

St. Mary's College of Maryland
Sexual Misconduct Resource Page

How to Get Help:

Any member of the College community who has experienced sexual misconduct is urged to immediately seek medical assistance and/or notify the police.

Emergency Response	Health & Safety	Confidential Resources
<p>SMCM Public Safety (240) 895-4911, or x4911 from any campus phone</p> <p>St. Mary's County Sheriff's Office Emergency: 911 For concerning situations: (301) 475-4200 x1900</p> <p>Maryland State Police Leonardtown Barracks (301) 475-8955</p>	<p>St. Mary's Hospital (301) 475-8981 Provides medical treatment and Sexual Assault Forensic Exams.</p> <p>Calvert Memorial Hospital (410) 535-4000 Provides medical treatment and Sexual Assault Forensic Exams.</p> <p>SMCM Health Services (240) 895-4289 Provides medical treatment. Monday through Friday, 8:00 a.m. – 5:00 p.m.</p>	<p>SMCM Staff Therapist/Advocate (240) 895-4289 Available through Counseling Services. Provides referrals, support and advocacy.</p> <p>Walden-Sierra, Inc. Crisis Hotline (301) 863-6661 Provides advocacy, accompaniment to the hospital, crisis counseling, or on-going therapeutic support.</p> <p>SMCM Counseling Services (240) 895-4289 Provides confidential psychological counseling.</p> <p>SMCM Sexual Misconduct Advocacy and Resource Team (SMART) (301) 904-2015 Provides advocacy, information regarding resources, accompaniment to the hospital, assistance with reporting options and prevention education, under the supervision of the staff therapist/advocate.</p>

Additional campus resources include:

Title IX Coordinator: Michael Dunn

titleix@smcm.edu, (240) 895-4105, Lucille Clifton House

The College has designated a Title IX Coordinator to oversee all reports of sexual and gender-based discrimination, sexual and gender-based harassment, sexual violence, stalking, and relationship violence. The Title IX Coordinator, an independent office that reports directly to the President, is supported by two Deputy Title IX Coordinators.

St. Mary’s College of Maryland
Policy Against Sexual Misconduct

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St. Mary's College of Maryland **Policy Against Sexual Misconduct**

Applies to sexual and gender-based discrimination, sexual and gender-based harassment, sexual violence, stalking, and relationship violence ("sexual misconduct")

I. Resources

St. Mary's College of Maryland (hereafter referred to as either "the College" or "SMCM") is committed to treating all members of the community with dignity, care, and respect. Any individual who experiences or is affected by sexual or gender-based discrimination, sexual or gender-based harassment, sexual violence, stalking, or relationship violence (hereafter referred to as "sexual misconduct"), whether as a Reporting Party, a Responding Party, or a third party, will have equal access to support and counseling services through the College. Interim remedies are also available to all parties (see Section VIII).

The College recognizes that the decision whether or not to make a report, either to the College or law enforcement, and choosing how to proceed, can be difficult. Making a report means telling someone in authority what happened, in person, by telephone, in writing or by email. Regardless of whether the decision has been made to report an incident, all individuals are encouraged to seek the support of on- and off-campus resources. These trained professionals can provide guidance in making decisions, information about available resources and procedural options, and assistance to either party in the event that a report and/or resolution under this policy is pursued. Individuals are encouraged to use all available resources on- and off-campus, regardless of when or where the incident occurred.

There are many resources available on campus and in the surrounding community. As detailed below, there are Confidential Resources: By law, trained professionals who serve in a counseling or medical context cannot share information without the consent of the individual seeking assistance. There are also a variety of College resources that will be discreet and private, but are not considered confidential. Information shared with College resources outside of counseling or medical services will be shared with the Title IX Coordinator to ensure a consistent administrative response, appropriate support and protection for a Reporting Party, and a prompt and equitable resolution. All College resources will maintain the privacy of an individual's information within the limited circle of those involved in the resolution of a complaint under this Policy. For more information about the difference between privacy and confidentiality, see Section V.

The College has designated a Title IX Coordinator to oversee all reports of sexual misconduct. The Title IX Coordinator, an independent office that reports directly to the President, is supported by two Deputy Title IX Coordinators.

Title IX Coordinator:
Michael Dunn
Lucille Clifton House * (240) 895-4105
titleix@smcm.edu, mkdunn@smcm.edu

Deputy Title IX Coordinators:
Shannon Jarboe
Glending Hall 170 * (240) 895-4309
titleix@smcm.edu,
skjarboe@smcm.edu

Kelly Smolinsky
Campus Center 150 * (240) 895-3181
titleix@smcm.edu,
kasmolinsky@smcm.edu

a. Confidential Resources (Counseling and Advocacy)

The College encourages all community members to make a prompt report of any incident of sexual misconduct to local law enforcement and to the College. For individuals who are not prepared to make a report to the College, who may be unsure what happened, or who are seeking information and support, there are several legally protected confidential resources available as designated below. These confidential resources will not share information with the College or anyone else without the individual's permission. Information shared with these confidential resources is not considered a report to the College.

i. On-Campus Confidential Resources (Counseling and Advocacy)

- **Staff Therapist/Advocate: Kelly Muldoon, kmmuldoon1@smcm.edu, (240) 895-4289**
The staff therapist/advocate is available through Counseling Services (240-895-4289). This staff member can provide students with referrals, support, and advocacy during the investigation and adjudication of allegations of sexual misconduct. The staff therapist/advocate works with the Title IX Coordinator to provide sexual misconduct prevention education.
- **Counseling Services: (240) 895-4289**
Counseling Services has professionally trained clinicians to offer advocacy, support, therapy, and guidance. Counselors are available to provide advocacy to students and connect them to other resources on and off campus. Any names and information shared with a counselor will not be shared with any other campus office/personnel except when there is an immediate danger to self or others or a suspicion of child abuse.
- **SMCM Sexual Misconduct Advocacy and Resource Team (SMART): (301) 904-2015**
Available 24/7 via phone or text message while students are on campus
SMART is a group of students specially trained in sexual misconduct crisis response protocols who provide on-call services 24 hours a day, 7 days a week when school is in session. SMART can assist with reporting options, advocacy, on- and off-campus resources, accompaniment to the hospital, and prevention education. Members of SMART are confidential resources under the supervision of the staff therapist/advocate, who is also a confidential resource. All reports to SMART will be shared with the staff therapist/advocate. Neither SMART members nor the staff therapist/advocate will share information with the College or anyone else without the individual's permission, except when there is an immediate danger to self or others or a suspicion of child abuse. Information shared with SMART is not considered a report to the College. Students may also elect to remain anonymous by not sharing personally identifiable information about themselves or other involved parties with the SMART.

ii. Off-Campus Confidential Resources (Counseling and Advocacy):

- **Walden-Sierra, Inc.: (301) 863-6661 (24-hour hotline) (888) 912-7366**
The Walden-Sierra 24-hour crisis hotline can be contacted day or night. Walden Sierra can provide advocacy, accompaniment to the hospital, crisis counseling, or on-going therapeutic support. Walden Sierra is under no obligation to notify the College or local authorities when providing services to students. <http://www.waldensierra.org/>
- **Maryland Coalition Against Sexual Assault (MCASA): (410) 974-4507**
The Maryland Coalition Against Sexual Assault can provide resources for survivors as well as legal services through the Sexual Assault Legal Institute (SALI). MCASA is under no obligation to notify the College when providing services to students. www.mcasa.org
- **The Southern Maryland Center for Family Advocacy: (301) 373-4141**
The Southern Maryland Center for Family Advocacy can provide advocacy, resources, referral, and legal assistance to victims of relationship violence. The Center is under no obligation to notify the College when providing services to students. www.smcfa.net
- **Rape, Abuse and Incest National Network (RAINN): (800) 656-4673**
A confidential, anonymous national sexual assault hotline. www.rainn.org

b. Confidential Medical Resources

A medical provider can provide emergency and/or follow-up medical services. The medical exam has two goals: first, to diagnose and treat the full extent of any injury or physical effect (including prevention of sexually transmitted infections and pregnancy) and second, to properly collect and preserve evidence. The College is not notified by the hospital unless the Reporting Party desires to have on-campus personnel notified.

St. Mary's Hospital and Calvert Memorial Hospital provide Sexual Assault Forensic Exams. All costs of these exams are free to the Reporting Party and the exams are performed by trained Sexual Assault Nurse Examiners. There is a limited window of time (within 96 hours) following an incident of sexual assault to preserve physical and other forms of evidence. Taking the step to gather evidence immediately does not commit an individual to any particular course of action. The police will not be contacted by the hospital unless the Reporting Party so desires. The decision to seek timely medical attention and gather any evidence, however, will preserve the full range of options to seek resolution under this policy or through the pursuit of criminal prosecution.

If a SAFE exam is desired, it is ideal if the Reporting Party does not shower, use the bathroom, or clean one's body in any way. The individual should also preserve any clothing (including undergarments) in a paper bag to bring to the hospital. SAFE exams are maintained anonymously at the hospital for a minimum of 90 days.

i. On-Campus Confidential Resources (Medical):

- **Health Services: (240) 895-4289**
Health Services professionals provide medical attention and referrals to campus and community resources. While Health Services does not provide a SAFE exam, they do provide some testing for

sexually transmitted infections, pregnancy testing, Plan B emergency contraception, and treatment for minor injuries. Any names and information shared with a member of the Health Services staff will not be shared with any other campus office/personnel except when there is an immediate danger to self or others or a suspicion of child abuse.

ii. Off-Campus Confidential Resources (Medical):

- **St. Mary's Hospital: (301) 475-8981**
234 Jefferson Street, Leonardtown, MD 20650
- **Calvert Memorial Hospital: (410) 535-4000**
100 Hospital Road, Prince Frederick, MD 20678

The College will fully and promptly cooperate in obtaining appropriate medical attention for a Reporting Party, including transportation for the Reporting Party to St. Mary's Hospital.

c. Campus Resources

In addition to the confidential resources listed above, SMCM community members have access to a variety of resources provided by the College. The staff members listed below are trained to support individuals affected by sexual harassment or misconduct and to coordinate with the Title IX Coordinator consistent with the College's commitment to a safe and healthy educational environment. While not bound by confidentiality, these resources will maintain the privacy of an individual's information within the limited circle of those involved in the Title IX resolution process.

- **Title IX Coordinator: Michael Dunn**
(240) 895-4309, Lucille Clifton House

The Title IX Coordinator oversees the College's response to a report of sexual misconduct. The Coordinator is responsible for the initial Title IX assessment, implementing interim remedies and protective measures for the individual and the community, initiating the investigation, and ensuring a fair and impartial resolution designed to stop the harassing conduct, address its effects, and prevent its recurrence. The Coordinator provides oversight of all Title IX complaints to ensure compliance with local, state and federal authority, and receives, reviews and maintains records of all complaints to identify and address any systemic problems. The Coordinator also assesses student activities periodically to ensure that the practices and behaviors of the students do not violate the policies on sexual harassment and violence, and to tailor education, prevention, and training programs regarding sexual misconduct to the needs of the community. The Coordinator is available to meet with students, staff and faculty.

Deputy Title IX Coordinator: Shannon Jarboe
(240) 895-4309, Glendening Hall 170

Deputy Title IX Coordinator: Kelly Smolinsky
(240) 895-3181, Campus Center 150

While the Title IX Coordinator has oversight over all complaints, the Deputy Title IX Coordinators serve as a valuable additional resource within the employee context to address complaints against staff, faculty, and third parties. The Deputy Title IX Coordinators can serve as a reporting option,

provide information as to resources and procedural options, be available to meet with Reporting Parties and Responding Parties, and facilitate access to interim remedies and measures. The Deputy Title IX Coordinators can also assist in assessing climate in the employee context.

The Title IX Coordinator and Deputy Title IX Coordinators are assisted by members of the Title IX Team, denoted by an asterisk below. Members of this interdepartmental team include the Title IX Coordinators, the Student Conduct Officer and the Director of Public Safety. In addition, based on the role of the Reporting Party and the Responding Party, the members of the team could include the Vice President for Academic Affairs and Dean of Faculty, the Dean of Students and/or the Director of Human Resources. Composition of the team will be limited to a small circle of individuals who “need to know” in order to implement procedures under this policy.

- **Director, Office of Public Safety***
Tressa Setlak, tasetlak@smcm.edu
(240) 895-4911
Available 24 hours a day/7 days a week/365 days a year
Public Safety may assist with the on-campus investigation of a report and can assist with no-contact orders. Public Safety can contact the staff therapist/advocate or the Sexual Misconduct Advocacy and Resource Team (SMART) when an incident of sexual misconduct is reported with the Reporting Party’s consent. Public Safety can assist with contacting the St. Mary’s County Sheriff’s Office if the Reporting Party requests a criminal investigation be initiated. If the Reporting Party does not wish for the Sheriff’s Office to investigate, Public Safety officers will notify the Sheriff’s Office of the incident and the fact the Reporting Party requests to remain anonymous.
- **Director of Student Conduct, Office of Student Conduct***
Kelly Smolinsky, kasmolinsky@smcm.edu
(240) 895-3181
The Director of Student Conduct can connect students to on- and off-campus resources.
- **Vice President for Student Affairs/Dean of Students***
Leonard Brown, lebrown1@smcm.edu
(240) 895-4208
The Vice President of Student Affairs/Dean of Students (“Dean of Students”) oversees Residence Life, Public Safety, Counseling Services, Health Services, and the Office of Student Conduct. The Dean of Students can provide options and resources for students as well as assist with a variety of accommodations.
- **Office of Residence Life**
(240) 895-4207
Residence Life staff are trained to respond to all kinds of student emergencies and can quickly connect the Reporting Party to other resources on and off campus. Students involved in sexual misconduct incidents in a substantial capacity may request an immediate change of living situations, if an alternative is reasonably available, by contacting Residence Life (or Public Safety after-hours). The College also reserves the right to require alternative housing for the parties in certain circumstances.

- **Academic Services**

(240) 895-4388

Academic Services can assist students in requesting accommodations for classes, rearranging schedules, connecting with faculty, or taking a leave of absence from the College (if possible).

Information shared with Academic Services will be shared with the staff therapist/advocate, Title IX Coordinator, student conduct officer, Public Safety, Dean of Students Office, and relevant administrators.

*Denotes member of the Title IX Team

II. The St. Mary's Way and Community Expectations

As stated in the St. Mary's Way, the College is a place *"where people foster relationships based upon mutual respect, honesty, integrity, and trust."* As such, the College is committed to providing an educational, living and working environment free from all forms of harassment and discrimination for all members of the community. This policy prohibits all forms of sexual or gender-based harassment, discrimination or misconduct, including sexual violence, sexual assault, stalking, and relationship violence. Misconduct of this nature is contrary to the St. Mary's Way and prohibited by state and federal law. This Policy has been developed to reaffirm the College's institutional values, to define community expectations, to provide for fair and equitable procedures for determining when this Policy has been violated and if so violated, to provide recourse for those individuals. Disciplinary sanctions for such violations may include suspension or expulsion for students and suspension or termination for employees.

All members of the SMCM community are expected to conduct themselves in a manner that does not infringe upon the rights of others. Moreover, all SMCM community members, including students, are strongly encouraged to report information regarding any incident of sexual misconduct directly to the Title IX Coordinator or a member of the Title IX team. The College cannot take appropriate action unless an incident of sexual misconduct is reported to the College.

The St. Mary's Way defines the College as a place *"where people contribute to a spirit of caring and an ethic of service."* With this in mind, the College encourages all members of our community to participate in the process of creating a safe, welcoming, and respectful environment on campus. In particular, the College expects that all SMCM community members will take reasonable and prudent actions to prevent or stop an act of sexual misconduct. Taking action may include direct intervention when safe to do so, enlisting the assistance of friends, contacting law enforcement, or seeking assistance from a person in authority. Community members who choose to take action will be supported by the College and protected from retaliation.

III. Scope of Policy

The College prohibits all forms of sexual and gender-based discrimination and harassment, including sexual harassment, sexual violence, stalking, and relationship violence. Sexual misconduct may occur between people of the same or different sexes, gender identities or expressions, or sexual orientations.

The College endeavors to foster a climate free from sexual misconduct through training, education, and prevention programs, and through policies and procedures that promote prompt reporting, prohibit retaliation, and ensure timely, fair, and impartial investigation and resolution of complaints in a way that

eliminates the sexual misconduct, prevents its recurrence, and addresses its effects. This Policy applies to all SMCM community members, including students, faculty, administrators, staff, volunteers, vendors, independent contractors, visitors and any individuals regularly or temporarily employed, studying, living, visiting, conducting business, or having any official capacity with the College or on College property. This Policy protects all members of the SMCM community.

This Policy is intended to protect and guide individuals who have been affected by sexual misconduct, whether as a Reporting Party, a Responding Party, or a third party, and to provide fair and equitable procedures for investigation and resolution of reports.

When used in this Policy, “Reporting Party” refers to the individual who identifies oneself as a victim or survivor of sexual or gender-based discrimination, sexual or gender-based harassment, sexual violence, stalking, or relationship violence. A “Responding Party” refers to the individual who has been accused of prohibited conduct under this Policy. A “Third Party” refers to any other participant in the process, including a witness to the incident or an individual who makes a report on behalf of someone else.

This Policy applies to conduct occurring on College property or at College-sanctioned events or programs that take place off campus, including study abroad and internship programs. With respect to incidents in which both the Reporting Party and Responding Party are members of the College community, this Policy will apply regardless of the location of the incident. In addition, off campus conduct by or against a member of the SMCM community that is likely to have a substantial adverse effect on, or poses a threat of danger to, any member of the SMCM community or SMCM itself is covered under this Policy.

A Reporting Party is encouraged to report misconduct regardless of where the incident occurred, or who committed it. Even if the College does not have jurisdiction over the Responding Party, the College will still take prompt action to provide for the safety and well-being of the Reporting Party and the broader campus community and will assist a Reporting Party in identifying the appropriate external reporting options.

IV. Non-Discrimination Policy

St. Mary’s College of Maryland does not discriminate or condone discrimination on the basis of race, sex, gender/gender identity & expression, color, religion, creed, age, genetic information, disability, national or ethnic origin, sexual orientation, or marital status.

The College also does not discriminate on the basis of sex and Title IX of the Education Amendments of 1972 (“Title IX”), 20 U.S.C. Sec. 1681, *et seq.*, requires the College not discriminate in such a manner.

Prohibited sex discrimination covers sexual harassment, including sexual violence. Examples of the types of conduct prohibited include but are not limited to the following examples: non-consensual sexual intercourse, non-consensual sexual contact, non-consensual sexual exploitation, and/or examples found in the College’s Sexual Misconduct Policy.

Inquiries concerning the application of Title IX may be referred to the College’s Title IX Coordinator or to the Department of Education’s Office for Civil Rights. Our Title IX Coordinator’s information can be found here:

Michael Dunn, Title IX Coordinator, (240) 895-4105
Lucille Clifton House, 47645 College Drive, St. Mary's City, MD 20686
titleix@smcm.edu, mkdunn@smcm.edu

Contact information for the Department of Education's Office for Civil Rights:

Philadelphia Office
The Wanamaker Building
100 Penn Square East, Suite 515
Philadelphia, PA 19107
Telephone: 215-656-8541
FAX: 215-656-8605
Email: OCR.Philadelphia@ed.gov
www.ed.gov/ocr

V. Privacy vs. Confidentiality

The College is committed to protecting the privacy of all individuals involved in a report of sexual misconduct. All College employees who are involved in the College's Title IX response, including the Title IX Coordinator, Deputy Title IX Coordinators, and investigators, receive specific training about respecting and safeguarding private information. Throughout the process, every effort will be made to protect the privacy interests of all individuals involved in a manner consistent with the need for a thorough review of the report.

a. Privacy and Confidentiality

Privacy and confidentiality have distinct meanings under this policy.

Privacy: Privacy generally means that information related to a report of sexual misconduct will only be shared with a limited circle of individuals. The use of this information is limited to those College employees who "need to know" in order to assist in the active review, investigation or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

Confidentiality: Confidentiality means that information shared by an individual with designated campus or community professionals cannot be revealed to any other individual without the express permission of the individual. These campus and community professionals include mental health providers, medical providers, ordained clergy, rape crisis counselors and attorneys, all of whom have legally protected confidentiality. These individuals are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others or a suspicion of child abuse.

An individual who seeks completely confidential assistance may do so by speaking with professionals who have a legally protected confidentiality. On campus, confidential resources available to students include counselors in the Counseling Center, medical staff in the Health Center, and the staff therapist/advocate. Employees may access confidential assistance through the Employee Assistance Program. Information shared with these resources will remain confidential and will not be shared with the College or anyone else without express permission of the individual seeking services unless maintaining such confidentiality would result in harm to self or others. When a report involves suspected abuse of a minor under the age

of 18, these confidential resources are **required** by Maryland law and by the College's Child Abuse Reporting Policy to notify child protective services and/or local law enforcement. They are also required to notify the Title IX Coordinator that such a report has been made.

b. Responsible Employees

Under Title IX, a college or university is required to take immediate and corrective action if a "responsible employee" knew or, in the exercise of reasonable care, should have known about sexual misconduct that creates a hostile environment. At SMCM, employees with supervisory and leadership responsibilities on campus are considered "responsible employees." This includes all faculty, coaches, administrators, Resident Assistants/Residence Hall Coordinators, and other student employees/volunteers with a significant responsibility for student welfare.

Accordingly, with the exception of individuals who have legally protected confidentially (see section 1, Resources), all "responsible employees" of the College are **required** to share with the Title IX Coordinator any report of sexual misconduct they receive or of which they become aware.

This allows the Title IX Coordinator to conduct an initial assessment of the reported behavior, ensure that a Reporting Party is familiar with the full range of options for resolution both on and off campus, and address the necessity for any interim remedies or accommodations to protect the safety of the Reporting Party or the community. The Title IX Coordinator will seek the Reporting Party's expressed preferences, if any, as to course of action.

c. Reporting Party's Request for Privacy

Where a Reporting Party requests that the Reporting Party's name or other identifiable information not be shared with the Responding Party or that no formal action be taken, the College will balance this request with its dual obligation to provide a safe and non-discriminatory environment for all College community members and to remain true to principles of fundamental fairness that require notice and an opportunity to respond before action is taken against a Responding Party. The Title IX Coordinator evaluates such requests for privacy. In making this determination, the Title IX Coordinator may consider:

- The seriousness of the conduct;
- The respective ages and roles of the Reporting Party and Responding Party;
- The rights of the Responding Party to receive notice before disciplinary action is sought
- Circumstances that suggest there is an increased risk of the Responding Party committing additional acts of sexual violence or other violence (e.g., whether there have been other complaints or reports of harassment or misconduct about the same Responding Party, whether the Responding Party has a history of arrests or records from a prior school indicating a history of violence, whether the Responding Party threatened further sexual violence or other violence against the Reporting Party or others, and whether the sexual violence was committed by multiple Responding Parties)
- Circumstances that suggest there is an increased risk of future acts of sexual violence under similar circumstances (e.g., whether the Reporting Party's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group)
- Whether the sexual violence was perpetrated with a weapon
- Whether the College possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence).

The College will take all reasonable steps to investigate and respond to the complaint consistent with the request for privacy or request not to pursue an investigation. Where the College is unable to take action consistent with the request of the Reporting Party, the Title IX Coordinator will inform the Reporting Party about the College's chosen course of action.

d. Timely Warning and Other Considerations

If a report of misconduct discloses a serious or continuing threat to the SMCM community, the College may issue a campus wide timely warning (which can take the form of an email to campus) to protect the health or safety of the community. The timely warning will not include any identifying information about the Reporting Party.

The release of the names of the Reporting Party and Responding Party is guided by Family Educational Rights and Privacy Act ("FERPA") and the Clery Act.

All College proceedings are conducted in accordance with College policies and procedures (contained herein) and in compliance with the requirements of FERPA, the Clery Act, Title IX, the Campus SaVE Act, and state and federal law. No information shall be released from such proceedings except as required or permitted by law and College policy.

VI. Prohibited Conduct and Definitions

a. Prohibited Forms of Conduct

The College prohibits all forms of sexual misconduct, which encompasses a broad range of behavior. Sexual misconduct may occur between people of the same or different sexes, gender identities or expressions, or sexual orientations.

Within these broad categories, the College prohibits the following specific conduct:

Sexual Harassment: 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 College program or activity; *or*
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 the 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 serious, pervasive or persistent as to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment under both a subjective and objective standard.

A single isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe.

Sexual harassment also includes gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex stereotyping, even if those acts do

not involve conduct of a sexual nature.

Examples of conduct that may constitute sexual harassment as defined above may include a severe, persistent or pervasive pattern of unwelcome conduct that includes one or more of the following:

- Physical conduct:
 - Unwelcome touching, sexual/physical assault, impeding, restraining, or blocking movements
 - Unwanted sexual advances within the employment context
- Verbal conduct:
 - Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual
 - Objectively offensive comments of a sexual nature, including persistent or pervasive sexually explicit statements, questions, jokes, or anecdotes
- Visual conduct:
 - Severe, persistent, or pervasive visual displays of suggestive, erotic, or degrading sexually oriented images that are not pedagogically appropriate
- Written conduct:
 - Letters, notes or electronic communications containing comments, words, or images described above
- Quid pro quo conduct:
 - Direct propositions of a sexual nature between those for whom a power imbalance or supervisory or other authority relationship exists
 - Offering employment benefits in exchange for sexual favors
 - Making submission to sexual advances an actual or implied condition of employment, work status, promotion, grades, or letters of recommendation, including subtle pressure for sexual activity, an element of which may be repeated requests for private meetings with no academic or work purpose
 - Making or threatening reprisals after a negative response to sexual advances

The following forms of conduct are prohibited under this policy. Each specific prohibited conduct may also be a form of sexual harassment.

Non-Consensual Sexual Intercourse (Rape): Any act of sexual intercourse with another individual without effective consent. Sexual intercourse includes vaginal or anal penetration, however slight, with a body part (e.g., penis, tongue, finger, hand) or object, or oral penetration involving mouth to genital contact. Non-consensual sexual intercourse includes incest, which is defined as sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. Non-consensual sexual intercourse also includes statutory rape, which is defined as sexual intercourse with a person who is under the statutory age of consent.

Non-Consensual Sexual Contact (Fondling): 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 effective consent. Intimate parts may include the genitalia, breast, buttocks, groin, or clothing covering those parts, or any other part of the body that is touched in a sexual manner. Sexual contact also includes attempted sexual intercourse.

Sexual Exploitation: Any act which takes non-consensual or abusive sexual advantage of another individual, either for their own advantage or benefit, or for the advantage or benefit of anyone other than the one being exploited. This behavior includes but is not limited to:

- Utilizing any electronics for the purpose of posting or publishing and/or capturing images of a sexual act without the consent or knowledge of the involved parties
- Publishing, recreating, or reproducing images of a sexual act without the knowledge or consent of the parties involved
- Peeping tommyery/voyeurism
- Unwanted exposure to pornographic material
- Inducing incapacitation for the purpose of having sex with the incapacitated person regardless if sexual activity actually takes place
- Prostitution of another
- Knowingly exposing another individual to a sexually transmitted infection or virus without that individual's knowledge

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or to suffer substantial emotional distress. For the purposes of this definition, "course of conduct" means two or more acts, including but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property. "Reasonable person" means a reasonable person under similar circumstances and with similar identities to the Reporting Party. "Substantial emotional distress" means significant mental suffering or anguish that may but does not necessarily, require medical or other professional treatment or counseling. Stalking behaviors may include, but are not limited to abusive and excessive contact and/or monitoring using telephone calls, voice mails, emails, instant messaging, text messages, and/or social media to one's home or work; installing spyware on a person's computer or phone without consent; trespassing; following and/or threatening an individual or a person's friends and relatives; driving/walking by a person's home, school, and/or work; or vandalizing property.

Relationship violence: Relationship violence includes "dating violence" and "domestic violence."

Dating violence: Any act of violence, including but not limited to, sexual assault, physical abuse, threats of violence and other forms of violence, by a person who is or has been in a social relationship of a romantic or intimate natures with the Reporting Party. The existence of such a relationship shall be based on the Reporting Party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Domestic violence: Any act of violence, including but not limited to, sexual assault, physical abuse, threats of violence and other forms of violence, by a current or former spouse or intimate partner of the Reporting Party, by a person with whom the Reporting Party shares a child in common, by a person who is cohabitating with or has cohabitated with the Reporting Party as a spouse or intimate partner, by a person similarly situated to a spouse of the Reporting Party under Maryland law, or by any other person against an adult or youth Reporting Party protected from those acts by domestic or family violence laws of Maryland.

Harm to Others: Words or types of conduct that threaten or endanger the health or safety of any person including physical abuse, verbal abuse, threats, intimidation, and/or harassment. This behavior is typically treated as a violation of the College's Code of Student Conduct (Article II, Section E). Acts which constitute harm to others that are a form of relationship violence, or are based on sex or gender, will be resolved under the Sexual Misconduct Policy.

Retaliation: Acts or attempts to retaliate or seek retribution against the Reporting Party, Responding Party, or any individual or group of individuals involved in the complaint, investigation and/or resolution of an allegation of sexual misconduct. Retaliation can be committed by any individual or group of individuals, not just a Responding Party or Reporting Party. Retaliation can take many forms, including threats, intimidation, continued abuse, violence or other forms of harm to others.

b. Other Definitions

Effective Consent: Effective consent is defined as willingly, freely and knowledgeably agreeing to engage in sexual conduct. Consensual sexual conduct is a mutual decision reached by all parties involved without any hint of force, threat, coercion, fraud, manipulation, intimidation, or reasonable fear of injury. Consent cannot be given if an individual is mentally or physically incapacitated (for example, due to excessive use of alcohol or drugs or a mental or physical condition). Silence, passivity, lack of active resistance or lack of active response *does not* imply consent. In addition, previous participation in sexual activity does not indicate current consent to participate. Consent to one form of sexual activity does not imply consent to other forms of sexual activity.

The following are essential elements of effective consent:

- *Informed and reciprocal:* All parties must demonstrate a clear and mutual understanding of the nature and scope of the act to which they are consenting and a willingness to do the same thing, at the same time, in the same way.
- *Mutually understandable:* Communication regarding consent consists of mutually understandable words and/or actions that indicate an unambiguous willingness to engage in sexual activity. In the absence of clear communication or outward demonstration, there is no consent. Relying solely upon non-verbal communication can lead to a false conclusion as to whether consent was sought or given.
- *Not indefinite:* Consent may be withdrawn by any party at any time. Recognizing the dynamic nature of sexual activity, individuals choosing to engage in sexual activity must evaluate consent in an ongoing manner and communicate clearly throughout all stages of sexual activity. Withdrawal of consent can be an expressed “no” or can be based on a clear outward demonstration that conveys that an individual is hesitant, confused, uncertain or is no longer a mutual participant. Once consent is withdrawn, the sexual activity must cease immediately and all parties must obtain mutually expressed or clearly stated consent before continuing further sexual activity.
- *Not unlimited:* Consent to one form of sexual contact does not constitute consent to all forms of sexual contact, nor does consent to sexual activity with one person constitute consent to activity with any other person. Each participant in a sexual encounter must consent to each form of sexual contact with each participant.

Even in the context of a current or previous intimate relationship, each party must consent to each instance of sexual contact each time. The consent must be based on mutually understandable communication that clearly indicates a willingness to engage in sexual activity. The mere fact that there has been prior intimacy or sexual activity does not, by itself, imply consent to future acts.

Force: Force is the use or threat of physical violence or intimidation to overcome an individual’s freedom of will to choose whether or not to participate in sexual activity. Force may also include moral, intellectual,

psychological or emotional force. For the use of force to be demonstrated, there is no requirement that a Reporting Party resists the sexual advance or request. However, resistance by the Reporting Party will be viewed as a clear demonstration of non-consent.

Coercion: Coercion is the improper use of pressure to compel another individual to initiate or continue sexual activity against the individual's will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats and blackmail. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Examples of coercion include threatening to disclose another individual's private sexual information (sexual orientation, gender identity or gender expression) and threatening to harm oneself if the other party does not engage in the sexual activity.

Incapacitation: Incapacitation is a state where an individual cannot make an informed and rational decision to engage in sexual activity because the individual lacks conscious knowledge of the nature of the act (e.g., to understand the who, what, when, where, why or how of the sexual interaction) and/or is physically helpless. An individual is incapacitated, and therefore unable to give consent, if s/he is asleep, unconscious, or otherwise unaware that sexual activity is occurring.

Incapacitation may result from the use of alcohol and/or drugs. Consumption of alcohol or other drugs alone is insufficient to establish incapacitation as it is a state beyond drunkenness or intoxication. The impact of alcohol and drugs varies from person to person; however, warning signs that a person may be approaching incapacitation may include but may not be limited to slurred speech, vomiting, unsteady gait, odor of alcohol, combativeness, or emotional volatility.

Evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs impacts an individual's:

- decision-making ability;
- awareness of consequences;
- ability to make informed judgments; or
- capacity to appreciate the nature and the quality of the act.

Evaluating incapacitation also requires an assessment of whether a Responding Party knew or should have known that the Reporting Party was incapacitated based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a sober, reasonable person in the Responding Party's position.

Alcohol and Other Drugs: In general, sexual contact while under the influence of alcohol or other drugs poses a risk to all parties. Alcohol and drugs impair a person's decision-making capacity, awareness of the consequences, and ability to make informed judgments. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication. If there is **any doubt** as to the level or extent of the other individual's intoxication or impairment, the prudent course of action is **to forgo or cease** any sexual contact or activity.

Being intoxicated or impaired by drugs or alcohol is **never an excuse** for sexual misconduct and does not diminish one's responsibility to obtain consent.

VII. Reporting

The College encourages all individuals to seek assistance from a medical provider and/or law enforcement immediately after an incident of sexual violence. This is the best option to ensure the preservation of evidence and to begin a timely investigative and remedial response.

The College has a strong interest in supporting those who experience sexual misconduct and encourages all individuals or third party witnesses to report any incident to the College *and* to local law enforcement. Reporting options are not mutually exclusive. Both campus and criminal reports may be pursued simultaneously.

Making a report means telling someone in authority what happened -- in person, by telephone, in writing or by email. At the time a report is made, a Reporting Party does not have to decide whether or not to request any particular course of action, nor does a Reporting Party need to know how to label what happened. Choosing to make a report, and deciding how to proceed after making the report, can be a process that unfolds over time. The College provides support that can assist each individual in making these important decisions and, to the extent legally possible, will respect an individual's autonomy in deciding how to proceed. In this process, the College will balance the individual's interest with its obligation to provide a safe and non-discriminatory environment for all members of the College community.

Any individual who reports sexual misconduct can be assured that all reports will be investigated and resolved in a fair and impartial manner. A Reporting Party, a Responding Party and all individuals involved can expect to be treated with dignity and respect. In every report under this Policy, the College will make an immediate assessment of any risk of harm to the Reporting Party or to the broader campus community and will take steps necessary to address those risks. These steps will include interim measures to provide for the safety of the individual and the campus community.

a. Emergency and External Reporting Options

The College will help any SMCM community member to get to a safe place, and will provide coordination with law enforcement and information about on- and off-campus resources and options for resolution. The College will fully and promptly cooperate in obtaining appropriate medical attention for a Reporting Party, including transportation for the Reporting Party to St. Mary's Hospital.

Law Enforcement:

SMCM Public Safety

(240) 895-4911 or x4911

from any campus phone

St. Mary's County Sheriff's Office

For emergencies: 911

For concerning situations:

(301) 475-4200 x1900

Maryland State Police

Leonardtown Barracks

(301) 475-8955

Medical Providers:

St. Mary's Hospital

(301) 475-8981

Provides Sexual Assault Forensic Exams

Calvert Memorial Hospital

(410) 535-4000

Provides Sexual Assault Forensic Exams

SMCM Health Services

(240) 895-4289

Provides medical treatment

Monday through Friday, 8:00 a.m. – 5:00 p.m.

b. Reporting Considerations: Timeliness and Location of Incident

Reporting Parties and third-party witnesses are encouraged to report sexual misconduct as soon as possible in order to maximize the College's ability to respond promptly and effectively. The College does not, however, limit the time frame for reporting. If the Responding Party is not a member of the SMCM community, the College will still seek to meet its Title IX obligation by taking steps to end the harassment, prevent its recurrence, and address its effects. The College's ability to take disciplinary action against the Responding Party may be limited, but the College will assist the Reporting Party in identifying the appropriate external reporting options.

An incident does not have to occur on campus to be reported to the College. Off-campus conduct that is likely to have a substantial effect on the Reporting Party's on-campus life and activities or poses a threat or danger to members of the SMCM community may also be addressed under this Policy.

c. Amnesty for Alcohol or Other Drug Use

The College encourages the reporting of prohibited conduct under this Policy. It is in the best interest of this community that as many Reporting Parties as possible choose to report to college officials, and that witnesses come forward to share what they know. To encourage reporting, an individual who reports sexual misconduct, either as a Reporting Party or a third-party witness, will not be subject to disciplinary action by the College for violation of the College's policy for one's own personal consumption of alcohol or drugs (except for a mandatory intervention for substance abuse), if the College determines that:

- the violation occurred during or near the time of the alleged sexual misconduct,
- the individual made the report of sexual misconduct or is participating in an investigation as a witness, in good faith, and
- the violation was not an act that was reasonably likely to place the health and safety of another individual at risk.

The College may initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs.

d. Coordination with Law Enforcement

A Reporting Party has the right to file criminal charges with the appropriate law enforcement official or may decline to notify law enforcement. The College encourages Reporting Parties to pursue criminal action for incidents of sexual misconduct that may also be crimes under Maryland law. The College will assist a Reporting Party in making a criminal report if a Reporting Party decides to pursue the criminal process. The College will cooperate with law enforcement agencies.

The College's Policy, definitions and standard of proof may differ from Maryland criminal law. A Reporting Party may seek recourse under this Policy and/or pursue criminal action. Neither law enforcement's determination whether or not to prosecute a Responding Party, nor the outcome of any criminal prosecution, are determinative of whether a violation of this Policy has occurred. Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus.

At the request of law enforcement, the College may agree to defer its Title IX fact gathering until after the initial stages of a criminal investigation. The College will nevertheless communicate with the Reporting Party regarding Title IX protections, procedural options and the implementation of interim measures to assure safety and well-being. The College will promptly resume its Title IX fact gathering as soon as it is

informed that law enforcement has completed its initial investigation.

e. Statement Against Retaliation

It is a violation of College Policy and Title IX to retaliate in any way against an individual because the individual raised allegations of sexual harassment, sexual violence, stalking, or relationship violence or participated in an investigation. The College recognizes that retaliation can take many forms, may be committed by or against an individual or a group, and that a Reporting Party, Responding Party or third party may commit or be the subject of retaliation.

The College shall not retaliate against an individual who files a complaint for sexual misconduct or who participates as a witness in an investigation of sexual misconduct. The College will take immediate and responsive action to any report of retaliation and will pursue disciplinary action as appropriate. An individual reporting sexual misconduct is entitled to protection from any form of retaliation following a report that is made in good faith, even if the report does not later result in a finding of responsibility.

f. False Reports

The College will not tolerate intentional false reporting of incidents. The College takes the validity of information **very seriously** as a charge of sexual misconduct may have severe consequences. A good-faith complaint that results in a finding of not responsible is not considered a false or fabricated accusation of sexual misconduct. However, when a Reporting Party or third party witness is found to have fabricated allegations or given false information with malicious intent or in bad faith, that individual may be subject to disciplinary action. It is a violation of the Code of Student Conduct to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws. Similarly, a Responding Party or witness who is later proven to have intentionally given false information during the course of an investigation or conduct action may be subject to disciplinary action.

VIII. Interim Measures, Remedies and Accommodations

a. Overview

Upon receipt of a report, the College will impose reasonable and appropriate interim measures designed to eliminate the hostile environment and protect the parties involved. The College will make reasonable efforts to communicate with the parties to ensure that all safety, emotional and physical well-being concerns are being addressed; namely, the College will offer to change academic, living, transportation, and working situations or protective measures, if such accommodation is reasonably available. Interim measures may be imposed regardless of whether formal disciplinary action is sought by the Reporting Party or the College.

A Reporting Party or Responding Party may request a No-Contact Order or other protection, or the College may choose to impose interim measures at its discretion to ensure the safety of all parties, the broader College community and/or the integrity of the process.

All individuals are encouraged to report concerns about the failure of another individual to abide by any restrictions imposed by an interim measure. The College will take immediate and responsive action to enforce a previously implemented measure. Failure to abide by an interim measure imposed by the College is a violation of this Policy, and the College may pursue disciplinary action for any failure to comply.

b. Range of Measures

Interim measures will be implemented at the discretion of the College. Potential remedies, which may be applied to the Reporting Party and/or the Responding Party, include:

- Access to counseling services and assistance in setting up initial appointment, both on and off campus.
- Imposition of campus No-Contact Order.
- Rescheduling of exams and assignments (in conjunction with appropriate faculty).
- Providing alternative course completion options (with the agreement of the appropriate faculty).
- Change in class schedule, including the ability to take an “incomplete,” drop a course without penalty or transfer sections (with the agreement of the appropriate faculty).
- Change in work schedule or job assignment.
- Change in on-campus housing.
- Arranging to dissolve a housing contract and pro-rating a refund in accordance with campus housing policies.
- Assistance from College support staff in completing housing relocation.
- Limit an individual or organization’s access to certain College facilities or activities pending resolution of the matter.
- Voluntary leave of absence.
- Providing an escort to ensure safe movement between classes and activities.
- Providing medical services.
- Providing academic support services, such as tutoring.
- Interim suspension or College-imposed leave.
- Assistance from the College’s designated school official regarding impact of interim measures on students who are not U.S. citizens.
- Assistance from the College’s financial aid office regarding the impact of measures on a student’s financial aid.
- Any other remedy that can be tailored to the involved individuals to achieve goals of this policy.

c. Interim Suspension

The Dean of Students or designee may suspend a student for an interim period pending the adjudication of a complaint of sexual misconduct. An interim suspension may become effective immediately without prior notice whenever there is evidence that the continued presence of the student Responding Party on the College campus poses a substantial threat to others, or to the stability and continuance of normal College functions. In cases where there is an appeal following the adjudication of a complaint of sexual misconduct in which an interim suspension was issued, the interim suspension shall continue during the appeal . A student suspended on an interim basis may not withdraw from the College before the conclusion of the adjudication and appeal, if any.

IX. Options for Resolution

Please refer to the Procedures to Resolve Complaints of Sexual Misconduct (the Procedures) for a complete overview and description of the resolution options available. The Procedures may be found here: www.smcm.edu/campus-rights.

a. Time Frame for Resolution

The College seeks to resolve all reports within 60 calendar days of the initial report. All time frames expressed in this Policy are meant to be guidelines rather than rigid requirements. Extenuating circumstances may arise that require the extension of time frames, including extension beyond 60 days. Extenuating circumstances may include the complexity and scope of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation, or other unforeseen circumstances.

In general, a Reporting Party and Responding Party can expect that the process will proceed according to the time frames provided in this Policy and accompanying procedures. The College will keep all parties updated on the status of resolution procedures throughout the process. In the event that the investigation and resolution exceed this time frame, the College will notify all parties of the reason(s) for the delay and the expected adjustment in time frames. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

X. Education and Prevention Programs

SMCM is committed to the prevention of sexual misconduct through education and awareness programs. Throughout the year, programs designed to promote awareness are presented by a variety of campus resources. Prevention programs include an overview of the College's policies and procedures, relevant definitions, including prohibited conduct, discussion of the impact of alcohol and illegal drug use, effective consent, safe and positive options for bystander intervention, and information about risk reduction. Incoming first year students and new employees will receive primary prevention and awareness programming as part of their orientation. Returning students and employees will receive ongoing training on a periodic basis. SMCM's Title IX Coordinator oversees the education and prevention calendar and tailors programming to campus needs and climate. All educational programs include a review of resources and reporting options available for students, faculty and staff.

XI. Agreements with Local Law Enforcement and Rape Crisis Programs

The College must, at a minimum, pursue formalized agreements with (1) the College'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.

XII. Campus Sexual Assault Climate Survey

On or before March 1, 2016, and at least ever two (2) years thereafter, the College 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, the College shall submit to MHEC a report in accordance with the requirements set forth in Md. Code Ann. Educ. § 11-601(g).

XIII. Conflicts with Other Policies

To the extent that this Policy conflicts with any other College policy, procedure, handbook, faculty or employee bylaw, agreement, or process, this Policy shall prevail.