June 30, 2015

The Honorable Maggie McIntosh
Chairman, House Appropriations Committee
130 Lowe House Office Building
Annapolis, MD 21401

The Honorable Edward J. Kasemeyer
Chairman, Senate Budget & Taxation Committee
3 West, Miller Senate Office Building
Annapolis, MD 21401

Dear Chairman McIntosh and Chairman Kasemeyer:

Language on page 128 of the 2015 Joint Chairmen’s Report requires the University System of Maryland (USM) report on amnesty policies, campus surveys, and memorandums of understanding as they pertain to sexual misconduct.

On behalf of the USM, I am pleased to be given the opportunity to provide you with a response, which is enclosed, and hope that you find it responsive to your request.

I am happy to address any questions you may have and look forward to continuing our work together in building Maryland’s future through high quality education.

Sincerely yours,

William E. Kirwan
Chancellor

Enclosure

cc: Joann Boughman, Senior Vice Chancellor, Academic Affairs, USM
    PJ Hogan, Vice Chancellor for Government Relations, USM
    Cathy Kramer, DLS
    Sara Baker, DLS
    Jordan Butler, DBM
    Sarah Albert, DLS
Report on the University System of Maryland Status of Implementation of Sexual Misconduct Policies

The University System of Maryland Board of Regents passed the USM Policy on Sexual Misconduct (VI-1.60) in June of 2014 requiring all USM institutions to modify their policies to meet the requirements of the USM. Those changes included:

- Clear definitions and emphasis on affirmative consent;
- Appointment of a Title IX officer;
- Updates to procedures, if necessary, to be in full compliance with federal guidelines;
- Updates and full implementation and dissemination of reporting mechanisms to the full campus community;
- Enhancement and dissemination of information about support services available to any complainant; and
- Establishment of relationships and agreements with local law enforcement and support services in the community.

All campuses provided updated policies by December 31, 2014 that the Maryland Higher Education Commission and the Office of the Attorney General deemed to be in compliance with the USM policy and federal expectations. In national discussions, the USM policy is reported to be a system model.

In addition to the policy updates, the USM has created a Sexual Misconduct Workgroup comprised of 20 plus members of the USM institutional communities, including Title IX coordinators, Student Affairs professionals, campus counsels, academic administrators, human resource professionals, and persons representing the Office of the Attorney General. This workgroup has shared procedural insights and discussed the many challenges facing our campus communities around the issues of sexual misconduct.

The USM’s Council of University System Presidents of the USM, Provosts, and Vice Presidents for Student Affairs, as well as the Council of University System Faculty, the Council of University System Staff, and the USM Student Council have also regularly discussed policy and procedures at their monthly meetings. The topic of sexual misconduct is being taken very seriously by our campuses, and much effort has gone into developing policies and processes that highlight the issue, focus on the critical nature of culture change, establish and disseminate the support services available, and inform and educate the campus communities about all of these issues.
During the 2015 Legislative Session, several bills were introduced that addressed many of the challenges around sexual assault as reported in the press. The USM was able to demonstrate that our policies and procedures met or exceeded the federal guidances, and, in fact, already addressed the issues raised in several of the bills introduced. The one proposed bill (HB 571) Institutions of Higher Education – Sexual Assault – Policy and Survey that was passed into law, did expand our obligations to develop a survey on campus climate and to establish a reporting structure for incidents in our communities. In addition, the language regarding our memoranda of understanding with local jurisdictions and rape crisis centers needed to be update to be in compliance with the new statute. The USM policy was amended to meet the requirements of the statute and the amendments passed by the Board of Regents on June 19, 2015. The updated policy follows.

A workgroup has been appointed by MHEC to start working on a state survey, although several of our campuses are already working on their own surveys as well. The reporting scheme is being developed and will be implemented during this calendar year. MOUs are also being reviewed and amended as needed to make sure each campus is in full compliance with the new statutory regulations.

As is required by the 2015 Joint Chairmen’s Report (page 128), each USM institution has submitted a statement that: (1) reports if the institution has an amnesty policy and if so how is it implemented; (2) with regard to pending federal requirements, how the institution plans to implement a climate survey; and (3) provides a list of all memorandums of understanding applicable to the issue of sexual misconduct. Those reports are attached.
UNIVERSITY SYSTEM OF MARYLAND

IV-1.60 – UNIVERSITY SYSTEM OF MARYLAND POLICY ON SEXUAL MISCONDUCT (Approved by the Board of Regents, June 27, 2014; Amended June 19, 2015)

PURPOSE & APPLICABILITY

The University System of Maryland (USM) is committed to providing a working and learning environment free from Sexual Misconduct, including sexual and gender-based harassment, sexual violence, dating violence, domestic violence, sexual exploitation, and sexual intimidation. USM prohibits and will not tolerate Sexual Misconduct. Sexual Misconduct is a form of sex discrimination prohibited by state and federal laws, including Title IX of the Education Amendments of 1972 as amended (“Title IX”) and Title VII of the Civil Rights Act of 1964 as amended, and also may constitute criminal activity.

USM endeavors to foster a System-wide climate free from Sexual Misconduct through training, education, prevention programs, and through policies and procedures that promote prompt reporting, prohibit retaliation, and promote timely, fair and impartial investigation and resolution of Sexual Misconduct cases in a manner that eliminates the Sexual Misconduct, prevents its recurrence, and addresses its effects. All students, faculty, and staff of USM institutions (including USM regional centers), as well as the USM Office and third parties and contractors under USM or USM constituent institution control, are subject to this policy regardless of sex, sexual orientation, gender identity and gender expression. This Policy applies to Sexual Misconduct in connection with any USM institution, office or regional center education programs or activities, including Sexual Misconduct: (1) in any USM institution facility or on any USM institution property; (2) in connection with any USM or USM institution sponsored, recognized or approved program, visit or activity, regardless of location; (3) that impedes equal access to any USM institution education program or activity or adversely impacts the employment of a member of the USM community; or (4) that otherwise threatens the health or safety of a member of the USM community. Nothing in this policy is intended to supersede or conflict with any federal compliance obligation.

I. Definitions

For purposes of this Policy, the following definitions apply. While institutions may adopt their own definitions that do not conflict with the language below, institutions are strongly encouraged, at a minimum, to adopt the elements of these definitions in institution policies/procedures:

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

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

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

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

E. **Responsible Employee** includes any employee who (1) has the authority to take action regarding Sexual Misconduct; (2) is an employee who has been given the duty of reporting Sexual Misconduct; or (3) is someone another individual could reasonably believe has this authority or duty. At a minimum, Responsible Employees must include: the Title IX Coordinator and any Title IX Team members, all institution administrators, all non-confidential employees in their supervisory roles, all faculty, all athletic coaches, institution law enforcement, and all other non-confidential first responders.

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

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

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

H. Sexual Exploitation means taking non-consensual or abusive sexual advantage of another person for one’s own advantage or benefit or for the advantage or benefit of anyone other than the person being exploited.

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

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

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

L. Sexual Violence is a form of Sexual Harassment and refers to physical sexual acts perpetrated without Consent. Sexual Violence includes rape, Sexual Assault, sexual battery, and sexual coercion. Sexual Violence, in any form, is a criminal act.

M. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.
II. Institutional Obligations

A. Title IX Compliance Oversight

1. Title IX Coordinator

Each Chief Executive Officer of a USM institution shall designate a Title IX Coordinator responsible for coordinating the institution’s efforts to comply with and carry out its responsibilities under Title IX.

The Title IX Coordinator must have adequate training on the requirements of Title IX, including what constitutes Sexual Misconduct, Consent, credibility assessments, and counter-intuitive behaviors resulting from Sexual Misconduct. The Coordinator must understand how relevant institution policies and procedures operate and must receive notice of all reports raising Title IX issues at the institution.

2. Title IX Team

Depending on the size and specific needs of the institution, the institution may want to identify a Title IX Team, which may include the Title IX Coordinator, Deputy Title IX Coordinators, Title IX investigators, and representatives from campus safety, Student Affairs, the Provost’s Office, and Human Resources. The Title IX Coordinator shall be responsible for coordinating the activities of the Title IX Team.

B. Notice of Nondiscrimination

1. Content

Each institution must publish a notice of nondiscrimination that contains the following content:

a. Title IX prohibits the institution from discriminating on the basis of sex in its education program and activities;

b. Inquiries concerning the application of Title IX may be referred to the institution’s Title IX Coordinator or the Office for Civil Rights; and

c. The Title IX Coordinator and any Title IX Team Member’s title, office address, telephone number and email address. The institution’s web site must be kept up to date with the name of the institution’s current Title IX Coordinator.
2. Dissemination of Notice

The notice must be widely distributed to all students, employees, applicants for admission and employment, and other relevant persons. The notice must be prominently displayed on the institution’s web site and at various locations throughout the campus, and must be included in publications of general distribution that provide information to students and employees about the institution’s services and policies. The notice should be available and easily accessible on an ongoing basis.

C. Prompt Investigation and Resolution

1. Investigation

Once an institution knows or reasonably should know of possible Sexual Misconduct, it must take immediate and appropriate action, in accordance with its internal procedures, to investigate or otherwise determine what occurred. This obligation applies to Sexual Misconduct covered by this Policy regardless of where the Sexual Misconduct allegedly occurred, regardless of whether a parallel law enforcement investigation or action is pending, and regardless of whether a formal complaint is filed.

2. Prompt Resolution

If the institution determines that Sexual Misconduct has occurred, the institution must take prompt and effective steps to eliminate the Sexual Misconduct, prevent its recurrence, and address its effects.

   a. In this subsection, “prompt” generally means within 60 calendar days from the time a report is brought to the institution’s attention until an initial decision is rendered.

   b. There may be circumstances that prevent an institution from meeting the 60-day timeline. When an institution is unable to meet the 60-day timeline, the institution should document the reasons why it was unable to meet the 60 day timeline.

3. Notice of Outcome

As permitted by law, the institution must notify the parties concurrently, in writing, about the outcome of the complaint and whether or not Sexual Misconduct was found to have occurred. The institution must also concurrently inform the parties of any change to the results or outcome that occurs before the results or outcome become final, and the institution must inform the parties when the results or outcome become final.
D. Policy & Procedures

1. General

   a. Each institution shall adopt and publish policies and procedures, as needed, that:

      i. Prohibit Sexual Misconduct;

      ii. Prohibit Retaliation against any individual who reports, testifies, assists, or participates in any manner in a Sexual Misconduct investigation, hearing, or proceeding;

      iii. Maintain employee and student procedures that provide for the prompt and equitable reporting, investigation, and adjudication of Sexual Misconduct and/or Retaliation cases;

      iv. Require prompt Interim Measures be implemented, as necessary, to protect the parties during the investigation and adjudication processes;

      v. Apprise the institution community of various USM institution resources and education programs, as well as other community resources and programs, geared to promote the awareness of and eliminate Sexual Misconduct, prevent its recurrence; and, as appropriate, remedy its effects; and

      vi. Are easily understood, easily located, and widely distributed.

   b. Each institution shall ensure that Sexual Misconduct cases undergo an appropriate legal sufficiency review by counsel prior to any decision.

2. Required Content

   At a minimum, policies and procedures must:

   a. Include a statement prohibiting Sexual Misconduct and Retaliation;

   b. Define Consent, Dating Violence, Domestic Violence, Retaliation, Sexual Harassment, Sexual Exploitation, Sexual Intimidation, Sexual Misconduct, Stalking, and Sexual Violence;

   c. Identify Responsible Employees required to report any knowledge of Sexual Misconduct to the Title IX Coordinator;
d. Identify confidential and non-confidential medical, counseling and advocacy resources on and off campus to assist individuals affected by Sexual Misconduct, including sexual assault centers, victim advocacy offices, women’s centers, and health centers;

e. Identify options and procedures for immediate and ongoing assistance following an incident of Sexual Misconduct, including encouragement to obtain immediate medical help and notify law enforcement as appropriate (especially to receive guidance in the preservation of evidence needed for proof of criminal assaults and the apprehension and prosecution of assailants), institution resources available to help obtain such medical or law enforcement assistance, and available Interim Measures; and

f. Detail the following:

i. Identify who can file a complaint of Sexual Misconduct with the institution (to include students, institution employees, and third parties);

ii. Explain how to file a complaint;

iii. Identify to whom such complaints should be directed;

iv. Describe any institutional policies governing confidentiality;

v. Identify the institution’s amnesty policy for parties or witnesses who violate drug use, alcohol or other student conduct policies. At a minimum, institutions must have an amnesty policy that prohibits student conduct action (except for a mandatory intervention for substance abuse) for a violation of alcohol or drug use policies by a student who reports Sexual Misconduct to the institution or law enforcement or participates in a Sexual Misconduct matter as a witness, if the institution 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. Inform the parties about Interim Measures and how to request them. Each institution must provide notice, in writing, to the parties about options for, and available assistance in, obtaining no contact or protective orders, enforcing existing and lawful no contact or protective orders, and changing academic,
transportation, residential, and working situations, if such an accommodation is reasonably available. The institution also must advise the parties of existing options for counseling, health, mental health, victim advocacy, legal assistance, and other services available on and off campus;

vii. Explain the parties’ options and rights, as well as institution responsibilities, regarding notification of law enforcement and campus authorities, as well as student conduct options;

viii. Afford an investigative process and adjudicative process that provides the parties equal opportunity to present relevant witnesses and evidence throughout the process, and affords the parties similar and timely access to information to be used during any process;

ix. Explain that the parties are entitled to the same opportunities to have others present during an institution disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an adviser of their choice, and explain the scope of any adviser’s role or potential involvement;

x. Specify “preponderance of the evidence” as the standard of review;

xi. Identify the range of possible employment and student sanctions for those found responsible for Sexual Misconduct, up to and including suspension, dismissal, expulsion and termination of employment;

xii. Provide an appeal process that is equally available to the parties;

xiii. Require the institution, after a legal sufficiency review, to inform the parties, concurrently and in writing, as permitted by law, about the outcome of any investigation, adjudication, and appeal conducted under this policy;

xiv. Designate reasonably prompt timeframes for the major stages of the process, and set forth the procedure for extending such timeframes, to include the timeframes within which (1) the institution will conduct a full investigation, (2) the parties will receive a notice of outcome, and (3) the parties may file an appeal;
xv. Provide an affirmative statement to the institution community that the institution will take steps to prevent the occurrence of any Sexual Misconduct and remedy its discriminatory effects;

xvi. Advise the community of institutional programs that endeavor to promote the awareness of Sexual Misconduct and prevent its occurrence; and

xvii. Advise the community of external options for reporting Sexual Misconduct, including local law enforcement, the Equal Employment Opportunity Commission and the U.S. Department of Education Office for Civil Rights.

3. Prohibited Content

Policies and procedures may not include any of the following content:

a. Requirement that the parties attempt to resolve any Sexual Misconduct matter informally;

b. Requirement for or allowance of mediation in Sexual Assault cases;

c. Allowing a party to personally cross-examine the other party, if an institution allows cross-examination;

d. Allowing or requiring the institution to wait until a concurrent law enforcement proceeding concludes to begin any Sexual Misconduct investigation, Interim Measures or adjudication;

e. Allowing questioning or evidence about the complainant's sexual history with anyone other than the respondent during any adjudication proceeding (in a proceeding where such evidence or questioning may be appropriate); and

f. Discouraging a reporter from notifying local law enforcement of alleged Sexual Misconduct.

III. Clery Act Compliance

In handling Sexual Misconduct reports, each institution remains responsible for complying with the requirements of the Crime Awareness and Campus Security Act of 1990 (“Clery Act”) and its amendments. Institutions must comply with Clery Act requirements, including crime recording and reporting requirements, where compliance is not otherwise reached by actions under this policy.
IV. Agreements with Local Law Enforcement & Rape Crisis Programs

Each institution must, at a minimum, pursue formalized agreements with (1) the institution’s local law enforcement agency and (2) a State designated rape crisis program and/or federally recognized sexual assault coalition. Agreements with law enforcement agencies must comply with Title IX and clearly state when an institution will refer a matter to a local law enforcement agency. Agreements with rape crisis or sexual assault programs must formalize a commitment to provide trauma-informed services to victims of sexual assault and to improve the institution’s overall response to sexual assault.

V. Training

A. Prevention and Awareness Education

Each institution must develop and implement preventive education, directed toward both employees and students, to help reduce the occurrence of Sexual Misconduct. At a minimum, these educational initiatives must contain information regarding what constitutes Sexual Misconduct, definitions of consent and prohibited conduct, the institution’s procedures, bystander intervention, risk reduction, and the consequences of engaging in Sexual Misconduct. These educational initiatives shall be for all incoming students and new employees. Each institution also must develop ongoing prevention and awareness campaigns for all students and employees addressing, at a minimum, the same information.

B. Training for Persons Involved in Sexual Misconduct Cases

All persons involved in any way in responding to, investigating, or adjudicating Sexual Misconduct reports, including but not limited to, the Title IX Team, Responsible Employees, law enforcement, pastors, counselors, health professionals, resident advisers, and complainant advocates, must have annual training in receiving, reporting and handling complaints of Sexual Misconduct; must be familiar with the institution’s procedures; and must understand the parameters of confidentiality.

VI. Campus Sexual Assault Climate Survey

On or before March 1, 2016, and at least every two (2) years thereafter, each institution shall: (1) develop an appropriate Sexual Assault campus climate survey using nationally recognized best practices for research and climate surveys; and (2) administer the Sexual Assault campus climate survey to students in accordance with the procedures set by the Maryland Higher Education Commission (MHEC). On or before June 1, 2016, and at least every two (2) years thereafter, each institution shall submit to MHEC a report in accordance with the requirements set forth in Md. Code Annotated, Education Article, Section 11-601(g).
VII. Record Keeping

Each institution must keep records of Sexual Misconduct matters, including, but not limited to records of any (1) complaints/reports of Sexual Misconduct; (2) investigation, adjudication and resolution of complaints; (3) training (including, but not limited to, lists of trainees, training dates and content); and (4) related surveys and reports. Records must be maintained in accordance with the institution’s Records Retention Schedule.

VIII. Implementation

Each Chief Executive Officer shall promptly communicate this policy and applicable procedures to his/her institutional community after the Board of Regents approves the policy. Each Chief Executive Officer also shall promptly identify his/her Title IX Coordinator and other designee(s), as appropriate for this policy. No later than December 31, 2014, each institution must develop procedures as necessary to implement this policy; and shall forward a copy of its Title IX designations and procedures, and any subsequent changes in such designations and procedures, to the Chancellor.

(This policy replaces USM VI-1.20 USM Policy on Sexual Harassment and USM VI-1.30 USM Policy on Sexual Assault in their entirety. This policy should be cross-referenced with USM BOR VI-1.50 – Policy on the Reporting of Child Abuse & Neglect.)
Memorandum

Date: June 29, 2015

To: Ms. Zakiya Lee on behalf of Joann Boughman, PhD,
   Senior Vice Chancellor for Academic Affairs University System of Maryland

From: Alanna Dennis, Equity Compliance Officer (EEO/Title IX Coordinator)

Re: JCR Report on Sexual Misconduct Response

Pursuant to the budget committees request that all higher education institutions provide a reply to the following 3 questions by June 29, 2015, please see the response below from Bowie State University.

(1) Report if the institution has an amnesty policy and if so how is it implemented? Bowie State University’s Policy on Sexual Misconduct states that the University does not pursue disciplinary action against complainants or witnesses for improper use of alcohol or drugs. In cases of sexual misconduct where a violation of the university’s substance abuse policy has occurred, unless the violation resulted in a threat to the health and safety of another student or other person, the violation would not result in student conduct action. However, it should be noted that Bowie State University does refer students for mandatory substance abuse treatment if a violation is found.

(2) With regard to pending federal requirements, how does the institution plan to implement a climate survey? Once developed pursuant to USM, MHEC and OAG guidance, the University intends to administer electronically an anonymous survey to all students, faculty and staff. The University is exploring various strategies to enhance participation, especially by students.

(3) Provide a list of all memorandums of understanding applicable to the issue of sexual misconduct. The University has or is pursuing MOUs with the following: (a) Prince George’s County Police; (b) Prince George’s County State’s Attorney’s Office; (c) Maryland Coalition against Sexual Assault; (d) The Maryland Network against Domestic Violence; and, (e) Prince George’s Hospital Center’s Domestic Violence Sexual Assault Center.

Please feel free to contact me directly if you have any additional questions at (301) 860-3442.
Coppin State University submits the following responses for the University System of Maryland’s report to the budget committees.

(1) Report if the institution has an amnesty policy and if so how is it implemented;

Yes, Coppin State University has an amnesty policy. Coppin's Sexual Misconduct Policy includes the following language regarding the University’s amnesty policy:

**AMNESTY FOR STUDENTS WHO REPORT SEXUAL MISCONDUCT**

The University recognizes that a student who is under the influence of alcohol and/or drugs at the time of an incident may be hesitant to report Sexual Misconduct because of the threat of discipline sanctions for his/her own violation of the Code of Student Conduct. In this context, a student who reports Sexual Misconduct will not face disciplinary charges under the Code of Student Conduct whether as a complainant or third party witness.

(2) With regard to pending federal requirements, how does the institution plan to implement a climate survey;

The University plans to implement its climate surveys through new student orientation and campus-wide trainings. The University will distribute the surveys online with incentives, and the University may add to the survey.

(3) Provide a list of all memorandums of understanding applicable to the issue of sexual misconduct.

MOU with Baltimore City Police Department
(The University is currently waiting for a signed copy of the renewal agreement from BCPD.)
This report outlines some of the efforts taken by Frostburg State University to revise and implement its policies and procedures related to sexual misconduct. The University continues to strengthen its approach in how it responds to and prevents sexual misconduct within the University community. The University established a Sexual Misconduct, Relationship Violence, and Stalking Policy which becomes effective July 1, 2015 along with new procedures for handling reports against students and reports against employees. The University established this revised policy, and accompanying procedures, to further comply with Title IX, the Jeanne Clery Act, the Violence Against Women Act Reauthorization of 2013 (also referred to as Campus SaVE), and related laws and regulatory guidance. The new policy and procedures supersede the University’s other policies and procedures on sexual harassment and sexual misconduct. The Sexual Misconduct, Relationship Violence, and Stalking Policy, along with the accompanying procedures, are intended to meet the evolving legal requirements, ensure that survivors are fully informed of reporting options and resources, and promote a culture of reporting and accountability through the University’s fair and equitable resolution process.

IMPLEMENTATION OF AMNESTY POLICY

The University’s Sexual Misconduct, Relationship Violence, and Stalking Policy includes an amnesty provision for students who may be reluctant to report or participate in the University’s investigation process due to underage alcohol consumption or drug possession. The amnesty provision under the revised policy provides:

**AMNESTY FOR ALCOHOL AND DRUG POSSESSION AND CONSUMPTION**

Sometimes students are reluctant to seek help after experiencing Prohibited Conduct, or may be reluctant to help others who may have experienced Prohibited Conduct because they fear disciplinary sanctions for underage alcohol consumption and/or possession and consumption of other drugs. To encourage reporting, a student who reports Prohibited Conduct, either as a Complainant or third party witness, will not face disciplinary action for their consumption of alcohol or drugs at or near the time of the incident. Because alcohol and drug misuse can negatively impact a student’s physical and emotional well-being, the University may still refer a student for health or medical intervention related to their alcohol or drug use.

The above amnesty policy firmly establishes the University’s prior practice of not taking disciplinary action against a student for alcohol misuse if s/he was also making a report of sexual misconduct. The University anticipates continuing this practice and has now expanded it to include bystanders or third parties. Over the last several years, the University has made significant progress in decreasing high-risk drinking among its student population. In order to maintain this progress and promote health and wellness, the University may still refer reporting students for non-disciplinary, health-based interventions.

IMPLEMENTATION OF CLIMATE SURVEY

In April of this year, the University implemented a campus-wide climate survey to all full-time undergraduate students. The University’s goal in implementing the survey was to better understand the campus environment and students’ experiences and perceptions of sexual misconduct. The University wanted to administer the survey during the Spring 2015 semester in order to establish a baseline that
could be used to measure the effectiveness of the University’s new policy, procedures, and prevention programs. The University used a survey instrument created by EverFi, a leading technology education company that created the University’s student online alcohol and sexual assault prevention courses. The University utilized its own internal resources to collect and analyze the data from the survey.

Moving forward, the University anticipates working with the Maryland Higher Education Commission work group in establishing a survey instrument that could be utilized by Maryland higher education institutions to meet the new state requirements and the evolving federal legislation. In accordance with current state law, the University anticipates administering a climate survey every two years.

MEMORANDUMS OF UNDERSTANDING

In April 2012, the University entered into a Memorandum of Understanding with the Maryland State Police, Allegany County Sheriff’s Office, Cumberland Police Department, Frostburg City Police Department, State’s Attorney’s Office for Allegany County, and the Federal Bureau of Investigation. The MOU created the C3I Unit, which is a combined criminal investigation unit that investigates all major crimes (including sexual assault) that occur in Allegany County. The Chief of the Frostburg State University Police Department sits on the C3I advisory board which governs the unit. The current MOU allows for a close and cooperative relationship between the University and local law enforcement in meeting its investigatory obligations of sexual misconduct cases. The University will be exploring opportunities during the 2015-2016 academic year for adding an addendum to the current MOU that more clearly spells out the University’s Title IX obligations and sets parameters on requests that the University delay its investigation in order for law enforcement to collect evidence as part of a criminal investigation.

The University is currently working with our local rape and domestic violence agency about expanding services to survivors within the University community. The University anticipates entering into a MOU with the agency sometime during the Fall 2015 semester once services are finalized.

This report was prepared by Emily Caputo, Frostburg State University Title IX and Compliance Coordinator.
Confidential Memorandum

To: Dr. Joann Boughman, Senior Vice Chancellor for Academic Affairs
    University System of Maryland

From: Salisbury University
      Dr. Dane Foust, Vice President of Student Affairs
      Humberto Aristizabal, Associate Vice President of Institutional Equity

Subject: Salisbury University Updates – Budget Committee’s Request

Date: June 29, 2015

Below is Salisbury University’s response to the USM inquiry dated June 9, 2015:

1. Amnesty Policy:

   • Salisbury University’s Policy Prohibiting Sexual Misconduct and Other Sex and Gender-Based Discrimination states:

      The use of alcohol or drugs will never function as a defense for committing any violation of this Policy. However, SU recognizes that a student who is under the influence of alcohol and/or drugs at the time of an incident may be hesitant to report a Policy violation because of the threat of disciplinary sanctions for his or her own violation of SU Code of Conduct policies relating to alcohol or drug use. Therefore, the SU Medical Amnesty Policy may apply where a student summoning medical assistance or requiring help in a matter covered by this Policy is under the influence of alcohol and/or drugs. The Medical Amnesty Policy, located in the Code of Conduct, is a policy administered by the Office of Student Conduct that will reduce barriers to seeking help in cases of alcohol and/or drug-related emergencies by providing relief from administrative or disciplinary action on the part of the University under certain circumstances if either a University official or other authority is contacted in a timely fashion.
• The procedures governing this Policy are located in the Student Code of Conduct. The revision of January 2015 states:

*Students referred to the Office of Student Conduct for alcohol and/or drug use or possession will have their case reviewed by a representative of The Dean of Students office. If the student is eligible for the conditional relief under this policy, the initiation of disciplinary charges will be “deferred” pending successful completion of an approved alcohol and/or drug intervention program, as deemed necessary by the Counseling Center staff and other appropriate offices. If the student successfully completes the program to the satisfaction of the Counseling Center staff and the Office of Student Conduct, the pending charges will be withdrawn, leaving the student with no disciplinary record. If the student fails to successfully complete the program within the required time frame, disciplinary charges will be processed and, if proven, may result in more severe sanctions and a disciplinary record.*

2. Climate Survey:

• Salisbury University is currently in the initial stages of planning a Campus Climate Survey targeting students, faculty, and staff, which would include questions regarding diversity, inclusion, campus sexual violence, and awareness of campus policies and resources. The University’s Institutional Review Board (IRB) is currently reviewing the proposal to include the principles of The Belmont Report. The Vice President of Student Affairs is serving on a state-wide task force designed to develop a conceptual framework through the Maryland Higher Education Commission. A Campus Climate Survey for students is anticipated to be conducted during the 2015-2016 school year.

• University email is the primary communication for the University and it is the expectation that members of the Campus community monitor their University email. Therefore, a University-wide email distribution, along with an awareness campaign, would be the most effective way to reach the faculty, staff, and student population.

3. Memorandums of Understanding:

• Salisbury University currently holds a memorandum of understanding (MOU) with the City of Salisbury, MD Police Department (SPD). In addition, the Salisbury University Police Department (SUPD) has a mutual aid agreement with the following agencies:

  • SUPD and the City of Fruitland
  • SUPD and Salisbury Police Department (SPD)
  • SUPD and Wicomico County Sheriff’s Office
With the involvement and assistance of the Wicomico States Attorney’s Office, Salisbury University will pursue revised MOUs with local law enforcement agencies to better reflect the mandates of USM and SU policies.

• The Office of Institutional Equity is currently in the process of pursuing and developing a MOU with the local Life Crisis Center.
Towson University

1) Does the institution have an amnesty policy? If so, how it is implemented?

Towson University’s amnesty policy is embedded in Towson University’s Student Procedures for Reporting, Investigating, and Adjudicating Sexual Misconduct. Section I.B. Paragraph 7 states:

The safety of the university community is the university’s primary concern. Therefore, if a complainant/alleged victim was under the influence of alcohol or drugs at either the time of the alleged sexual misconduct and/or at the time he/she makes the report, the complainant/alleged victim will not be charged by the university with a violation of university policy for being under the influence of alcohol or drugs.

Staff members, and University Police, are aware of the university’s amnesty policy and respond to complainants accordingly.

2) How does the institution plan to implement a climate survey?

On or before March 1, 2016, Towson University will develop an appropriate Sexual Assault campus climate survey using nationally recognized best practices for research and climate surveys or utilize the instrument being developed by MHEC, and administer the Sexual Assault campus climate survey to students in accordance with the procedures set by the Maryland higher Education Commission (MHEC). The aforementioned process will be repeated every two (2) years.

On or before June 1, 2016, Towson University will submit to MHEC a report in accordance with the requirements set forth in Maryland Code Annotated, Education Article, Section 11-601(g). The aforementioned process will be repeated every two (2) years.

3) Provide a list of all Memorandums of Understanding applicable to the issues of sexual misconduct:

Towson University has formal Memorandums of Understanding with Baltimore County Police and the Maryland State Police. These Memorandums of Understanding are currently under revision to address Title IX/sexual misconduct issues. Additionally, Towson University is fortunate to have a TurnAround Center several blocks from campus. We have an active relationship with TurnAround and refer victims/survivors to TurnAround for victim advocacy. The university does not have a written Memorandum of Understanding with TurnAround at this particular time. However, we intend to approach TurnAround to discuss developing our relationship further.
Submitted by: University of Baltimore (UB)

Date: June 26, 2015

Purpose: Response provided to USM/MHEC in accordance with the 2015 Joint Chairman’s Report, Higher Education (R75T00) – Sexual Misconduct Policies

2015 JCR states: “The budget committees request that all higher education institutions (1) report if the institution has an amnesty policy and if so how it is implemented; (2) with regard to pending federal requirements, how the institution plans to implement a climate survey; and (3) provide a list of all memorandums of understanding applicable to the issue of sexual misconduct.”

Status: (1) Amnesty Policy

UB’s sexual misconduct policy includes an amnesty provision that currently states: “The safety and security of the community is the University’s primary concern. As such, if a reporting party was under the influence of alcohol or drugs at either the time of the misconduct or at the time one makes the report, s/he will not be charged by the University with a violation of University policy for being under the influence.” UB implements its amnesty policy with a clear communication strategy among its Title IX Team members (i.e., coordinators, investigators, and police) who work in tandem to further this policy provision. UB also implements that policy through efforts inclusive of: printed materials, web content, orientation activities and Title IX training and programming for its campus community.

(2) Climate Survey

UB will issue a climate survey by the March 1, 2016 deadline. UB intends to seek the assistance of UB’s Schaefer Center for Public Policy with the design and implementation of a survey that is tailored to and suitable for the UB community. Further, as USM institution, UB will have access to the survey that the USM intends to provide to all constituent institutions. The university is also aware that MCASA has received a grant from the Governor's Office of Crime Control and Prevention to assist universities with the survey process. These efforts, and others, will serve as resources to draw upon in order to meet the climate survey requirement.

(3) Memorandums of Understanding (MOU)

• The UB Police Department (UBPD) has an updated MOU with the Baltimore Police Department (BPD) that includes reports of sexual misconduct.

• UB is pursuing an MOU between UB and the House of Ruth Maryland. Located in Baltimore, the House of Ruth Maryland is a non-profit organization offering a variety of services for victims of intimate partner violence. UB and the House of Ruth Maryland have already held a preliminary meeting to discuss the establishment of an MOU. We expect to reach agreement in the near future.

• UB is pursuing an MOU between UB and TurnAround, Inc. Located in Baltimore, TurnAround is a domestic violence and sexual assault center offering many services to victims. UB and TurnAround representatives plan to meet on July 14, 2015 to discuss the establishment of an MOU.

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2015 JCR states: “The budget committees request that all higher education institutions (1) report if the institution has an amnesty policy and if so how it is implemented; (2) with regard to pending federal requirements, how the institution plans to implement a climate survey; and (3) provide a list of all memorandums of understanding applicable to the issue of sexual misconduct.”

(1) **Amnesty Policy**
UMB’s Policy Prohibiting Sexual Misconduct and Other Sex and Gender Based Discrimination [http://cf.umaryland.edu/umpolicies/usmpolicyInfo.cfm?polid=428](http://cf.umaryland.edu/umpolicies/usmpolicyInfo.cfm?polid=428) does not contain an amnesty policy. All incidents reported are considered holistically and on an individual basis.

(2) **Climate Survey**
UMB conducted a baseline Climate Survey in fall 2013. It has since been done annually in the spring of 2014 and 2015. The Climate Survey is distributed via an “all students” email. There is follow up by the Student Affairs Deans of each school and reminders are posted in the SMC Campus Center. The survey was reviewed and approved by the Office of Civil Rights.

(3) **Memorandums of Understanding**
At present, UMB does not have any official MOU’s. There is, however, an agreement with Baltimore City Police regarding shared jurisdiction, but it has no specifics about sexual misconduct.
University of Maryland, Baltimore County

To: Dr. Joann Boughman, University System of Maryland

From: Mr. David R. Gleason, General Counsel

Date: June 29, 2015

Re: University of Maryland, Baltimore - Response to JCR Request

2015 JCR states: “The budget committees request that all higher education institutions (1) report if the institution has an amnesty policy and if so how it is implemented; (2) with regard to pending federal requirements, how the institution plans to implement a climate survey; and (3) provide a list of all memorandums of understanding applicable to the issue of sexual misconduct.”

(1) Amnesty Policy
UMBC does not have an amnesty policy yet, but will incorporate the required amnesty policy language into the Sexual Misconduct Policy, based on the upcoming amendments from USM. We do however currently have a practice of judging each incident on a case-by-case basis. We may address the behavior in other ways exclusive of discipline, such as educational efforts, and assisting the student(s) with getting the particular support they need.

(2) Climate Survey
Once the survey is developed, UMBC anticipates implementing it via an online survey instrument. Focus groups may also be another outlet for implementation for non-confidential responses. UMBC may add to the survey based upon campus culture and particular programs in place at UMBC.

(3) Memorandums of Understanding
UMBC has an MOU with the Baltimore County Police Department to investigate rape and first/second degree sexual offenses. Our Title IX Coordinator, Stephanie Lazarus, began conversations with Turn Around (local sexual assault agency) for an MOU on or about this past April. The MOU is attached.
To: Dr. Joann Boughman, University System of Maryland

From: Ms. Lisa A. Ross, PHR
Director of Human Resources

Date: June 17, 2015

Re: UMCES Response to JCR Request

2015 JCR states: “The budget committees request that all higher education institutions (1) report if the institution has an amnesty policy and if so how it is implemented; (2) with regard to pending federal requirements, how the institution plans to implement a climate survey; and (3) provide a list of all memorandums of understanding applicable to the issue of sexual misconduct.”

(1) Amnesty Policy
Our students would follow the amnesty policy under the campus where they are enrolled. Our policy states "UMCES will honor any amnesty policies that are in effect at the matriculating institutions for students who report Sexual Misconduct, either as a complainant or a third party witness."

(2) Climate Survey
As is required by law, on or before March 1, 2016, and at least every two (2) years thereafter, UMCES will administer a sexual assault campus climate survey to students in accordance with the procedures set by the Maryland Higher Education Commission (MHEC). We await guidance from MHEC and USM on the content of a survey that will be available for institutions to use.

(3) Memorandums of Understanding
We currently do not have any active MOUs, but we are actively working on an MOU that will be with local law enforcement pertaining to Clery Act reporting. UMCES will need to have this MOU in place with multiple law enforcement agencies to account for our various geographic locations within the State of Maryland.
June 25, 2015

To: Dr. Joann Boughman, University System of Maryland

From: Catherine A. Carroll, Title IX Officer

Re: UMD College Park – Response to JCR Request

(1) UMP Amnesty Policy – excerpt from page 11, VI-1.60(A) UNIVERSITY OF MARYLAND SEXUAL MISCONDUCT POLICY & PROCEDURES (Approved on an Interim Basis by the President October 13, 2014; Amended May 4, 2015)

Amnesty for Students Who Report Sexual Misconduct

The University recognizes that a student who is under the influence of alcohol and/or drugs at the time of an incident may be hesitant to make a report of sexual misconduct because of the threat of disciplinary sanctions for his or her own violation of the University of Maryland Code of Student Conduct (i.e., alcohol or drug use violation). In this context, a student who reports sexual misconduct, either as a complainant or third party witness, will not face disciplinary charges under the University of Maryland Code of Student Conduct in accordance with V-1.00(J) University of Maryland Policy on Promoting Responsible Action in Medical Emergencies at http://www.president.umd.edu/policies/v100jnew.html

This is implemented by not charging the reporting student and/or complainant with a Code of Conduct violation, if they are engaged in underage drinking or using drugs at the time of the incident.

(2) Plans to implement a climate survey

We are in the process of developing a climate survey with our Office of Institutional Research, Planning and Assessment. My office has also established a working group to help inform the content. We are looking at various existing surveys including Rutgers and MIT. Our timeline is to disseminate the survey in the Spring of 2016.

(3) All Memorandums of Understanding applicable to the issue of sexual misconduct.

1. University of Maryland Office Public Safety (UMPD) and Office of Civil Rights & Sexual Misconduct
2. University of Maryland and U.S. Army ROTC
3. Currently being drafted - University of Maryland and Sexual Assault & Domestic Violence Center of Prince George's County (hospital based rape crisis center)

END OF DOCUMENT
Amnesty Policy

The Sexual Misconduct Policy at the University of Maryland Eastern Shore includes a provision for amnesty as to personal alcohol and other drug use. It reads as follows, “amnesty as to personal alcohol and other drug use will be granted for information gathered during and within the scope of the Title IX investigation.”

This policy allows for broad amnesty in order to encourage initial reporting and maintain candor during the investigation. No judgement or opinion about alcohol or other drug use is shared with the complainant or witnesses unless it is thought to be contributory to the incapacitation of the victim.

Climate Survey

The University of Maryland Eastern Shore will participate in the climate survey that is forthcoming from the University System of Maryland, while reserving the option to add questions.

If feasible, the climate survey will be administered mid-fall semester after receipt from the University System of Maryland or prior to the established deadline, whichever date is sooner. If timing of receipt makes administration during the fall semester obstructive to student’s studies (i.e. the climate
survey is received late in the fall semester and administration would intrude on the students studies for approaching finals), it will be administered mid-spring semester, if the established deadline permits.

List of Memoranda of Understanding

Our University currently has a Memorandum of Understanding with the Life Crisis Center, the local non-profit agency that responds to victims of domestic violence, sexual assault, and child abuse through prevention, intervention and therapy.

We are currently negotiating with the University of Maryland Eastern Shore Police Department and the Princess Anne Police Department, which we expect to conclude by the end of July.
Re: UMUC Response to the Joint Chairmen’s Report Request

Dear Ms. Lee:

In response to the email message dated June 9, 2015 circulated by Dr. Joann Boughman, the following are our responses to the requested information:

1. The University of Maryland University College's (UMUC) Sexual Misconduct policy does not currently provide for Amnesty in response to reports of Sexual Misconduct. However, per the terms of the recently amended USM Policy on Sexual Misconduct, UMUC will revise its policy to be compliant therewith. However, given the nature of UMUC’s student population and the rarity in which a violation of our alcohol or drug use policy has ever been applied, we do not foresee this Amnesty provision being implemented. In the event that Amnesty provision does need to be applied, the Title IX Coordinator will communicate the application of the provision to the Code of Conduct Administrator.

2. UMUC intends to adapt the core Climate Survey developed by the USM work group, but may have to modify it to address the needs of our non-residential and non-traditional student body. We are currently working with our Marketing Department to determine whether our current online survey application will be sufficient to reach our global and national student population while protecting the anonymity of those students who respond. We will also comply with any procedures set forth by the DOE and/or MHEC.

3. UMUC does not currently have any formal agreements with local law enforcement, but in compliance with USM’s amended policy, we will take affirmative steps to pursue such formalized agreements.
Please let us know if you have any additional questions or need more information.

Sincerely,

[Signature]

Steven Alfred
Associate Vice President and Title IX Coordinator