Harassment and refers to physical acts perpetrated without consent. Sexual Violence includes rape, Sexual Assault, sexual battery, and sexual coercion. Sexual Violence, in any form, is a criminal act.

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- D. **SEXUAL EXPLOITATION.** Sexual Exploitation means taking non-consensual or abusive sexual advantage of another person for one's own advantage or benefit or for the advantage or benefit of anyone other than the person being exploited.

Examples of Sexual Exploitation:

- Causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over such other person.
- Non-consensual electronic recording, photographing and/or transmitting of identifiable images, words or sounds of private sexual activity and/or intimate body parts without the consent of all parties involved.

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

- F. **STALKING.** Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

- G. **DATING VIOLENCE.** Dating Violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

- H. **DOMESTIC VIOLENCE.** Domestic Violence means violence committed by a current or former spouse or intimate partner of the complainant, by a person with whom the complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the complainant, or by any other person against an adult or youth complainant protected from those acts by domestic or family violence laws of Maryland.

Examples of Domestic Violence:

- Pushing
- Choking
- Hitting

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- Forcing intercourse
- Using restraint or one's body, size or strength against another person
- Stalking

I. ADDITIONAL APPLICABLE DEFINITIONS.

1. **Consent.** Consent is given by words or actions that show a knowing, voluntary and positive communicated agreement to engage in a particular sexual activity or behavior. Consent cannot be gained by force or by taking advantage of the incapacitation of another individual, where the respondent knows or reasonably should have known of the incapacitation. Lack of protest or silence should not be interpreted as consent. One must be of legal age to give consent. Consent may be withdrawn at any time. Likewise, consent to one activity does not imply consent to another. If there is confusion as to whether there is consent for a particular activity or if consent has been withdrawn, participants in the sexual activity should stop immediately and resolve the confusion before continuing with sexual activity. Consent is absent of threats, physical force, coercion or intimidation. A person is unable to consent when she/he is unconscious or for any other reason is physically unable to communicate unwillingness to engage. Previous sexual activity or intimate relationship does not imply consent for future activity.
2. **Force** is the use of threat, intimidation, coercion or physical violence.
 - **Coercion** is unreasonable pressure for sexual activity. When someone makes clear that she/he does not want to engage in certain activity, she/he wants to stop, or she/he does not want to proceed in sexual activity beyond a certain point, continued pressure can be coercive.
3. **Incapacitation** is physical and/or mental inability to make decisions or understand the "who, what, when, where, why or how" of their sexual interaction. The standard is whether a sober reasonable person in the situation would know, or should reasonably have known, that the other person was incapacitated and lacked capacity to consent. Incapacitation can result from:
 - alcohol use, illegal drug use, medication use, unconsciousness or blackout state;
 - mental or physical disability;
 - sleep;

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- involuntary physical restraint; or
- Drugs used to facilitate rape and/or other non-consensual sexual activity, such as Rohypnol, Ketamine, GHB, and Burundanga.

J. **RETALIATION.** It is a violation of this Policy to retaliate against any individual making a Sexual Misconduct complaint and/or participating in the investigation of an allegation of Sexual Misconduct. Retaliation means intimidating, threatening, coercing or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or University policy relating to Sexual Misconduct, or because an individual has made a report, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing related to Sexual Misconduct. Retaliation includes retaliatory harassment.

Any person committing retaliation is subject to disciplinary action independent of any sanction or interim measure imposed as a result of the underlying sexual misconduct allegation. Retaliation should be promptly reported to the Title IX Coordinator.

IV. CONSENSUAL RELATIONS

Sexual or intimate relations or relationships between individuals with unequal power, such as faculty-student, administrator-student, supervisor-employee, create potential conflicts of interest and pose inherent risks. Furthermore, relationships where one person has, or in the future may reasonably have direct or indirect supervisory or evaluative responsibility over another person, reflect power imbalances that jeopardize the integrity of the educational and employment environment and may indicate lack of consent.

The University does not intend to regulate private relationships that do not interfere with the University's educational and employment mission. For the protection of all the members of the University community, relationships where power imbalance is inherent are strongly discouraged. A person with supervisory or evaluative responsibilities for another with whom he or she is involved in a consensual relationship must inform his or her supervisor so that supervisory or evaluative responsibilities can be reassigned, as necessary. Persons who fail to report such relationships, as required by this Policy, will be subject to disciplinary action. Sexual or intimate relations or relationships between employees and minors are strictly prohibited.

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V. OTHER RELATED STUDENT MISCONDUCT

In accordance with this Policy, the Student Conduct Board is authorized to hear allegations of and to impose sanctions for Sexual Misconduct by students as well as related conduct in violation of the Code of Student Conduct. The University's utmost concern is the health and safety of its community and it recognizes that complainants or witnesses under the influence of drugs/alcohol may be reluctant to seek assistance at the time of an incident due to threat of disciplinary sanction for violation of the Code of Student Conduct. Complainants may be entitled to amnesty for alcohol or drug use related to Sexual Misconduct. The University will not pursue student conduct action (except for a mandatory intervention for substance abuse) for a violation of Student Substance Abuse Policy by a student who reports Sexual Misconduct to the University or law enforcement or participates as a witness in a Sexual Misconduct matter if the University determines that (1) the violation occurred during or near the time of the alleged Sexual Misconduct; (2) the student made the report of Sexual Misconduct, or is participating in an investigation as a witness in good faith; and (3) the violation was not an act that was reasonably likely to place the health or safety of another individual at risk.

VI. CONFIDENTIALITY AND STUDENT REPORTING

Individuals who experience Sexual Misconduct or become aware of an incident of Sexual Misconduct are strongly encouraged to report the incident immediately. Any student who believes that she/he has been subjected to Sexual Misconduct may request that an investigation be conducted. In addition, the University may initiate an investigation once it becomes aware that an incident has occurred. Although there is not a time limit for invoking this Policy, prompt reporting enhances the University's ability to investigate and gather relevant physical evidence, including obtaining witness testimony and taking necessary action. The University has an obligation to investigate all incidences of Sexual Misconduct regardless of whether the students involved are still enrolled at the University. However, the student disciplinary process is only an option while the respondent student remains a University student. Student discipline is no longer an option after the respondent student graduates or otherwise leaves the university.

University employees, depending upon their roles on campus, have varying reporting responsibilities and duties to maintain confidentiality of information regarding Sexual Misconduct shared with them. "**Responsible employees,**" identified in Section VI. B. of this Policy, are those employees required to share reported details *and* personally identifiable information with the Title IX Coordinator. "**Confidential employees,**" are those employees holding positions provided in Section VI. C. of this Policy who will not report any details or personally

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identifiable information shared with him or her without consent, unless the information relates to an imminent threat to the health or safety of an individual or the University community. The remaining employees, while not required to report knowledge of Sexual Misconduct to the Title IX Coordinator, are encouraged to share reported details with the Title IX Coordinator if a report of Sexual Misconduct is shared with them. If you are not certain of an employee's reporting requirement, please inquire with the University's Title IX Coordinator before disclosing information.

The Title IX Coordinator is responsible for accepting and processing complaints and reports of Sexual Misconduct by University students and employees. The University encourages prompt reporting to the Title IX Coordinator, by telephone at [301-860-3442](tel:301-860-3442), by email at TitleIXCoordinator@bowiestate.edu or in person at Robinson Hall, Department of Human Resources - Room 4.

- A. **CONFIDENTIALITY.** Once there is notice of potential Sexual Misconduct, the Title IX Coordinator must preliminarily determine if formal, administrative investigation is appropriate and must take reasonable action in response to the reported information, whether or not the person impacted by the incident ("Impacted Person") wishes to pursue a formal complaint. The University will take reasonable and appropriate steps to protect the privacy of the Impacted Person and the individual(s) accused of Sexual Misconduct ("Respondent").

The University shall consider requests for confidentiality and/or that no formal administrative action is taken. The Title IX Coordinator will inform the Impacted Person that requests for confidentiality may limit the University's ability to respond. The Impacted Person will also be informed that there may be instances in which the University determines that it is necessary to conduct a formal administrative investigation and/or cannot maintain confidentiality.

The University will further inform Impacted Person(s) that confidentiality is not guaranteed. The Title IX Coordinator will inform parties if confidentiality cannot be maintained and/or formal administrative investigation is necessary. Every effort will be made to maintain the privacy of persons who seek help and/or report Sexual Misconduct to the fullest extent possible under the law, and information will be shared with individuals who have a legitimate need to know. The University complies with all federal, state and local requirements for provision of privacy, reporting and intervention in Sexual Misconduct matters.

- B. **REPORTING SEXUAL MISCONDUCT FOR UNIVERSITY ACTION.** Students, employees and third parties may formally report alleged Sexual Misconduct to any Responsible employee. Responsible employees include any employee

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who (1) Has the authority to take action regarding Sexual Misconduct; (2) Has been given the duty of reporting Sexual Misconduct; or (3) Is someone another individual could reasonably believe has this authority or duty. Responsible employees include, but are not limited to, the Title IX Coordinator; Coordinator of Student Conduct; supervisors; administrators; athletic coaches and trainers; advisors to student organizations; all faculty; University security personnel and police officers; and Residence Directors and Assistants. Notice to these individuals is considered official notice to the University.

Students may report alleged Sexual Misconduct to the Title IX Coordinator or the Coordinator of Student Conduct:

Alanna Dennis, Esq.
Title IX Coordinator
Office of Equity Compliance
Robinson Hall
(301) 860-3442
TitleIXCoordinator@bowiestate.edu

Thomasina Boardley
Coordinator of Student Conduct
Office of Student Affairs
Henry Administration Building
(301) 860-3394
tboardley@bowiestate.edu

- C. **CONFIDENTIAL REPORTING.** The University encourages individuals to seek medical attention, support, along with information and counseling for incidents of sexual violence and other forms of Sexual Misconduct, whether or not they choose to make official reports. A person desiring that the details of an incident of Sexual Misconduct be kept confidential should speak with individuals who have professional and legal responsibility to maintain confidentiality in communications. Confidentiality will be maintained unless there is imminent threat to health or safety; or where consent is given to share information; or there are other bases for disclosure as required by law.

The following are confidential sources for assistance:

- Medical professionals in the Henry Wise Wellness Center (301-860-4170), <http://www.bowiestate.edu/campus-life/henry-wise-wellness-center/>
- Sexual Assault Response and Prevention Program Coordinator in the Henry Wise Wellness Center (301-860-4174), <http://www.bowiestate.edu/campus-life/henry-wise-wellness-center/partners-in-peace/>
- Counselors and mental health professionals in Counseling Services (301-860-4164), <http://www.bowiestate.edu/campus-life/counseling-services/>

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- Domestic Violence and Sexual Assault Center at Dimensions Healthcare System, Prince George's Hospital Center (301-618-3154/24 hours)
- Off-campus 24-hour Sexual Assault Hotline (1-800-656-HOPE)

Contact information for additional sexual assault and intimate partner violence community resources may be found at:

<http://www.bowiestate.edu/files/resources/sexual-assault-off-campus-resources.pdf>.

- D. **CRIMINAL REPORTING.** Persons are encouraged to report criminal concerns, including incidents of Sexual Misconduct contained in VII. B. of this Policy, to the Department of Public Safety or other applicable law enforcement. Impacted Persons are encouraged to immediately notify the Department of Public Safety or other applicable law enforcement to receive guidance in the preservation of evidence needed for proof of criminal assaults and the apprehension and prosecution of assailants. The Title IX Coordinator, at a minimum, will inform students of the option to notify law enforcement.

A criminal investigation is independent of the University's administrative process and does not prevent an individual from proceeding with an administrative complaint of Sexual Misconduct, as provided in this Policy. Once in receipt of a complaint of Sexual Misconduct, the Department of Public Safety will inform the individual of his/her right to bring a complaint under the University's administrative process under this Policy. Because legal standards for determining a violation under this Policy differ for criminal and administrative violations, the outcome of the criminal investigative process is not determinative of whether there is a violation of this Policy. The University will not wait until the conclusion of any criminal investigation to proceed with an administrative investigation, although there may be a temporary delay while evidence is gathered in the criminal process.

For federal statistical reporting purposes, campus officials, excluding confidential reporters, are required to report criminal Sexual Misconduct and other reported criminal activity occurring on campus property to the Department of Public Safety, as provided in Section VII B of this Policy. Personally identifiable information such as the name of the victim (Complainant) , the name of the Respondent and other identifying information is withheld and is confidential. The type of incident and general location is shared with the Department of Public Safety for inclusion in the Annual Campus Security Report, as required by law.

VII. MANDATORY EMPLOYEE REPORTING

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Responsible employees have a duty to report incidents of Sexual Misconduct and criminal activity involving employees and/or students or third parties to the University. Confidential employees are solely those employees in positions provided in Section VI C of this Policy.

All other employees, who are neither Responsible nor Confidential employees as defined in Section VI. B and Section VI. C of this Policy, are strongly encouraged to report incidents of Sexual Misconduct and criminal activity involving students and employees of the University.

The Title IX Coordinator is responsible for accepting and processing reports of Sexual Misconduct. In all cases, the University's Title IX Coordinator will be informed of employee or student Sexual Misconduct.

An employee's position and responsibilities within the University determines whether she or he is a Responsible employee. An employee not otherwise listed as a Responsible employee in Section VI B of this Policy, and who is uncertain of whether she or he is a Responsible employee, should contact the Title IX Coordinator for clarification. The Title IX Coordinator will assist the employee in disclosing only information which is necessary initially. The Title IX Coordinator may require additional information from reporting employees at a later time.

- A. **SEXUAL MISCONDUCT REPORTING.** When a Responsible employee becomes aware of any alleged act of Sexual Misconduct, the following steps should be taken:
1. If possible, when an employee senses a student is about to report an act of Sexual Misconduct, the employee should inform the student that the University will maintain the privacy of information shared, as required by law, but that the employee cannot guarantee confidentiality.
 2. The Responsible employee should inform the student that she or he is required to report the incident to the Title IX Coordinator and will have to disclose names of the individuals involved. If the student proceeds to speak with the employee, the employee, when possible, should utilize the *Sexual Assault and Intimate Partner Violence Procedure Checklist* which can be found at:
<http://www.bowiestate.edu/files/resources/sexual-assault-and-intimate-partner-violence-proce.pdf>.
 3. The Responsible employee can refer and should offer to accompany the student to Counseling Services or the Wellness Center. The student can also be referred to sexual assault community resources, some which are available 24 hours a day. A full listing of those resources can be found at:
<http://www.bowiestate.edu/files/resources/sexual-assault-off-campus-resources.pdf>.

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The Responsible employee should immediately contact (within 24 hours) the Title IX Coordinator at 301-860-3442 or TitleIXCoordinatorbowiestate.edu to report incidents of Sexual Misconduct. Responsible Employees may also contact the Coordinator of Student Conduct if the incident involves a student. In turn, Responsible Employees should also contact the Department of Public Safety at 301-860-4848 if it is an actual emergency, after-hours, or involves an imminent threat to health, safety or property. After a report has been made to the Department of Public Safety, Responsible employees must also contact the Title IX Coordinator. For purposes of federal statistical reporting, the Title IX Coordinator will also inform the Department of Public Safety about any Title IX incident report.

- B. **CRIME REPORTING.** All employees should contact the Department of Public Safety if there is an actual emergency or imminent threat to individual or community health, safety or property. If not already reported to the Title IX Coordinator, Responsible employees should contact the Department of Public Safety when they become aware of the potential for any of the crimes listed below, which occur on campus or on property immediately adjacent to campus:

1. Murder & Non-Negligent Manslaughter
2. Negligent Manslaughter
3. Robbery
4. Aggravated Assault
5. Burglary
6. Motor Vehicle Theft
7. Arson
8. Arrests for Weapon Violations
9. Arrests for Drug Abuse Violations
10. Arrests for Liquor Law Violations
11. Disciplinary Referrals for Weapon Violations
12. Disciplinary Referrals for Drug Abuse Violations
13. Disciplinary Referrals for Liquor Law Violations
14. Hate Crimes
15. Sex Offenses (Reporting sex offenses to the Title IX Coordinator satisfies Responsible employee's reporting obligation).
 - a) Sexual Assault
 - b) Stalking
 - c) Dating Violence
 - d) Domestic Violence

Please refer to the Department of Public Safety's website at <http://www.bowiestate.edu/campus-life/campus-police/>, for additional

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information regarding the crimes listed above, the University's legal reporting mandates and the University's current and past Annual Security Reports.

- C. **CHILD ABUSE & NEGLECT.** Maryland law and University System of Maryland Policy VI-1.50 – Policy on the Reporting of Suspected Child Abuse and Neglect require that any person who suspects that a minor child (under the age of 18) is the victim of abuse or neglect must contact a local law enforcement agency or social services agency and the University's General Counsel. Reports must be made within 48 hours of disclosure/discovery. Direct questions to: GeneralCounsel@bowiestate.edu.

VIII. UNIVERSITY SEXUAL MISCONDUCT ADMINISTRATIVE INVESTIGATIONS

The University seeks to address complaints of Sexual Misconduct promptly. Investigations and proceedings are normally completed within sixty (60) calendar days after the University has receipt of the complaint or notice. The Title IX Coordinator may extend this time frame when necessary and for good cause. Parties will be notified in writing if the investigation and proceedings cannot be completed within the 60-day timeframe.

The University acknowledges that it is not a court of law and formal rules of evidence do not apply to administrative investigations and any subsequent proceedings under this Policy. The standard of proof is the preponderance of the evidence, *i.e.*, that it is "more likely than not", prohibited Sexual Misconduct did or did not occur.

The Title IX Coordinator is responsible for ensuring the following:

- Parties receive a copy of this Policy before an administrative investigation commences;
- Complainant/Impacted person is informed of the option to contact law enforcement;
- Parties are made aware of available medical and counseling support services on campus;
- Fair, prompt and impartial investigation and determination of responsibility; and
- Parties receive concurrent notification of investigation determination and hearing outcome.

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A. ADMINISTRATIVE INVESTIGATIVE PROCESS FOR COMPLAINTS AGAINST STUDENTS.

1. **Determination of Administrative Investigation.** Complaints of prohibited conduct under this Policy will be investigated by the Title IX Coordinator. Upon notice of potential Sexual Misconduct, the Title IX Coordinator will determine whether there is sufficient basis for administrative investigation.

Upon a determination that administrative investigation is necessary when an Impacted Person has not made a report for University action, the Title IX Coordinator will contact the Impacted Person to request consent for administrative investigation. If the Impacted Person does not consent to investigation or participation, the investigation may proceed, if appropriate. The Title IX Coordinator will balance the Impacted Person's wishes with considerations for factors, such as: 1) the seriousness of the alleged misconduct, 2) Impacted Person's age, and 3) whether there are any prior Sexual Misconduct complaints against the Respondent.

2. **Interim Measures.** Prior to the completion of an administrative investigation, interim measures or accommodations are available to stop the alleged Sexual Misconduct, prevent its recurrence and limit the effects of harm or risk to the Complainant or the Respondent. Interim measures are reasonably available steps the University may take to protect parties while a Sexual Misconduct investigation is pending. Requests for interim measures can be made to the Title IX Coordinator who is responsible for coordinating such measures. The Title IX Coordinator, Department of Campus Safety or designated officials from the Division of Student Affairs may also recommend and/or enforce interim measures during the administrative investigation. Interim measures may include the following:

- Academic accommodation such as class schedule adjustments or incompletes
- No-contact directives pending the outcome of investigations
- Housing reassignments
- Alternative employment arrangements
- Leave or withdrawals from campus
- Removal from the University community
- Review or revision of University policies or practices

3. **Title IX Investigation.** The Title IX Coordinator is a neutral fact-finder. The Complainant and the Respondent have the right to participate in the administrative investigation and will be interviewed. Witnesses will be interviewed, as appropriate, and document and/or material evidence will be collected and analyzed as necessary. At the conclusion of the investigation, the Title IX Coordinator will review all materials collected and prepare a

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written investigative report. The investigative report will contain evidentiary analysis and a determination of responsibility. The Title IX Coordinator does not issue sanctions. If appropriate, the Title IX Coordinator will recommend accommodations, training or revisions to policies or practices to remedy the effects of Sexual Misconduct, to ensure the safety and education of the community, and/or prevent the reoccurrence of prohibited conduct. The investigative report will be reviewed for legal sufficiency.

Both parties will be notified of the outcome of the Title IX Coordinator's investigation, including findings-of-fact and accommodations, if applicable, in a written Outcome Letter. If the investigative determination finds the Respondent responsible, unless the Respondent files an appeal, the matter will proceed to the Student Conduct Board for a hearing to decide appropriate sanction(s) ("Sanction Hearing").

4. **Conduct Board.** Hearings before the Student Conduct Board will be conducted in accordance with the Code of Student Conduct. The hearing shall be prompt, fair and impartial and conducted by board members who have received annual training on Sexual Misconduct policy and hearing procedures.

Both parties have the right to an advisor of his/her choice during the hearing process. The advisor's role or potential involvement during the hearing process is established and enforced by the Student Conduct Board in accordance with the Code of Student Conduct. Both parties have the right to be treated with respect; to review all documentary evidence to be used during the hearing process; to present relevant witnesses; to pose through Student Conduct Board or in writing questions to all witnesses who are called to give testimony; to introduce new evidence not presented or taken into consideration during the investigative phase; and the right to request an appeal of the hearing board's determination of fact and/or sanction. Determinations of fact and sanction will be reviewed for legal sufficiency.

Both parties will receive written notification of determinations of fact and sanction, if applicable, imposed by the Conduct Board and the procedure for filing a request for appeal. The University shall not publicly disclose the name of either party, unless as required or allowed by law.

Determination of sanctions is based on what is proportionate to the violation. Sanctions for violation of this Policy include warning, probation, and removal from housing, termination of employment, suspension, dismissal or expulsion. In determining the appropriate sanction, the Conduct Board will consider cause of the behavior, severity of the conduct, previous

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conduct history, University precedent, and the welfare of the Complainant and the University community.

5. **Appeal.** If a student Complainant or a student Respondent is dissatisfied with the determination as set forth in the Outcome Letter or with sanctions imposed by the Student Conduct Board, she or he may file a request for appeal to the Vice President for Student Affairs. Requests for appeals must be made within three (3) days of the Conduct Board's written determination on sanctions; and within 10 (ten) days of receipt of the Outcome Letter.

An appeal is not automatically granted. An appeal is granted when there is a procedural or substantive error that significantly impacted the outcome of the sanction hearing, or to consider new evidence that could not have been discovered at the time of the original investigation and substantially impacts the determination or sanction, or a reasonable claim that the sanction imposed is disproportionate to the gravity of the sexual misconduct violation. Within ten (10) days of receipt of a written appeal, the Vice President for Student Affairs or his/her designee shall make a final determination in writing. The written determination may uphold the original sanctions, modify the sanctions, or vacate the sanction decision. Both parties will concurrently receive notification of the appeal determination as allowed or required by law.

B. ADMINISTRATIVE INVESTIGATIVE PROCESS FOR COMPLAINTS AGAINST EMPLOYEES.

An applicant for employment or an employee may file a complaint alleging Sexual Misconduct pursuant to this Policy, Title VII and/or the State's Fair Employment Practices law. Complaints should be made in writing within 30 days after the Complainant knew, or reasonably should have known, of the alleged violation. Upon receipt of the complaint, the EEO Officer/Title IX Coordinator shall promptly investigate the allegations, make factual findings and conclusions, and propose recommended actions, if appropriate. Both parties shall receive in writing a determination letter. Violations of this Policy may result in disciplinary action up to and including termination. Employees who commit Sexual Misconduct in violation of the law may also be subject to criminal charges.

Within ten (10) days of receipt of the determination letter from the University's EEO Officer/Title IX Coordinator, an employee who is a Complainant may file a written appeal to the Department of Budget and Management, Office of Statewide EEO Coordinator, Room 607, 301 West Preston Street, Baltimore, Maryland 21201. Within thirty (30) days after receiving the Complainant's appeal, the Statewide EEO Coordinator shall review the original EEO-related complaint of sexual misconduct, investigation and determination letter. Upon completion of the appeal review, the Office of the Statewide EEO Coordinator

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will issue a final decision regarding the Complainant's appeal that may either grant the relief requested by the Complainant or dismiss the complaint.

IX. SOURCES FOR IMMEDIATE ASSISTANCE

The health and safety of each of the members of the campus community is the University's principle concern. If you or someone you know is sexually assaulted, there are several resources immediately available to assist, 24hours/7days a week. The University strongly urges that you seek immediate assistance from:

- The Henry Wise Wellness Center (301-860-4171/8am-6pm M-F)
- Prince George's Hospital Center, Domestic Violence and Sexual Assault Center at Dimensions Healthcare System (301-618-3154/24 hours)
- Campus Police (301-860-4688/24 hours)
- Local Law Enforcement (911/24 hours)
- Counseling Services (301-860-4164/8am to 6pm M-F)
- Office of Residence Life (301-860-5000)
- Division of Student Affairs (301-860-3390/8am to 5pm M-F)
- Title IX Coordinator (301-860-3442/8am to 5pm M-F)

A. STEPS FOR SELF-CARE AND SAFETY FOLLOWING A SEXUAL ASSAULT

- Go to a safe place
- Get warm and try to preserve all evidence
- Get medical attention
- Contact University Police or Prince George's County Police
- Seek emotional support

For additional information on what to do immediately and resources available to you at the University and in the local community, please visit the Wellness Center's *Partners in Peace* website, <http://www.bowiestate.edu/campus-life/henry-wise-wellness-center/partners-in-peace/>. Resources include:

- Sexual Assault Hotline: 1-800-656-HOPE
- Domestic Violence & Sexual Assault Center, Dimensions Healthcare Hotline: (301) 618-3154
- Emergency Contraception Hotline: 1-888-NOT-2-LATE
- National Women's Health Information Center: 1-800-994-9662

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- Gay and Lesbian National Hotline: 1-888-THE-GLNH
- American Foundation for Suicide Prevention: 1-888-333-2377
- Center for Disease Control and Prevention: 1-800-227-8922

X. EXTERNAL AGENCY RESOURCES

In addition to the University's Title IX Coordinator, inquiries concerning the application of Title IX may be referred to the U.S. Department of Education's Office for Civil Rights. External agency resources for information concerning and reporting sex discrimination include the following:

- U.S. Department of Education, Office for Civil Rights
400 Maryland Avenue, SW,
Washington, DC 20202-1100
- Maryland Commission on Civil Rights
6 Saint Paul Street, Suite 900
Baltimore, Maryland 21202-1631
- Equal Employment Opportunity Commission
Baltimore Field Office
10 S. Howard Street, Third Floor
Baltimore, MD 21201
- Prince George's County Police Department
601SW Crain Highway
Upper Marlboro, Maryland 20774

XI. AMENDMENTS

The University reserves the right to amend this Policy.

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Effective Date: 04/14/2014

Revised: 12/12/2014; 08/28/15

Replacement for: BSU Policy VI – 1.20 on Sexual Harassment

BSU Policy VI – 1.30 on Sexual Assault

Related Policies: USM Policy VI -1.60 on Sexual Misconduct

USM Policy VI-1.50 on the Reporting of Child Abuse & Neglect