



**STUDENT AFFAIRS COMMITTEE  
MAY 3, 2019**

**OPEN SESSION  
AGENDA**

- I. DISCUSSION ITEMS**
  - A. Alcohol Task Force
  - B. Tobacco Free Policy
  
- II. ACTION ITEMS**
  - A. Title IX Policy Changes
  
- III. INFORMATION ITEMS**
  - A. Dean of Students Report
  - B. Student Trustee Report
  - C. Approved Minutes (Meeting of February 1, 2019)

*The committee does not expect to close a portion of this meeting.*



**BOARD OF TRUSTEES  
STUDENT AFFAIRS COMMITTEE**

**REPORT SUMMARY**

**Date of Meeting:** May 3, 2019

**Date of Next Meeting:** October 19, 2019

**Committee Co-Chairs:** Lex Birney, Cindy Broyles '79

**Committee Members:** Carlos Alcazar, John Bell '95, Peg Duchesne '77, Elizabeth Graves '95, Board Chair Sven Holmes, President Tuajuanda Jordan, Larry Leak '76, Danielle Troyan '92, Justin Hoobler '19

**Staff Member:** Leonard Brown

**Dashboard Metrics**

N/A

**Executive Summary**

**Discussion Items**

Alcohol Task Force

The chairs of the Alcohol Task Force will report on the progress they have made towards creating intervention recommendations and the respective timelines for implementation. The recommendations are based on the two years of survey data from the Maryland Collaborative. The chairs will also discuss next steps for continuing efforts to reduce the harmful impact of substance abuse on campus.

Tobacco Free Policy

Steps have been taken to develop a Tobacco Free Policy for the campus. Included in the following summary are details of how the policy was shared with the campus community and the feedback received. The final policy will be presented to the Student Affairs Committee for action, and subsequently to the Board of Trustees, for approval at the Fall 2019 meeting.

**Information Items**

Dean of Students Report

The Dean will discuss minor changes to student conduct procedures. These changes have been discussed with members of the Student Conduct Board and with the Student Government Association. Changes include reducing the number of members hearing a case from five to three; allowing the Student Conduct Board to recommend, rather than determine, sanctions; and including a staff member on cases that could possibly result in suspension.

Student Trustee Report: Justin Hoobler '19 will present his Student Trustee Report.

**Action Item(s) related to specific strategic plan goals as appropriate:**

**Action Item II.A. Title IX Policy Changes:**

During the 2018 legislative session, the Maryland General Assembly approved changes to the Education Article's provisions concerning how all Maryland institutions of higher education respond to and assess reports of sexual assault made by students. While a number of the requirements have been in place at the College for several years, some requirements are new and will result in changes to College policy and procedures. The Title IX Coordinator will ask the Committee to approve these proposed changes and bring them forward to the full Board.

**BOARD OF TRUSTEES  
ST. MARY'S COLLEGE OF MARYLAND  
STUDENT AFFAIRS COMMITTEE  
MEETING OF MAY 3, 2019  
DISCUSSION ITEM I.A.  
ALCOHOL TASK FORCE**

**Alcohol Task Force**

**Recommendation Report**

**April 26, 2019**

**Kyle Bishop, Assistant Dean of Students (Co-chair)**

**Rebecca Cooper, Student, R.A., SGA Senator (Co-chair)**

**Torry Dennis, Professor of Psychology**

**Justin Foreman, Digital Media Specialist, Staff Senator**

**Christopher Harney, Head Men's Basketball Coach**

**Kailey Held, Student, Peer Health Educator**

**Caitlin Henry, Student, SGA Senator**

**Maryellen Kraese, Prevention & Outreach Supervisor, St. Mary's County Health  
Department**

**Joseph Perriello, Student, SGA Senator**

**Gerald Sellers, Public Safety Sergeant**

**Christopher Shea, Alcohol & Drug Abuse Prevention Coordinator, St. Mary's County  
Health Department**

**Allan Wagaman, Alumni Council President**

**Nataisha Young, Public Safety Sergeant**

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## **Task Force Charge**

In Fall 2018 the Vice President of Student Affairs/Dean of Students established the Alcohol Task Force comprised of students, faculty, and staff. The charge to the Task Force was to review the survey data collected by the Maryland Collaborative in 2016 and 2018, to fully understand the scope and nature of student alcohol use on campus, and recommend to the Vice President of Student Affairs/Dean of Students priorities to address, strategies to address those priorities, and an implementation timeline. Below we present the Task Force's recommendations.

### **Top Priorities**

The Task Force reviewed the survey data collected by the Maryland Collaborative in 2016 and 2018 and met with representatives from the Maryland Collaborative to obtain a deeper understanding of the data. Based on the Maryland Collaborative data, the most concerning and prevalent negative consequences associated with alcohol use self-reported by students were:

1. Riding in a car with someone who had been drinking
2. Getting hurt or injured while drinking
3. Having unprotected sex while drinking
4. Having to take care of another student who drank too much
5. Having sleep and/or studying interrupted by another student who drank too much

### **Current Strategies**

Before exploring new strategies to address negative consequences associated with alcohol use, the Task Force familiarized themselves with the current strategies that are already in place. The Task Force used this information in order to avoid duplicative efforts, develop a systemic strategic approach, and to build on current strategies.

The Task Force divided strategies into two groups: Individual Level and Environmental Level. The Individual Level strategies strive to change a single person's drinking behavior. Individual level strategies may have limited success if the student is in a high-risk environment. In order to reduce environmental risk, Environmental Level strategies strive to reduce campus-wide cultural issues related to alcohol.

The strategies were further categorized as prevention or intervention. Research from the Maryland Collaborative<sup>1</sup> indicates that in order for strategies to be effective long-term, they must be implemented in a multi-component approach. Prevention strategies seek to discourage non-using students from engaging in alcohol use. Intervention strategies target students who already engage

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<sup>1</sup> All references to "research" refer to data collected by the Maryland Collaborative.

in high-risk alcohol use and seek to reduce high-risk behaviors and consequences with a harm reduction model.

## **Individual Level**

### **Prevention Strategies**

- ***Alcohol Policy Acknowledgement*** – All new students are required to sign an acknowledgement form stating that they have read and understand the college's alcohol policy.
- ***Annual Screening Days*** – Every Academic Year, the Wellness Center hosts a voluntary Alcohol Screening Day in the Campus Center. Participants complete a screening and receive a recommendation/referral for treatment based on the screening outcome. An average of 100 students typically participate.
- ***Substance and Alcohol-Free Environment (SAFE) House*** – This is a housing option for students who wish to abstain from alcohol and/or avoid the secondary effects of other students' use.

### **Intervention Strategies**

- ***Brief Screening, Intervention, and Referral to Treatment (SBIRT)*** – All students who utilize Health Services at the Wellness Center complete an alcohol screening. A medical professional discusses the results of the screening with the student and makes a referral to treatment as appropriate.
- ***Mandated Assessments*** – Students who violate the alcohol policy for a second time are sanctioned to complete 1-3 mandated alcohol assessments with a therapist at the Wellness Center.
- ***Medical Amnesty and Good Samaritan Policies*** – These policies provide reprieve for students who are intoxicated, but seek medical attention for themselves or another student.
- ***Parent Notification*** – Parents are sent a letter informing them when their student is found responsible for violating the college's alcohol policy. This is a first-time violation minimum sanction.
- ***Peer-2-Peer Alcohol Education Class*** – When students are found responsible for violating the college's alcohol policy, they are required to attend a one-hour alcohol education class led by the peer group known as the Peer Health Educators.

## **Environmental Level**

### **Prevention**

- ***Alternative Programming*** – In Fall 2018, the Office of Student Activities received one-time funding to increase alternative programming options. Three programs were offered with 375 attendees.

### **Intervention**

- ***Increased Campus Safety*** – In Fall 2016, the Office of Public Safety implemented new strategies to increase safety during high-risk drinking events (i.e. Hallowgreens) such as, closing/monitoring entrances to the college, increasing campus lighting, and having sheriff deputies present.

- **Increased Enforcement** – At the beginning of the 2018-2019 academic year, Public Safety and the Office of Residence Life agreed to increase enforcement efforts in order to reduce underage alcohol use and associated consequences.
- **Safe Ride** - Safe Ride is a student-run and SGA-funded shuttle service that transports students who have been drinking alcohol from The Green Door back to campus.
- **Social Host Policy** – This policy prohibits students from hosting gatherings where alcohol is being served to underage students or other college alcohol policies are being violated.

## **Proposed Strategies**

### **Individual Level**

#### **Prevention Strategies**

- ***Alcohol Education Class for First-Year Students***

**Rationale:** Setting the tone, expectations, and culture regarding alcohol use when students arrive to campus with a combined online and in-person educational experience will lead to decreased instances of high-risk alcohol use and associated consequences. *AlcoholEdu for College* is a two- to three-hour online alcohol prevention program developed to be made available to an entire population of students, such as an entering first-year class. Educational goals include resetting unrealistic expectations about the effects of alcohol and understanding the link between drinking and academic and personal success.

**Effectiveness:** *AlcoholEdu* can greatly enhance students’ alcohol knowledge and use of safe drinking practices (including abstaining). However, administrators should be wary of relying solely on this program, as its effects tend to return to baseline roughly one year after use.

- ***Parent and Family Resource Center*** – This is a website that provides families with general campus resources, as well as updated information regarding facts about alcohol and its consequences, specific alcohol-related campus policies, alcohol-related events in the news, and ways to discuss these matters with their child from pre-matriculation through graduation.

**Rationale:** Parents typically have a strong influence on their child’s behavior and decisions. They can reinforce values and expectations regarding alcohol use and intervene if alcohol use becomes problematic.

**Effectiveness:** Research indicates that providing pre-matriculation educational materials to parents, keeping parents involved during the first year of college, and maintaining parental involvement is one of the most effective protective factors against excessive drinking and can enhance positive attitudes toward alternative activities/programs.

- ***Accessibility to Contraception*** – Contraception is currently available to students free of charge in the Wellness Center (M-F, 8-5) and in all campus housing. The goal is to increase the visibility of contraception availability in residence halls and on north campus and ensure that dispensers are easily accessible and stocked.

**Rationale:** One of the most prevalent negative consequences associated with alcohol use self-reported by students was having unprotected sex.

**Effectiveness:** There is little research to suggest that increasing the visibility/accessibility of contraceptives when a student is impaired will increase the likelihood of contraception use. However, when paired with other interventions, such as media campaigns, education, family expectations, and motivational interviewing, the likelihood that contraception will be used effectively increases.

### **Intervention Strategies**

- ***BASICS*** - The Brief Alcohol Screening and Intervention for College Students (BASICS) program follows a harm reduction approach using motivational interviewing techniques. BASICS aims to motivate students to reduce alcohol use in order to decrease the negative consequences of drinking.

**Rationale:** The current mandated assessment program utilized by the Wellness Center is not evidence-based. Introducing an evidenced-based intervention to the current model may enhance effectiveness.

**Effectiveness:** Several studies have shown that high-risk drinkers participating in BASICS reduce the amount they drink significantly.

- ***Enhance SAFE Housing***

**Rationale:** The framework for SAFE House already exists and can be used to better support students in recovery.

**Effectiveness:** Students with a history of substance abuse who participate in collegiate recovery programs have higher rates of retention and academic success.

- ***Increase Screening*** – Expanding the use of SBIRT to other settings, primarily athletics, orientation, and the office of student support services.

**Rationale:** Athletes are at high risk for problem alcohol use and related consequences. Studies have shown that athletes consume more alcohol and experience higher rates of alcohol-related consequences as compared with their non-athlete colleagues. Screening athletes is an important means of identifying students since they are a target group for heavy drinking. Identifying these students in this group early on can help move students to appropriate services and treatment.

Students receiving academic assistance. There is a strong link between excessive drinking and academic performance problems, including lower grades. Academic assistance centers typically emphasize strengthening skills that are specific to academics—especially time management and study habits—yet these skills must be applied within the context of whatever barriers to success are presented by the student’s behaviors, choices, and life circumstances. Rather than being a taboo subject that academic counselors avoid, excessive drinking should be taken into account. Students who are receiving academic assistance have taken an important step that demonstrates openness

to ameliorating the obstacles to their personal academic success—whether they were referred by someone else or themselves. These students are in a uniquely “teachable moment” with potential to stimulate self-reflection and behavior change in multiple domains of their life. Academic counselors should take advantage of this opportunity to identify students whose drinking habits might be having a negative effect on their grades and refer them as needed for a more comprehensive assessment.

Screening at first-year orientation provides a means of identifying risky drinking practices early through large questionnaire-based screening tools that measure quantity, frequency, and consequences. This process can help administrators identify and subsequently refer students for appropriate help. Because some students will enter college with high-risk drinking patterns that began during high school, screening of first-year students is necessary to identify those at highest risk.

Effectiveness: Research supports the idea that programs are effective in reducing heavy drinking among college students, particularly first-year student athletes. To the extent that additional screening results in more high-risk students being referred for treatment, it has great potential for reducing excessive alcohol use, as well as for enhancing academic outcomes.

## **Environmental Level**

### **Prevention Strategies**

- ***Campus Community Working Group***

Rationale: A campus community working group will build on the recommendations made by the task force, develop an implementation plan, and assess the effectiveness of the implemented strategies, ongoing. The working group will also act as the primary resource to collect and disseminate information about alcohol use and trends on campus.

Effectiveness: Research has shown that coalitions can be a strong and effective way for communities to address challenges, including alcohol use. There have been a number of studies that have shown the efficacy of using campus-community coalitions to reduce high-risk drinking.

- ***Campus-wide Strategic Plan***

Rationale: The campus community working group can develop a strategic plan, based on the Task Force’s recommendations, for the campus and community to address underage and excessive drinking. The plan can include methods for ongoing assessment of alcohol use, identifying quantifiable ways of tracking success, and how to allocate resources in the short- and long-term to change the culture of drinking on campus. Additionally, the strategic plan should include goals for implementing sustainable and continuous program and outcome evaluation to ensure that progress toward goals is being measured.

Effectiveness: Strategic planning is a well-established method for achieving organizational goals.

- ***Increase Alternative Programming***

Rationale: Student behavior suggests that students engage in underage and excessive alcohol use because of a lack of alternative activities in which to engage. Increased institutionally funded programming will provide an alternative for students who choose not to use alcohol and may prevent them from engaging in future alcohol use. Increased programming can also contribute to changing the tone and culture of the campus in regards to alcohol use.

Effectiveness: Research indicates that alcohol-free events lead to lower total alcohol consumption on the night that the activity is offered. Alternative programming events have less impact on students who already engage in excessive alcohol use, but provide engagement for those who do not use alcohol, which may be a deterrent for future alcohol use.

- ***Media Campaign***

Rationale: General mass media campaigns to reduce excessive drinking are designed to be persuasive. The goal is to encourage underage students to avoid drinking and to encourage students who choose to use alcohol to do so responsibly.

Effectiveness: Mass media campaigns to spread the message about support for a new alcohol initiative or newly enacted policy can be an effective way to use this strategy. There is some evidence that media campaigns can help build support for more effective policies. In general, mass media campaigns should not be used in isolation due to lack of evidence of effectiveness.

### **Intervention Strategies**

- ***Expand Safe Ride***

Rationale: The most prevalent negative consequence associated with alcohol use self-reported by students was riding in a car with someone who had been drinking. Currently, Safe Ride only picks up students from the Green Door, which increases the likelihood that students will not take advantage of the service because they will have to leave their car at the bar. Improvements may include providing a round-trip service and/or transporting students to retrieve their vehicles the next day. Additionally, expanding the shuttle to transport students to locations where binge drinking is not as prevalent may reduce excessive alcohol use.

Effectiveness: Research indicates that designated driver programs are not effective in reducing alcohol related consequences. Safe Ride differs from designated driver programs because it is a shuttle service that takes the designated driver out of the equation.

- ***Resident Assistant Training***

Rationale: The primary responsibilities of RAs include: 1) recognizing and responding to students who might need help; and 2) enforcing campus alcohol policies. Boosting the quality of the initial and ongoing training of RAs will empower them to take proactive action and identify students with possible alcohol problems that are in need of more intensive intervention. Because of the high proportion of students living on campus, training RAs has the potential to reach a large number of students. Moreover, training RAs can facilitate a shared understanding of the problems and risks associated with alcohol use and help spread a common message about the seriousness of violating campus alcohol policies and underage drinking laws.

Effectiveness: Research has demonstrated that it is possible to train individuals to screen and identify high-risk drinkers, RAs should receive ongoing training regarding warning signs and symptoms of alcohol problems.

### **Implementation Timeline**

The recommended implementation timeline is based on the length of projected time needed to secure funding and plan for full implementation of the suggested strategies.

Recommended Strategies and Implementation Timeline		
Year 1: AY 19/20	Year 2: AY 20/21	Year 3: AY 21/22
<ol style="list-style-type: none"> <li>1. RA Training</li> <li>2. Campus Community Working Group</li> <li>3. Campus-wide Strategic Plan</li> <li>4. Increase Alternative Programming</li> <li>5. Parent and Family Resource Center</li> <li>6. Accessibility to Contraception</li> </ol>	<ol style="list-style-type: none"> <li>1. BASICS</li> <li>2. Increase Screening</li> <li>3. Increase Alternative Programming</li> <li>4. Media Campaign</li> <li>5. Expand Safe Ride</li> </ol>	<ol style="list-style-type: none"> <li>1. Alcohol Education Class for 1<sup>st</sup> Year Students</li> <li>2. Enhance Safe Housing</li> <li>3. Increase Alternative Programming</li> </ol>

**BOARD OF TRUSTEES  
ST. MARY'S COLLEGE OF MARYLAND  
STUDENT AFFAIRS COMMITTEE  
MEETING OF MAY 3, 2019  
DISCUSSION ITEM I.B.  
TOBACCO FREE POLICY**

Steps have been taken to develop a Tobacco Free Policy for the campus. Included in the following summary are details of how the policy was shared with the campus community and the feedback received. The final policy will be presented to the Student Affairs Committee for action, and subsequently to the Board of Trustees, for approval at the Fall 2019 meeting. The Tobacco-Free Grant Summary follows.

## Tobacco-Free Grant Summary

### **I. Timeline**

The following steps have been taken to educate the campus community about the tobacco-free initiative and to gather support.

#### **2017**

- SMCM applies for Tobacco and Smoke-Free grant, titled SMCM Free-to-Breathe, through Tobacco-Free Generation Campus Initiative (TFGCI) program sponsored by CVS and American Cancer Society.
- SMCM awarded TFGCI Grant.
- TFGCI student interns hired.
- TFGCI Task Force created; key campus stakeholders invited to join.
- SMCM Free-to-Breathe partners with SMCM Peer Health Educators for “Great American Smoke Out” (GASO).

#### **2018**

- SMCM Free-to-Breathe partnered with Judo Club for “Kick it to Quit It”.
- Tobacco and Smoke-Free Policy drafted and evaluated by TFGCI Task Force.
- Tobacco and Smoke-Free Policy draft presented to President’s Executive Council.
- SMCM Free-to-Breathe partners with SMCM Peer Health Educators to offer first ever all-campus Wellness Fair to include on- and off-campus community partners.
- Tobacco and Smoke-Free Policy draft presented at all-campus Wellness Fair and a link to the draft policy was posted on the Wellness Center webpage, including the email address for people to share comments, questions, and suggestions.
- SMCM Free-to-Breathe informational brochures developed and shared at the following presentations, meetings with stakeholders, and events:
  - Tobacco and Smoke-Free Policy draft presented and discussed with Student Government Association (SGA), Faculty Senate, Staff Senate, Resident Assistants and Residence Hall Coordinators, and other stakeholders.
  - SMCM Free-to-Breathe tabling for Great American Smoke-out.
  - SMCM Free-to-Breathe partners with Wellness Center for Midnight Breakfast including Free-to-Breathe giveaways with logo and informational pamphlet.
  - SMCM Free-to-Breathe partners with SMCM Peer Health Educators to offer “Take a Breather” hot cocoa bar in Wellness Center during finals week.
- Campus-wide climate survey, that included questions specific to the proposed policy, conducted of all SMCM students, faculty, and staff through Inside SMCM.
- Results of climate survey data shared with President and Executive Council.

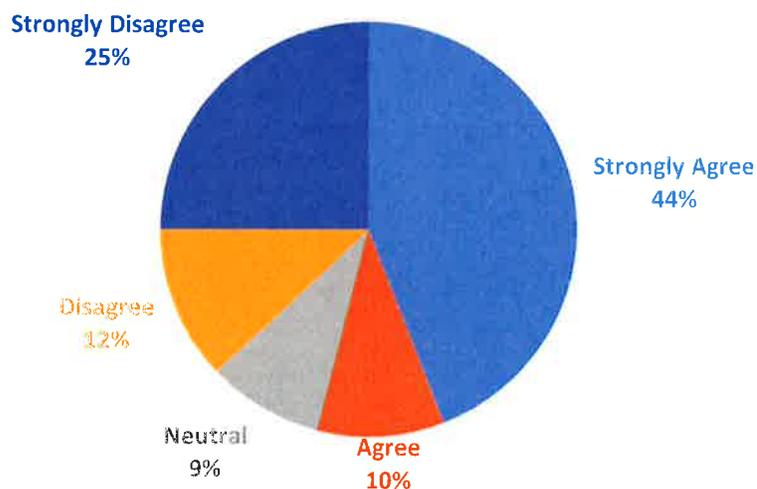
### **II. Survey Data**

The following results represent the data received from the campus-wide climate survey.

- Of 178 respondents, 54% support the policy, 37% do not support the policy; 10% are neutral.

- 35 (75%) of the 47 respondents who “strongly disagree” with the proposed policy self-identify as current or former tobacco users.
- 25 (54%) of the 47 respondents who “strongly disagree” with the proposed policy cited “individual freedom” as the reason they disagree with the college adopting a tobacco-free policy.
- 27% of respondents who “disagree” with the proposed policy, support designated smoking areas and/or stricter smoking regulations.

## DO YOU AGREE WITH SMCM BECOMING TOBACCO-FREE?



### III. Policy

#### St. Mary’s College of Maryland Tobacco-Free Campus Policy

##### Introduction

St. Mary’s College of Maryland has a vital interest in maintaining a healthy and safe environment for our students, employees, and visitors. The use of tobacco products constitutes a significant health hazard for those that use the products and those around people using the products. The College strives to demonstrate and promote healthy lifestyles through activities that support tobacco cessation and tobacco free living including a 100% tobacco-free campus. The intent of this policy is to reduce the health risks related to tobacco, smoking, second-hand smoke, and third-hand smoke; reduce environmental impact of discarded cigarette butts, eliminate risk of smoking-caused fires, and promote a positive image and lifestyle for students, employees, and visitors.

##### Background

The use of tobacco products and exposure to second-hand smoke combined represent the number one cause of preventable deaths and disability in the United States. Smoking harms nearly every organ of the body and contributes to heart disease, stroke, cancer, lung diseases and diabetes - all of which are leading causes of death in St. Mary's County.

### **Definitions**

“Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, hookah, or any other lighted or heated tobacco or plant product intended for inhalation, including marijuana, whether natural or synthetic, in any manner or in any form. “Smoking” also includes the use of any electronic smoking device which creates an aerosol or vapor, in any manner or in any form. “Smoking” does not include any cessation product specifically approved by the U.S. Food and Drug Administration for use in treating nicotine or tobacco dependence.

“Tobacco Products” means all forms of tobacco, including but not limited to cigarettes, cigars, pipes, water pipes (hookah), beedi/bidis, electronic cigarettes, JUUL, vape, and smokeless tobacco products (e.g., chew, snuff, dip, twist, etc.). “Tobacco Products” does not include any cessation product specifically approved by the U.S. Food and Drug Administration for use in treating nicotine or tobacco dependence.

“Electronic Smoking Device” means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person in any manner for the purpose of inhaling vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

“Members of the College community” includes its students, faculty, staff, contractors, volunteers, customers, and visitors.

### **Entities Affected**

This regulation applies to all members of the St. Mary's College of Maryland (the “College”) community.

### **Policy**

Smoking and the use of all tobacco products are prohibited on all property owned, operated, leased, occupied, or controlled by the College, including with-in personal vehicles while on campus property.

### **Exceptions and Limitations**

Smoking/tobacco use may be permitted for research purposes, in a controlled laboratory setting with prior approval of the Vice President of Student Affairs in conjunction with the Provost or other Vice Presidents as appropriate. IRB approval must be obtained prior to the Vice President of Student Affairs granting the exception. Smoke, like any other laboratory air contaminant generated, shall be controlled locally in a chemical hood or other exhaust system that provides 100% exhaust to the outside.

Smoking/tobacco use may be permitted for all fundamental traditional and ceremonial use of tobacco with prior approval of the Vice President of Student Affairs in conjunction with the Provost or other Vice Presidents as appropriate.

Smoking/tobacco use in facilities that are not owned, operated, leased, occupied, or controlled by the College are subject to the tobacco policies applicable to those particular facilities, and are not governed by this regulation.

### **Delegation**

Authority for enforcement of this policy is vested with the Vice President of Student Affairs in conjunction with the Provost or other Vice Presidents as appropriate.

Violation of this regulation may result in corrective action under the Code of Student Conduct, Human Resources Policies and Procedures, or other applicable College Regulation or Policies. Visitors refusing to comply may be asked to leave campus.

### **Enforcement**

**Responsibility** - Adherence to this policy is the responsibility of all members of the College campus. It is expected that students, faculty, staff, affiliates, contractors, and visitors to campus will comply with this policy. Members of the College Community are encouraged to respectfully inform others about the policy in an ongoing effort to enhance awareness and improve compliance with this policy.

**Respect and Accountability** - Respect and accountability by the College Community to this policy will be primarily achieved through education, awareness, and providing support to those who desire to stop using prohibited products. If someone is seen using these products on College property, an individual may inform the user of this policy and request that they comply. Violators of this policy will be offered cessation resources. Repeated violations of the policy may be subject to the appropriate disciplinary procedures as outlined in the employee and student handbooks.

### **Tobacco-Free Campus Committee**

#### *Membership*

The Committee is appointed by the Vice President of Student Affairs.

The Committee is composed of faculty, staff, and student members who have demonstrated an interest or professional expertise in the areas of campus safety and health, public relations, marketing, and smoking and tobacco use and cessation.

The Vice President of Student Affairs or their designee shall designate the chair or co-chairs.

Committee members have staggered three-year (3-year) appointments and may be reappointed.

#### *Responsibilities*

The Tobacco-Free Campus Committee advises the President and Executive Council regarding tobacco-free campus issues, including but not limited to guiding the implementation of the

College's tobacco-free campus policies, evaluating the college's tobacco policies, promoting compliance, and assisting with related campus events.

### **References and Related Materials**

Governor's Executive order (01.01.1992.20)

Smoking Policy SMCM (<http://www.smcm.edu/tothepoint/smoking/>)

Tobacco Free Environment Policy (proposed policy drafted by the partners of the

Tobacco Free Living action team of the Healthy St. Mary's Partnership for consideration by the Commissioners of St. Mary's County, Maryland)

Tobacco/Smoking Policy Allegany College of Maryland (implemented 8/19/13)

Tobacco Policy and Tobacco-Free Campus Committee. University of Kentucky.

Administrative Regulation 6:5.

### **IV. Next Steps**

If the policy is approved, the following steps will be taken to implement the policy and support current tobacco users:

- The St. Mary's County Health Department will provide smoking cessation classes on-campus for current tobacco users.
- Current tobacco users will be provided with information regarding smoking cessation benefits offered through their health insurance companies.
- Tobacco-free signage will be placed around campus and smoking receptacles will be removed.

**Smoke-Free and Tobacco-Free Colleges and Universities**

**Maryland and Aspirant Peer Institutions**

<b>Tobacco-Free Campuses</b>	<b>Smoke-Free Campuses</b>	<b>Restriction from Entryways (25-50 ft)</b>
<ul style="list-style-type: none"> <li>• Anne Arundel Community College</li> <li>• Carroll Community College</li> <li>• Cecil College</li> <li>• Chesapeake College</li> <li>• Goucher College</li> <li>• Hagerstown Community College</li> <li>• Harford Community College</li> <li>• Johns Hopkins Bloomberg School of Public Health</li> <li>• Maryland Bible College and Seminary</li> <li>• Prince George's Community College</li> <li>• Washington Adventist University</li> </ul>	<ul style="list-style-type: none"> <li>• Frostburg State University</li> <li>• Morgan State University</li> <li>• Salisbury University</li> <li>• Towson University</li> </ul>	<ul style="list-style-type: none"> <li>• Bowie State University</li> <li>• Bates College</li> <li>• Hamilton College</li> <li>• Franklin &amp; Marshall College</li> <li>• Kenyon College</li> <li>• University of Baltimore</li> <li>• University of Maryland University College</li> </ul>
	<b>Designated Smoking Areas</b>	
	<ul style="list-style-type: none"> <li>• University of Maryland, College Park</li> <li>• University of Maryland, Eastern Shore</li> <li>• University of Maryland, Baltimore</li> <li>• Carleton College</li> <li>• Davidson College</li> </ul>	

**BOARD OF TRUSTEES  
ST. MARY'S COLLEGE OF MARYLAND  
STUDENT AFFAIRS COMMITTEE  
ACTION ITEM II.A.  
TITLE IX CHANGES**

**RECOMMENDED ACTION**

The Student Affairs Committee recommends approval by the Board of Trustees, St. Mary's College of Maryland, of the proposed changes to the St. Mary's College of Maryland Sexual Misconduct Policy and the Procedures to Resolve Complaints Against a Student.

**RATIONALE**

During the 2018 legislative session, the Maryland General Assembly approved changes to the Education Article's provisions concerning how all Maryland institutions of higher education respond to and assess reports of sexual assault made by students. While a number of the requirements have been in place at the College for several years, some requirements are new and will result in changes to College policy and procedures.

## MEMORANDUM

**To:** The Board of Trustees Student Affairs Committee

**From:** Michael Dunn, Director of Title IX Compliance and Training/Title IX Coordinator

**Date:** April 24, 2019

**Re:** Revisions of the Sexual Misconduct Policy and Student Procedures to Comply with Recent Maryland Legislative Changes

### I. Introduction

During the 2018 legislative session, the Maryland General Assembly approved changes to Education Article § 11-601, concerning how all Maryland colleges and universities respond to and assess reports of sexual assault made by students. While a number of the requirements have been in place at the College for several years, some requirements are new and will result in changes to College policy and procedures. These changes must be in effect by August 1, 2019 and the College plans to implement these revisions as of July 1, 2019.

Broadly speaking, the amendments to the existing statute state that:

- The Maryland Higher Education Commission (MHEC) will pay the legal fees for attorneys retained by student reporting parties and responding parties;
- Specific measures must be incorporated into colleges' investigative and related disciplinary proceedings; and
- Campus disciplinary proceedings must include a description of the specific rights afforded to all parties in a sexual assault case.

The proposed revisions of the Policy Against Sexual Misconduct (the Policy) and the Procedures to Resolve Complaints Against a Student (the Procedures) are enclosed. Please note that the only change to the redline Policy is the inclusion of the information about MHEC attorneys on pp. 4-5. Changes to the Procedures appear throughout that document. All changes are redlined for convenience.<sup>1</sup>

### II. Provision of Attorney by MHEC

The Policy and Procedures already permit parties in a Title IX process to be advised by attorneys or any adviser of their choosing. Under the amended statute, MHEC will now provide students seeking the assistance of an attorney with counsel, free of charge. Information about how to obtain the assistance of

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<sup>1</sup> Many thanks to Allison Boyle, College counsel, for her assistance with the policy revision process.

counsel will be available on the College's website and in the College policy as soon as MHEC makes this information available.

As is the case under current Policy, attorneys/advocates are permitted to assist their client/student by attending all investigative meetings, engaging in private consultations, and assisting with the student's exercise of any right during a hearing or meeting.

Parties will continue to have the right to also have a non-attorney support person accompany them to investigation meetings. The amended statute provides that parties may have no more than two people present with them at investigative meetings.

### **III. Treatment of Parties and Institution's Investigative Approach**

The amended statute specifically states that parties will be treated with dignity, respect, and sensitivity by campus officials during all phases of the disciplinary hearing, and that sexual assault investigations shall be fair and impartial. These expectations and standards are explicitly addressed in the College's current policy and procedures and are applied in practice.

### **IV. Notice Requirements**

The following notice requirements are set forth in the amended statute and are addressed in current Policy and Procedures:

- Details of the reported violation;
- Parties' rights and responsibilities under College policy;
- Details regarding the time and location of all investigative meetings that parties are required or permitted to attend;
- A final determination of whether a party is found to be responsible for the alleged sexual assault(s);
- Any sanction imposed; and
- Parties' rights to an appeal.

### **V. Parties' Rights**

According to the amended statute, parties involved in a sexual assault investigation must be permitted to:

- Access the case file;
- Offer testimony to the College's investigators;
- Submit evidence, witness lists and suggested specific questions to be posed to the other party;
- Provide and review testimony/statements electronically or in a way that doesn't require students to be in the same physical space; and
- Review and provide a written response to (1) reports of sexual assault and (2) proposed findings regarding parties' and witnesses' credibility.

The first four items above are addressed in current Policy and Procedures. The fifth item, regarding the review of proposed findings of credibility, is new and will offer parties the opportunity to address the investigators' credibility assessments before a final outcome is reached.

### **VI. Treatment of Certain Types of Evidence/Information**

**a. Prior Sexual History**

Under the amended statute, College investigators may not consider a student's prior sexual history with an individual other than the other party to the proceedings, except to:

- Prove the source of an injury;
- Prove prior sexual misconduct;
- Support a claim that a student has an ulterior motive; or
- Impeach a student's credibility after that student has put their own sexual conduct at issue.

This provision has generally been applied by the College's investigators under current Policy and Procedures. The amended policy language will now specify the exceptions under which the investigators may consider a student's prior sexual history.

**b. Mental Health Information**

Finally, new provision to the College's procedures will state that investigators may not consider a student's history of mental health counseling, treatment, or diagnosis, unless the student consents. Current Policy does not address this issue.

**St. Mary's College of Maryland**  
**Procedures to Resolve Complaints of  
Sexual Misconduct against a Student**

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**I. Overview**

These Procedures to Resolve Complaints of Sexual Misconduct against a Student (Student Procedures) provide a process for the prompt and equitable investigation and adjudication of complaints of sexual and gender-based discrimination, sexual and gender-based harassment, sexual assault, relationship violence and stalking (collectively referred to as Sexual Misconduct) against a student enrolled at St. Mary's College of Maryland (the College). The Student Procedures ensure the College's compliance with federal and State law as well as the College's Policy against Sexual Misconduct (the Policy).

Any person alleging Sexual Misconduct against one of the College's students may submit a report to the College as set forth below. Anyone may submit a report, including but not limited to a student; a member of the faculty, administration or staff; a visitor or guest to the campus community; local police; or a family member. The College, on its own, may also initiate, investigate, and adjudicate complaints of Sexual Misconduct against a student under the Student Procedures. The Student Procedures also address reports of retaliation allegedly committed by a student in connection with any Sexual Misconduct complaint, investigation or adjudication.

Complaints against a non-student (i.e., faculty, staff, or a third party) shall not proceed under the Student Procedures. Such complaints will be handled using the Procedures to Resolve Complaint of

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Revisions approved by Board May 13, 2016*

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Sexual Misconduct against a College Employee, Volunteer or Contractor available at [www.smcm.edu/campus-rights](http://www.smcm.edu/campus-rights).

The Student Procedures are effective as of July 1, 2016, and replace and supersede any prior procedures related to complaints, reports, investigation or adjudication of any allegation of Sexual Misconduct against one of the College's students.

Any individual who wishes to make a report of Sexual Misconduct is encouraged to make a report directly to the Title IX Coordinator, a Deputy Title IX Coordinator (Deputy), the Dean of Students Office, Public Safety or the Office of Student Conduct. Reports can be made in person, by telephone, by email or by submission of an online form.

Once the College knows of possible Sexual Misconduct, it will take immediate and appropriate action to investigate the report or otherwise determine what occurred. This obligation applies to any allegations of Sexual Misconduct covered by the Policy regardless of whether a parallel law enforcement investigation or action is pending and regardless of whether a Formal Complaint (defined below) is provided.

In every instance when a report is received under the Policy, the Title IX Coordinator or Deputy will conduct an **Initial Assessment** to ensure the safety of the person who allegedly experienced Sexual Misconduct (Reporting Party) and to determine the nature of the allegations against the person who allegedly engaged in Sexual Misconduct (Responding Party). At the conclusion of the Initial Assessment, the Title IX Coordinator or Deputy will ascertain whether the Reporting Party wishes to pursue an Informal Resolution or Formal Resolution.

**Informal Resolution** is a voluntary process wherein the Title IX Coordinator or Deputy facilitates an agreement between the Reporting Party and the Responding Party (collectively referred to as the "Parties") to implement non-disciplinary measures to resolve allegations of sexual or gender-based discrimination, sexual or gender-based harassment, relationship violence that does not involve allegations of sexual assault, and/or stalking. Informal Resolution cannot be used to resolve allegations of sexual assault.

**Investigation** is the process of gathering facts regarding a Reporting Party's allegations. **Formal Resolution** is a process by which the Investigator(s) review the facts gathered during the Investigation and determine whether the Responding Party is responsible for a violation of the Policy. If so, the Investigator(s) issue disciplinary sanctions, up to and including expulsion.

## II. Initial Assessment

The first step of the Initial Assessment will usually be a preliminary meeting between the Reporting Party and the Title IX Coordinator or Deputy. If the report was made by a third party, the Title IX Coordinator or Deputy may meet with the third party to assess the nature of the allegations and the names of the persons involved in the incident.

The purpose of the preliminary meeting is to gain a basic understanding of the nature and circumstances of the report and to provide the Reporting Party with information about resources, procedural options and interim measures. At the preliminary meeting, the Title IX Coordinator or Deputy will:

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- Assess the nature and circumstances of the allegations;
- Address immediate physical safety and emotional well-being needs of the Reporting Party;
- Notify the Reporting Party of the right to contact law enforcement;
- Offer assistance and transportation to the Reporting Party to see medical treatment;
- Inform the Reporting Party of the importance of preservation of evidence;
- Provide the Reporting Party with information about on- and off-campus resources;
- Provide the Reporting Party with information about Interim Measures (defined below);
- Explain procedural options, including Informal Resolution, if applicable, and Formal Resolution;
- Inform the Reporting Party of the Reporting Party's right to have an advisor, advocate, or support person present during any meeting throughout the process;
- Assess for pattern evidence or other similar conduct by Responding Party; and
- Explain the College's Policy prohibiting retaliation.

During the Initial Assessment, the Title IX Coordinator or Deputy will determine the risk of potential harm to the broader campus community and take steps necessary to address any identified risks. If the report involves allegations of a crime, the Title IX Coordinator or Deputy will report the alleged crime to the Director of Public Safety for inclusion in the College's daily crime log and will assess whether the reported conduct requires issuance of a timely warning under the Clery Act or must be included in the College's annual Clery Report.

The Initial Assessment will proceed to the point where a reasonable assessment of the safety of the Reporting Party and of the campus community can be made. At the conclusion of the Initial Assessment, the Title IX Coordinator or Deputy will determine whether the report falls within the scope of the definition of Sexual Misconduct. If so, the Title IX Coordinator or Deputy will ascertain whether the Reporting Party wishes to pursue an Informal Resolution or Formal Resolution.

If the Reporting Party wishes to pursue a Formal Resolution, the Title IX Coordinator or Deputy will assign an Investigator(s) to begin an Investigation.

If the Reporting Party wishes to pursue an Informal Resolution and the allegations of Sexual Misconduct do not involve allegations of sexual assault, the Title IX Coordinator or Deputy will contact the Responding Party to begin the Informal Resolution process. If the Reporting Party wishes to pursue an Informal Resolution and the allegations involve sexual assault, the Title IX Coordinator will inform the Reporting Party that the Informal Resolution process is not available and will offer to pursue an Investigation and Formal Resolution.

The Title IX Coordinator or Deputy also may offer the Reporting Party protective remedies that do not impact the Responding Party. The Title IX Coordinator or Deputy will confirm the Reporting Party's desired process via email.

The Title IX Coordinator or Deputy may consult relevant College employees and legal counsel as needed.

### III. Reporting Party's Request Not to Pursue Investigation or Adjudication

A Reporting Party may request that the College take no action, that an Investigation not be conducted, or that a specific adjudication process or part thereof not take place. A Reporting Party may also decline to respond to requests from the Title IX Coordinator or Deputy to discuss the allegations of Sexual Misconduct.

If the Reporting Party makes one of these requests or does not respond to requests to discuss the allegations of Sexual Misconduct, the Title IX Coordinator or Deputy will consider the reasons for the request or decision not to appear for a meeting, including concerns about the continued safety of the Reporting Party and members of the campus community. The Title IX Coordinator or Deputy will inform the Reporting Party that the College's ability to investigate, discipline the Responding Party or otherwise respond to the report may be limited.

The Title IX Coordinator or Deputy will balance the Reporting Party's desire not to have the report investigated or adjudicated against considerations about the continued health and safety of members of the community. If a Reporting Party does not want to have a report investigated or declines to respond to requests to discuss the allegations, and the Title IX Coordinator or Deputy has concerns that not taking action might violate law and/or endanger the health or safety of any individual, the Title IX Coordinator or Deputy will weigh the following factors in considering a request that no Investigation or adjudication be conducted:

- 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 through the use of illicit use of drugs or alcohol, at a given location or by a particular group);
- Whether the sexual violence was perpetrated with a weapon; and
- Whether the College possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence).

The Title IX Coordinator or Deputy may consult with relevant College employees, including but not limited to, the Dean of Students, the Provost, the Director of Human Resources, and legal counsel to determine whether a request not to investigate or adjudicate may be granted. The Title IX Coordinator or Deputy will make the ultimate decision about whether to conduct an Investigation or respond to the report in another manner, including taking protective remedies, such as those described below.

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

#### **IV. Confidentiality of Complaints and Reports**

The College understands that the Reporting Party, Responding Party, and witnesses involved in any Sexual Misconduct matter desire confidentiality during the investigation and adjudication of such matters. While the College will keep these matters confidential to the extent possible and as required by law, the College cannot ensure complete confidentiality, or even the confidentiality requested by parties, in all cases.

The Title IX Coordinator, Deputy and Investigators will, to the best of their ability, keep private the information provided by the Reporting Party, Responding Party, or witnesses. The Title IX Coordinator, Deputy, and Investigator(s) will disclose this information only to individuals who need to know information related to the allegations in order to investigate or adjudicate the matter; to protect the health, safety and wellness of the College community; and/or to individuals allowed to know by law.

In addition, the Title IX Coordinator may need to disclose information to law enforcement consistent with State and federal law; to other College employees as necessary for coordinating Interim Measures; for health, welfare, safety, and other appropriate reasons; as well as to government agencies who review the College's compliance with federal and State law. Information about complaints and reports, absent personally identifiable information, may be reported as needed within the College and/or to external entities for statistical and analysis purposes pursuant to applicable federal and State law and College policy.

Confidential assistance can be obtained through the Confidential Resources listed in the Policy, available at [www.smcmm.edu/campus-rights](http://www.smcmm.edu/campus-rights).

#### **V. Interim Measures and Resources**

Any participant in the investigation process may request Interim Measures, as appropriate, to assist or protect the Parties during any investigation and adjudication process. The College may also initiate Interim Measures on its own. More information on obtaining Interim Measures may be found in the Policy, available at [www.smcmm.edu/campus-rights](http://www.smcmm.edu/campus-rights).

The Title IX Coordinator or Deputy will also inform the participants in the investigation of existing options for counseling, health, mental health, victim advocacy, and other services available on- and off-campus for the parties during any investigation and adjudication of allegations of Sexual Misconduct. A

list of on-campus and off-campus resources is located in the Policy, available at [www.smcm.edu/campus-rights](http://www.smcm.edu/campus-rights).

#### VI. Attorneys, Advocates and Personal Supporters

The Parties have the right to be assisted by an attorney or advocate supervised by an attorney (both referred to herein as "advocate"), as well as a personal supporter of their choice ("supporter"), through the investigation and adjudication of a complaint of Sexual Misconduct. Advocates may not be a witness or other party in the proceeding. Advocates and supporters may accompany the student to any meeting or interview. Parties may not have more than two people, including a supporter and advocate, at any meeting or interview.

Advocates and supporters have no speaking role in a meeting or interview and are not permitted to ask or answer questions. All communication regarding the resolution process will be directed to the student. The College will only respond to communications received from the student. An advocate will not be permitted to communicate on the student's behalf. Students may contact the Title IX Coordinator for a referral to a trained advocate.

In the context of serving as an advocate or supporter to a Party, their statements are not made on behalf of the College but are solely made as an advocate and/or supporter for a Party. It is important, when one chooses an advocate or supporter, to ask for the individual's consent to serve in that capacity before divulging any confidential information.

##### Advocate roles:

In addition to attending meetings and interviews, advocates are permitted to assist parties through:

- Private consultations with the party during meeting and interviews;
- Providing advice to the party in a non-disruptive manner (such as communicating in writing);
- Assisting a party's exercise of any right during the investigative and adjudicatory process.

If a Party wishes to have an advocate accompany the Party to a meeting or interview, Parties are asked to give notice to the Title IX Coordinator or Deputy at least twenty-four (24) hours prior to any meeting or interview that an advocate will attend. Students should select an advocate whose schedule allows attendance at any meeting or interview. Parties may select and retain an advocate at any time before the conclusion of a formal sexual misconduct complaint is resolved.

##### MHEC Provided Attorneys:

The Maryland Higher Education Commission (MHEC) provides for licensed attorneys who have indicated that they will represent reporting parties or responding parties (who are current students or were students at the time of the underlying alleged sexual misconduct), in Title IX proceedings on a pro bono basis or for reduced legal fees. A list of those attorneys are located at; INSERT link to MHEC website once available. Students who seek representation from those attorneys are not responsible for the cost of legal services provided. Attorneys representing students in Title IX proceedings are reimbursed directly from MHEC's Legal Representation Fund for Title IX Proceedings, subject to the availability of funding. Students who seek representation from an MHEC identified attorney may contact MHEC at: INSERT contact info once available.

Students may be represented by private counsel or through other legal service agencies or organizations.

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If a student chooses to be represented by an attorney that is not on MHEC's list of attorneys (described above), MHEC shall pay fees to the attorney selected by the student that are equivalent to those paid to attorneys under civil legal services programs administered by the Maryland Legal Services Corporation. Information regarding compensation for attorneys not on MHEC's list is available at: [INSERT contact info once available].

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**VII. Resolution**

There are two avenues for resolution of allegations of Sexual Misconduct: Informal Resolution and Formal Resolution. The Title IX Coordinator or Deputy is available to explain the procedures for either form of resolution.

For a summary of the differences between Informal and Formal Resolution, please see the table below:

Informal Resolution	Formal Resolution
Agreement between the Parties to implement non-disciplinary remedies, facilitated by Title IX Coordinator or Deputy	Process by which the Investigator(s) review the facts gathered during an Investigation and determine whether the Responding Party is responsible for a violation of the Policy
Available for allegations of any kind of sexual misconduct except sexual assault	Available for allegations of any kind of sexual misconduct
Parties are not required to use Informal Resolution	If a Responding Party is found responsible, Investigator(s) issue disciplinary sanctions, up to and including expulsion
At any point during Informal Resolution, Parties or the Title IX Coordinator or Deputy may end the Informal Resolution and begin a Formal Resolution	

**a. Informal Resolution**

The Informal Resolution process may be used at any time after the College has sufficient information about the nature and scope of the alleged Sexual Misconduct, which may occur at any time after the Initial Assessment. An Informal Resolution is an agreement between the Parties to implement certain non-disciplinary remedies that is facilitated and approved by the Title IX Coordinator or Deputy.

Except where the Reporting Party has alleged that a Sexual Assault has occurred, the Reporting Party generally has the option to engage in the Informal Resolution process at any time during the investigation and adjudication process. In cases involving allegations of Sexual Assault, Informal Resolution is not appropriate at any step in the process, even if both Parties indicate a preference for Informal Resolution.

Regardless of the type of allegations, the Parties are never required to use the Informal Resolution process. If, at any point during the Informal Resolution process, the Parties or the Title IX Coordinator or Deputy wishes to cease the Informal Resolution process and to proceed through

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Formal Resolution process, the Formal Resolution process outlined below will be implemented.

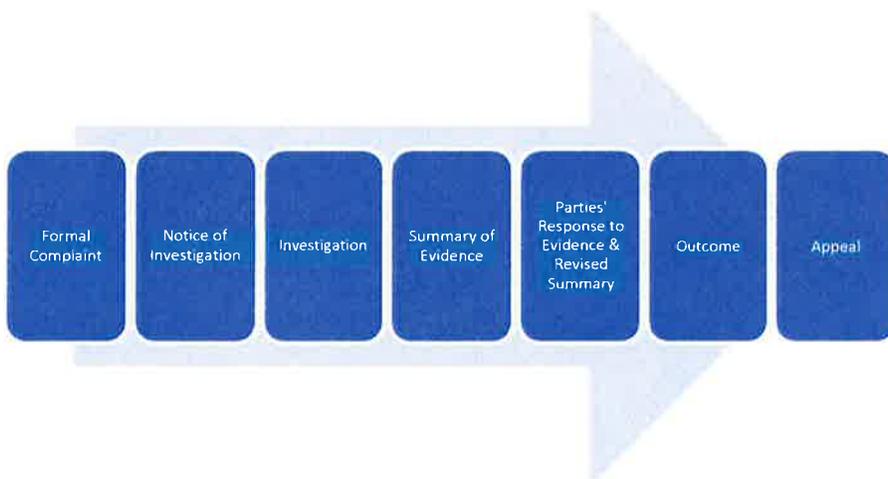
The Informal Resolution must adequately address the concerns of the Reporting Party, as well as the rights of the Responding Party and the overall intent of the College to stop, remedy and prevent Sexual Misconduct. An Informal Resolution might include, but is not limited to, non-disciplinary remedies such as:

- Implementing agreed upon Interim Measures (see the Policy, available at [www.smcm.edu/campus-rights](http://www.smcm.edu/campus-rights), for a list of possible Interim Measures);
- Providing training or counseling to an individual or group;
- Having an informal discussion with the Responding Party;
- Requesting a written apology from the Responding Party;
- Increasing monitoring or security at specified locations; or
- Facilitating a confidential conversation between the Parties; and
- Any other remedy that can be tailored to the Parties to achieve the goals of the Policy.

**b. Formal Resolution**

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For an overview of the Formal Resolution process, please see the figure below.



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### **i. Formal Complaint**

A person wishing to initiate a Formal Resolution against a Student (i.e., a formal investigation and adjudication) should generally submit a written statement (Formal Complaint) using the College's Sexual Misconduct Formal Complaint Form. The Formal Complaint should set forth the details of the Reporting Party's allegations, including, to the extent known:

- The names and contact information of the person(s) involved in the incident of Sexual Misconduct,
- The names and contact information of any witnesses to the incident of Sexual Misconduct,
- The relevant dates and places,
- Statements made by the Parties and/or witnesses that may be relevant to the allegations,
- Any documentation or communications to support the claim, and
- The remedy requested.

The Formal Complaint Form is located at [www.smcm.edu/campus-rights](http://www.smcm.edu/campus-rights). Hard copies are also available in the Office of the Title IX Coordinator.

If the Reporting Party declines to submit a written Formal Complaint, the Title IX Coordinator or Deputy may draft the Formal Complaint based on the Reporting Party's oral description of the allegations and submit it to the Reporting Party to review for accuracy.

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The Formal Complaint must be signed by the Reporting Party. If the Reporting Party declines to sign the Formal Complaint or chooses not to cooperate with the investigation, the Title IX Coordinator or Deputy may go forward with these Procedures, as required, without the Reporting Party's participation.

A Reporting Party should schedule an in-person meeting with the Title IX Coordinator or Deputy as promptly as possible to permit the College to accurately investigate the allegations and appropriately remedy any violation(s).

The Reporting Party may supplement the Formal Complaint with additional information during the Investigation.

### **ii. Notice of Investigation**

As soon as practicable, the Title IX Coordinator or Deputy will send a written notice (Notice) to the Parties that the Formal Resolution process has been initiated and that an Investigation will begin. The Notice will be sent via email concurrently to each Party and if assigned, campus mailboxes. The Notice may be provided to College employees who, in the discretion of the Title IX Coordinator or Deputy, have a need to know that the Formal Resolution process has begun.

The Notice will be prepared by the Title IX Coordinator or Deputy and will include:

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- The name of the Reporting Party;
- The date, time and place of the alleged Sexual Misconduct, to the extent known;
- The Policy provisions alleged to have been violated;
- The range of potential sanctions for the alleged violations;
- The name(s) of the investigator(s) who have been appointed;
- Students' rights and responsibilities under the Policy
- Information regarding civil and criminal options for pursuing allegations of sexual misconduct;  
and
- An explanation of the right to assistance of an attorney or advocate as well as a personal supporter

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If additional allegations are revealed during the Investigation, the Title IX Coordinator or Deputy will send a revised Notice to the Parties.

#### 1. Appointment of Investigator(s)

Upon receipt of the Formal Complaint, the Title IX Coordinator or Deputy shall appoint one (1) or more Investigators who have specific training and experience investigating allegations of Sexual Misconduct (Investigator(s)). The Investigator(s) may be employees of the College or external Investigator(s) engaged to assist the College in its fact-gathering. The Title IX Coordinator or Deputy may appoint a team of two Investigators, which may include the pairing of an external investigator with a College employee. Any Investigator chosen to conduct the Investigation must be impartial and free of any conflict of interest.

#### 2. Investigators' Conflicts of Interest

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A conflict of interest may arise if the Investigator is related to, has a friendship with, or otherwise has had interactions with one of the Parties or witnesses that may compromise the fairness or impartiality of the investigation. In the rare situation in which an actual or perceived conflict of interest arises from the involvement of an Investigator, that conflict must be disclosed to all Parties and any potential or actual conflict must be appropriately addressed.

If a Party has reason to believe that an Investigator for the case has a conflict of interest, the Party should notify the Title IX Coordinator or Deputy immediately via email and provide the reasons why the Party believes there is a conflict of interest. Likewise, an Investigator must promptly disclose any potential conflict of interest the Investigator might have in a particular case. The Title IX Coordinator or Deputy will review the information provided and make a determination regarding whether the Investigator should be replaced with another Investigator.

#### iii. Coordination with Law Enforcement

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

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**iv. Investigation**

The Investigation is designed to provide a fair, impartial, and reliable gathering of the facts. All individuals interviewed during the Investigation, including the Parties and any witnesses, will be treated with appropriate sensitivity and respect. The Investigation will safeguard the privacy of the individuals involved as much as possible, consistent with the need for a full assessment of the facts. At the commencement of the Investigation, the Title IX Coordinator or Deputy will provide the Investigator(s) with a copy of the Formal Complaint.

The Investigation ordinarily will include interviews of the Parties and any witnesses who may have relevant information, unless clearly unreasonable or duplicative of information already gathered; a review of any pertinent documents, medical records, and communications; and may include other actions deemed appropriate by the Investigator(s). Interviews will not be recorded.

At the initial interview of the Responding Party and/or in writing within three (3) business days of the initial interview, the Responding Party may provide the Investigators with a response to the allegations, the names (and contact information, if known) of any witnesses to the events in question, and any documentation or communications that the Responding Party believes is pertinent to the Reporting Party's allegations. If a revised Notice is sent to the Parties, the Investigator(s) or the Responding Party may request that the Responding Party be interviewed in relation to the new allegations and/or the Responding Party may provide the Investigator(s) with a response to the new allegations, the names (and contact information, if known) of any witnesses to the events in question, and any documentation or communications that the Responding Party believes is pertinent to the Reporting Party's new allegations.

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If a Party or witness declines to participate in the Investigation and the College is aware of relevant information pertaining to or in the knowledge of that Party, the Title IX Coordinator may present this information to the investigator.

The Title IX Coordinator, Deputy and/or Investigator(s) shall make every effort to keep the Investigation confidential, although confidentiality cannot be guaranteed. During the Investigation, the Title IX Coordinator, Deputy and Investigator(s) are not permitted to discuss the investigation with anyone except as circumstances warrant on a need-to-know basis. The Investigator(s) may communicate with legal counsel to the College and the Title IX Coordinator or Deputy during the Investigation.

The College will maintain the privacy of all Parties to a complaint under these Procedures, except when it interferes with the College's obligations (1) to fully investigate allegations of violation of the Policy or (2) to notify applicable governmental agencies as may be required by law. Where privacy may not be strictly kept, it will still be tightly controlled on a need-to-know basis and maintained to the extent possible. Breach of confidentiality by the Investigator(s) will result in a permanent removal from the Investigation and may subject the Investigator(s) to disciplinary action.

**v. Prior Sexual History of a Reporting Party**

In general, a Party's prior sexual history is not relevant and will not be considered by the Investigator(s). Where a current or previous dating or sexual relationship is alleged between the Parties, and the Responding Party alleges consent, the prior sexual history between the Parties may be considered by the Investigator(s) as relevant to assess the manner and nature of communications regarding consent. Revisions effective July 1, 2016 - updated July 1, 2019. Revisions approved by Board May 13, 2016

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between the Parties. The mere allegation of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent.

Any prior sexual history of a party with other individuals is typically not relevant and will not be considered, except to:

- Prove the source injury;
- Prove prior sexual misconduct;
- Support a claim that a party has an ulterior motive; or
- Impeach a party's credibility after that party has put his or her own prior sexual conduct at issue.

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#### vi. Students' Mental Health History

A party's history of mental health, counseling, treatment, or diagnosis, will not be considered by the investigator(s) unless the party consents.

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#### vii. Summary of Investigative Interviews

After each investigative interview, the Investigator(s) shall prepare a written summary of the interview and shall email a copy of the summary of the interview to the Party or witness who was interviewed as soon as practicable after the interview is conducted. The Party or witness will be given two (2) business days from the date upon which the Investigator(s) send the summary of the interview to provide any comments or additional information via email to the Investigator(s).

If the Party or witness does not provide comments or additional information to the Investigator(s) within this time period, the summary of the interview will be included in the Summary of Evidence without comment from the Party or witness. If the Party or witness provides comments or additional information to the Investigator(s) within this time period, the Investigator(s) shall include the comments and additional information in the Summary of Evidence, as defined below, and may, in the Investigator(s)' discretion, conduct another interview of the Party or witness.

#### viii. Summary of Evidence and Proposed Findings

Both Parties will have the opportunity to have notice of, as well as be heard by, the Investigator(s) with regard to any evidence to be considered for or against them. The opportunity to be heard includes, but is not limited to:

- The opportunity to respond to information received during the course of the Investigation;
- Identifying witnesses with relevant information to the allegations; and
- Suggesting specific questions to be posed to the other student(s) involved in the alleged act(s) at issue.

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Both Parties will have the same access to information to be used and considered during the process, and the same opportunity to present names of relevant witnesses and to identify and provide evidence during the process.

At the conclusion of the Investigation, the Investigator(s) will prepare a written summary of the information gathered, including but not limited to the names of the witnesses interviewed, summaries of the information provided by each Party and each witness, and copies of all documents or physical evidence provided to the Investigator(s) (Summary of Evidence). In addition, the Investigators will prepare their proposed findings regarding the parties' and witnesses' credibility (the Proposed Findings).

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The Title IX Coordinator will review the Summary of Evidence and Proposed Findings for consistency with College policy and practice, and the College's legal counsel will review the Summary of Evidence for legal sufficiency.

After the legal sufficiency review is complete, the Summary of Evidence and Proposed Findings will be marked "Confidential" and will be emailed concurrently to each Party via their respective College-assigned e-mail accounts. Parties are required to treat the Summary of Evidence and Proposed Findings as confidential. Parties may not disseminate the Summary of Evidence and Proposed Findings, or any part of it, to any other person, except for the Party's advocates who are consulted to aid in the Party's preparation of a written response or for support through the process. Providing the Summary of Evidence and Proposed Findings to any other person is a violation of the College's Policy Against Sexual Misconduct and may result in discipline against the Party.

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Advocates are also bound by the obligation to maintain the Summary of Evidence confidentially and not disseminate the Summary of Evidence beyond individuals who are consulted to aid in the Party's preparation of a written response or for support for the Party through the process. An advocate's failure to maintain confidentiality of the Summary of Evidence may be grounds to exclude the advocate from further participation in the Formal Resolution process.

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### 1. Parties' Response to Summary of Evidence and Proposed Findings

All Parties will have five (5) business days after the date the Summary of Evidence and Proposed Findings is emailed to the Parties to review the Summary of Evidence and Proposed Findings and all underlying documents. Within those five (5) business days the Parties may submit written comments, additional information in response to, and questions regarding the Summary of Evidence and Proposed Findings via email to the Title IX Coordinator (Response to Evidence and Proposed Findings).

If extenuating circumstances warrant an extension, a Party may submit a request for an extension to the Title IX Coordinator via email no later than the original deadline for the Response to the Summary of Evidence and Proposed Findings. Such requests will be evaluated on a case-by-case basis. The Title IX Coordinator or Deputy shall email the decision regarding the request for extension to both Parties. If a request for extension is granted to one Party, the other Party will be provided the same amount of additional time to submit their Response to Evidence and Proposed Findings.

Parties' Response to Evidence and Proposed Findings should not exceed ten (10) double-spaced pages with a minimum of 12- point font. Each Party may clarify any fact that the Party believes is inaccurate in the Summary of Evidence and Proposed Findings; request that additional witnesses be interviewed by the Investigator(s); request that a Party or witness be interviewed again; describe the impact of the case on themselves and/or request specific sanctions, if the Responding Party is found responsible; and/or provide additional documents. If a Party requests that an additional witness be interviewed or that a Party or witness be interviewed again, the Party must provide a statement regarding the information known to the Party or witness and explain the relevance of the information to resolution of the Complaint. If a Party submits documents, the Party must explain the relevance of each document submitted.

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### 2. Additional Investigation

Upon receipt of each Party's Response to Evidence and Proposed Findings or the expiration of the deadline to submit the Response to Evidence and Proposed Findings, whichever is earlier, the Title IX

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Coordinator will submit the Parties' Responses to Evidence and Proposed Findings that were received to the Investigator(s) for consideration. Parties will receive copies of the same. All information submitted by the Parties in response to the Summary of Evidence and Proposed Findings will be carefully reviewed by the Investigator(s). The Investigator(s) may conduct additional interviews to the extent reasonable, based on the relevancy and materiality of the statement of information known by a witness.

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**3. Revised Summary of Evidence and Proposed Findings**

If the Investigator(s) determine that the Summary of Evidence and Proposed Findings should be revised based on the Parties' Responses to Evidence and any additional investigation that is conducted, the Investigator(s) will prepare a revised Summary of Evidence and Proposed Findings (Revised Summary of Evidence and Proposed Findings). This Revised Summary of Evidence and Proposed Findings will include, but is not limited to, the names of the Parties and/or witnesses interviewed, summaries of the information provided by each Party and each witness, and copies of all documents or physical evidence provided to the Investigator(s). The Title IX Coordinator will review the Revised Summary of Evidence and Proposed Findings for consistency with College policy and practice, and the College's legal counsel will review the Revised Summary of Evidence and Proposed Findings for legal sufficiency.

After the legal sufficiency review is complete, the Revised Summary of Evidence and Proposed Findings will be marked "Confidential" and will be emailed concurrently to each Party via their respective College-assigned e-mail accounts. Parties are required to treat the Revised Summary of Evidence as confidential. Parties may not disseminate the Revised Summary of Evidence and Proposed Findings, or any part of it, to any other person, except for the Party's advisor and individuals who are consulted to aid in the Party's preparation of a written response or for support through the process. Providing the Revised Summary of Evidence and Proposed Findings to any other person is a violation of the College's Policy Against Sexual Misconduct and may result in discipline against the Party.

Advocates are also bound by the obligation to maintain the Revised Summary of Evidence and Proposed Findings confidentially and not disseminate the Revised Summary of Evidence and Proposed Findings beyond individuals who are consulted to aid in the Party's preparation of a written response or for support for the Party through the process. An advocate's failure to maintain confidentiality of the Revised Summary of Evidence and Proposed Findings may be grounds to exclude the advocate from further participation in the Formal Resolution process.

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**ix. Outcome and Standard of Proof**

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In determining whether the alleged conduct constitutes a violation of the Policy, the Investigator(s) will look at the record of the allegations as a whole and the totality of the circumstances based on the information gathered during the Investigation, including but not limited to, the nature of the behavior, the particular facts of the case, the nature of the relationship and interactions between the Parties, and the context in which the alleged conduct occurred. This standard will be applied from the perspective of a reasonable person within the College community.

The standard of proof in all Sexual Misconduct cases initiated under the Policy shall be "preponderance of the evidence" (i.e. that it is more likely than not that the Responding Party is responsible for violation(s) of the Policy).

The Investigator(s) will submit a written decision to the Title IX Coordinator or Deputy, including, but not Revisions effective July 1, 2016 – updated July 1, 2019  
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limited to: (1) a statement of the findings of fact concerning the alleged events, (2) the evidence relied upon in rendering the findings of fact, and (3) a determination of whether the conduct violated the Policy (Outcome). If the Responding Party is found responsible for violation(s) of the Policy, the Investigator(s) will be provided with the Responding Party's disciplinary record and will issue sanctions in writing (Sanctions), as set forth below.

The Title IX Coordinator will review the Outcome and Sanctions for consistency with College policy and practice, and the College's legal counsel will review the Outcome for legal sufficiency. The Title IX Coordinator or Deputy will include in the Outcome a notification of the Parties' right to appeal and the name of the Appeal Officer who has been appointed.

After the legal sufficiency review is complete, the Title IX Coordinator or Deputy will email the Outcome concurrently to each Party via their respective College-assigned e-mail accounts. If the Responding Party is found responsible, the Title IX Coordinator or Deputy will email the Sanctions to the Responding Party. The Reporting Party will be informed of any sanctions to the extent consistent with FERPA and other applicable law. The Student Conduct Officer will implement the Sanctions.

If neither Party submits an appeal within the applicable time limit, the Outcome and Sanctions will become final on the day immediately following the expiration of the time for filing an appeal.

**x. Sanctions**

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If the Responding Party is found responsible for a violation of the Policy, the Title IX Coordinator or Deputy will provide the Investigator(s) with a copy of the Responding Party's disciplinary history, which may be considered by the Investigator(s) in determining a sanction(s). Disciplinary records related to instances where the Responding Party has previously been found responsible for Sexual Misconduct are presumed to be relevant by the Investigator(s) to the assignment of a sanction.

Sanctions that may be imposed under this Policy include, but are not limited to, warning, restriction, work sanctions, educational sanctions, mandated assessments, disciplinary probation, housing contract revocation, disciplinary suspension, and expulsion. Sanctions may be issued individually or a combination of sanctions may be imposed. In general:

- Any student who is determined to have committed non-consensual sexual intercourse may receive a sanction ranging from suspension to expulsion.
- Any student who is determined to have committed non-consensual sexual contact or any other prohibited form of conduct may receive a sanction ranging from warning to expulsion.

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The Investigator(s) may deviate from the range of recommended sanctions, based upon a full consideration of the following factors:

- The Responding Party's prior discipline history;
- How the College has sanctioned similar incidents in the past;
- The nature and violence of the conduct at issue;
- The impact of the conduct on the Reporting Party;
- The impact of the conduct on the community, its members, or its property;

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- Whether the Responding Party has accepted responsibility for the Responding Party's actions;
- Whether the Responding Party is reasonably likely to engage in the conduct in the future;
- The need to deter similar conduct by others; and/or
- Any other mitigating or aggravating circumstances, including the College's values.

The Investigator(s), in consultation with the Title IX Coordinator or Deputy, may also consider restorative justice outcomes that, taking into account the safety of the community as a whole, allow a Responding Party to learn about the origins of the Responding Party's behavior, the Responding Party's responsibility for this behavior, and how the Responding Party can change this behavior.

In the course of preparing the Outcome, the Investigator(s) will notify the Title IX Coordinator or Deputy via email if the Investigator(s) have determined that the Responding Party(ies) is responsible for one (1) or more Policy violations. The Title IX Coordinator or Deputy will then provide the Investigator(s) with the Responding Party(ies)' disciplinary record.

**xi. Timeline**

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The Title IX Coordinator or Deputy will keep the parties informed of the status of the College's resolution of the report throughout the process. The Investigators will strive to complete the Investigation within twenty to twenty-five (20-25) business days of the Notice of Investigation. The Investigators will strive to complete the Outcome within ten (10) business days of receipt of Parties' Responses to Evidence.

The Formal Resolution generally shall be completed within sixty (60) days of the Title IX Coordinator's or Deputy's receipt of the initial report of the allegations of Sexual Misconduct. If the Formal Resolution cannot be completed within sixty (60) days of the initial report, the Reporting Party and Responding Party(ies) will be notified via email of reasons for delay.

**VIII. Appeals**

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**a. Appeal Officer**

Either Party may appeal the Outcome, including the finding of responsible or not responsible and/or the sanctions, via email to the Title IX Coordinator. The appeal will be conducted in an impartial manner by an impartial decision-maker (the Appeal Officer). The Title IX Coordinator will appoint an Appeal Officer from a pool of external appeal officers with specific training and experience in Title IX matters.

**b. Conflicts of Interest**

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A conflict of interest may arise if the Appeal Officer is related to, has a friendship with, or otherwise has had interactions with one of the parties or witnesses that may compromise the fairness or impartiality of the investigation. In the rare situation in which an actual or perceived conflict of interest arises from the involvement of an Appeal Officer, that conflict must be disclosed to all Parties and any potential or actual conflict must be appropriately addressed.

If a Party has reason to believe that an Appeal Officer for the case has a conflict of interest, the Party should notify the Title IX Coordinator or Deputy immediately via email and provide the reasons why the

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Party believes there is a conflict of interest. Likewise, an Appeal Officer must promptly disclose any potential conflict of interest the Appeal Officer might have in a particular case. The Title IX Coordinator or Deputy will review the information provided and make a determination regarding whether the Appeal Officer should be replaced with another Appeal Officer.

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**c. Submission of Appeal**

**i. Time to Submit an Appeal**

Appeals must be submitted to the Title IX Coordinator or Deputy via email within five (5) business days of the date the Outcome was sent via email to the Parties. Upon receipt of an appeal, the Title IX Coordinator or Deputy will send a copy of the appeal to the non-appealing Party within one (1) business day of the Title IX Coordinator or Deputy's receipt of the appeal. The non-appealing party will have three (3) business days to submit a response to the appeal to the Title IX Coordinator or Deputy.

In the event that an extenuating circumstance may warrant an extension, a request for an extension must be submitted to the Title IX Coordinator via email no later than the original deadline for the Appeal. Such requests will be evaluated on a case-by-case basis. The Title IX Coordinator or Deputy shall email the decision regarding the request for extension to both Parties. If a request for extension is granted to the appealing Party, the non-appealing Party will be provided the same amount of additional time to submit the Response to the Appeal. Appeals or responses submitted after the deadlines without an extension having been granted by the Title IX Coordinator or Deputy will be denied.

**ii. Submission of the Appeal to the Appeals Officer**

The Title IX Coordinator or Deputy shall email a copy of the Outcome, the appeal and any response to the appeal to the designated Appeal Officer within one (1) business day of the receipt of the response or the date upon which the response was due, whichever is earlier. The Appeal Officer shall confirm receipt of this information via email to the Title IX Coordinator or Deputy. The Title IX Coordinator or Deputy will email a copy of the response to the appeal, if any, to the appealing Party.

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**d. Requirements for Appeal and Response to Appeal**

The appeal shall consist of a plain, concise, and complete written statement outlining the grounds for appeal, all relevant information to substantiate the basis for the appeal, and appellant's desired outcome. The appeal shall not exceed 10 double-spaced pages with a minimum 12-point font. Mere dissatisfaction with the Outcome is not a valid basis for appeal.

Grounds for appeal are limited to the following:

- Specified deviations from the prescribed procedures of the Policy or these Student Procedures that resulted in significant prejudice to the appealing Party. Minor deviations from designated procedures will not form the basis for sustaining an appeal.

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- New or significant information that could not reasonably be made available at the time of the original investigation.
- The sanction imposed was not appropriate to the violation for which the Responding Party was found responsible.

A response to an appeal shall consist of a plain, concise, and complete written statement outlining the reasons that the appeals should be denied, all relevant information to substantiate the basis for the response, and non-appealing Party's desired outcome. The response shall not exceed 10 double-spaced pages with a minimum 12-point font.

If both Parties appeal, each party is permitted to file a response to the other Party's appeal, and both appeals will be considered by the Appeal Officer in one proceeding.

**e. Exclusion of Improper Information Submitted on Appeal**

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The Appeal Officer may exclude any information submitted by the appealing or non-appealing Party if it is not relevant or material to one of the specified grounds for appeal. If the Appeal Officer excludes information submitted on appeal, the Appeal Officer shall state the basis for exclusion of the information in the Appeal Officer's written decision.

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**f. Burden of Proof**

In any request for an appeal, the burden of proof lies with the appealing Party, as the original Outcome (and Sanction, if assigned) are presumed to have been decided reasonably and appropriately.

The Appeal Officer shall first consider whether the appeal is timely filed and if so, whether the appeal is based on one or more of the three grounds. If the Appeal Officer determines that the appeal is not timely or is not based on one of the permitted grounds, the appeal will be denied.

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An appeal is not an opportunity for the Appeal Officer to substitute the Appeal Officer's own judgment for that of the Investigator(s) merely because the Appeal Officer disagrees with the Outcome, findings and/or Sanctions. Appeal decisions are to be deferential to the original Investigator(s), making changes to the finding only where there is clear error.

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**g. Outcome of Appeal**

The Appeal Officer may affirm or alter the Outcome and/or Sanctions, depending on the basis of the requested appeal:

- If the appeal is based on procedural error, the Appeal Officer may return the Formal Complaint to the Investigator(s) with instructions to cure the error, or, in rare cases where the error cannot be cured, the Appeal Officer may ask that a new investigation occur. If a new investigation is ordered, the Title IX Coordinator or Deputy will appoint different Investigator(s) to conduct a new investigation in accordance with these Student Procedures. The new investigation shall be expedited to the maximum extent possible while ensuring that a thorough and complete investigation is conducted.

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- In the case of new and relevant information, the Appeal Officer may remand the case to the original Investigator(s) to assess the weight and effect of the new information, conduct any additional investigation as appropriate, and render a revised report after considering the new facts.
- If an appeal is based on an assertion that an imposed Sanction was not appropriate to the violation for which the Responding Party was found responsible, the Appeal Officer may affirm or alter the Sanction.

The Appeal Officer will render a written decision on the appeal (Appeal Decision) and send it to the Title IX Coordinator or Deputy within fifteen (15) business days from the date that the Title IX Coordinator or Deputy submits all of the appeal documents to the Appeal Officer. This time frame may be extended by the Title IX Coordinator or Deputy as necessary to ensure the integrity and completeness of the appeal process. The Title IX Coordinator will notify the Parties if additional time is required to complete the appeal process.

Appeal Decisions are final, unless the case is remanded. If the Appeal Officer remands the case, the Appeal Decision will state whether the Investigator(s) must issue a Revised Summary of Evidence, Outcome and/or Sanction, as appropriate to the findings on appeal. Any additional investigation and revision of the Summary of Evidence, Outcome and/or Sanction should be completed promptly as practicable. If the case is remanded, a Party may appeal only the portions of the Outcome that were changed on remand.

The Title IX Coordinator will review the Appeal Decision for consistency with College policy and practice, and the College's legal counsel will review the Appeal Decision for legal sufficiency.

After the legal sufficiency review is complete, the Title IX Coordinator or Deputy will email the Appeal Decision concurrently to each Party via their respective College-assigned e-mail accounts.

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**h. Sanctions during Appeal**

Sanctions will typically be stayed pending the outcome of any appeal process. If a Responding Party is suspended on an interim basis prior to the conclusion of the Investigation and is suspended or expelled as a result of the Investigation, the interim suspension will continue pending the outcome of any appeal.

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**IX. Records**

These procedures are entirely administrative in nature and are not considered legal proceedings. Parties may not make audio or video recordings of interviews, meetings or any part of the proceedings.

The Title IX Coordinator will retain records of all reports and complaints, regardless of whether the matter is resolved by means of Initial Assessment, Informal Resolution, or Formal Resolution for at least seven (7) years. Complaints resolved by means of Initial Assessment or Informal Resolution are not part of a student's conduct file or academic record or of an employee's personnel record.

If the Responding Party is a student and is found responsible for a violation of the Policy through the Formal Resolution process, the Title IX Coordinator will submit a copy of the Outcome and Sanctions to

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the Student Conduct Officer to be placed in the student's disciplinary record. Such records shall be used in reviewing any further conduct or issuing sanctions and shall remain a part of a student's conduct record.

Student conduct records will be retained in the Dean of Students Office for seven (7) years from when the student graduates or leaves the College due to death, withdrawal, or academic dismissal. Student conduct records of cases resulting in suspension, expulsion, or organizational deactivation may be retained for longer periods of time or indefinitely at the discretion of the Dean of Students. Further questions about record retention should be directed to the Dean of Students Office.

#### **X. The Family Education Rights and Privacy Act**

The Family Education Rights and Privacy Act (FERPA) is a federal privacy law that concerns student education records. Student conduct records, including student conduct records that are maintained in the course of a Sexual Misconduct proceeding, are education records under FERPA. Generally, FERPA prohibits disclosure of student conduct records, absent a student's consent. There are a number of exceptions, however, that may subject student conduct records to disclosure in the course of or in the aftermath of a Sexual Misconduct investigation:

##### **a. Disclosure to Victim in Crime of Violence or Non-Forcible Sex Offense**

FERPA permits disclosure of the outcome of a student conduct investigation to the victim of a crime of violence or non-forcible sex offense. Where the alleged Sexual Misconduct relates to a crime of violence or a non-forcible sex offense, the College will disclose the outcome of the hearing and any sanctions to the victim, regardless of whether or not the behavior was found to have violated College's Policy against Sexual Misconduct.

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##### **b. Disclosure to Others of Crime of Violence or Non-Forcible Sex Offense**

FERPA permits disclosure of the outcome of a student conduct investigation to anyone if (1) the alleged Sexual Misconduct relates to a crime of violence or non-forcible sex offense; (2) the Responding Party was found to have violated this Policy; (3) the alleged instance of Sexual Misconduct occurred after October 7, 1998; and (4) the names of non-party students, such as witnesses, have been redacted.

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##### **c. Transfer Students**

FERPA permits disclosure of a student's education records to officials of another institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer.

##### **d. Disclosure Where the College is a Party in Litigation**

FERPA permits disclosure of education records when a student initiates legal action against the College and the education records are relevant to the College's defense.

##### **e. Subpoenas and Court Orders**

FERPA permits disclosure of education records when the party seeking disclosure presents a lawfully  
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issued subpoena or court order. Student conduct records are discoverable in criminal and civil litigation and must be disclosed in their entirety pursuant to a lawfully issued subpoena or court order.

**f. FERPA Right to Inspect and Review**

FERPA also gives students a limited right to inspect and review their own education records. Any document or recording maintained in a student conduct proceeding that is directly related to a student is an education record, subject to inspection and review upon request. Practically speaking, if a student who is a Party or witness in a Sexual Misconduct proceeding gives any written or recorded statement, this statement will be made available, to the extent required by law, and to the extent that it relates to any student who invokes the right to inspect and review the student's education records.

**XI. Conflicts with the Policy and Procedures**

With the exception of the College Bylaws, to the extent that the Policy or these Student Procedures conflict with any other College policy, procedure, handbook, faculty or employee bylaw, agreement, or process, the Policy and these Student Procedures shall prevail.

If a Reporting Party alleges Sexual Misconduct along with alleged violations of other College policies and procedures, including but not limited to the Student Code of Conduct, Employee Handbook, Faculty Bylaws or Faculty Handbook, all allegations will be investigated and adjudicated in accordance with the Policy and these Student Procedures. The Title IX Coordinator or Deputy may pair an investigator without Title IX training with an investigator with Title IX training to investigate allegations that do not fall within the scope of the Policy.

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**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><b>SMCM Public Safety</b> (240) 895-4911, or x4911 from any campus phone</p> <p><b>St. Mary's County Sheriff's Office</b> Emergency: 911 For concerning situations: (301) 475-4200 x1900</p> <p><b>Maryland State Police</b> Leonardtwn Barracks (301) 475-8955</p>	<p><b>St. Mary's Hospital</b> (301) 475-8981 Provides medical treatment and Sexual Assault Forensic Exams.</p> <p><b>Calvert Memorial Hospital</b> (410) 535-4000 Provides medical treatment and Sexual Assault Forensic Exams.</p> <p><b>SMCM Health Services</b> (240) 895-4289 Provides medical treatment. Monday through Friday, 8:00 a.m. – 5:00 p.m.</p>	<p><b>SMCM Staff Therapist/Advocate</b> (240) 895-4289 Available through Counseling Services. Provides referrals, support and advocacy.</p> <p><b>Walden-Sierra, Inc. Crisis Hotline</b> (301) 863-6661 Provides advocacy, accompaniment to the hospital, crisis counseling, or on-going therapeutic support.</p> <p><b>SMCM Counseling Services</b> (240) 895-4289 Provides confidential psychological counseling.</p> <p><b>SMCM Sexual Misconduct Advocacy and Resource Team (SMART)</b> (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](mailto: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.

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**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](mailto:titleix@smcm.edu), [mkdunn@smcm.edu](mailto:mkdunn@smcm.edu)

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Deputy Title IX Coordinators:

Kyle Bishop

Calvert Hall 220 \* (240) 895-3181

[titleix@smcm.edu](mailto:titleix@smcm.edu), [kkbishop@smcm.edu](mailto:kkbishop@smcm.edu)

Shannon Jarboe

Glendening Hall 170 \* (240) 895-4309

[titleix@smcm.edu](mailto:titleix@smcm.edu), [skjarboe@smcm.edu](mailto:skjarboe@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](mailto: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. Attorneys Provided Through MHEC for Student Parties:**

The Maryland Higher Education Commission (MHEC) provides for licensed attorneys who have indicated that they will represent reporting parties or responding parties (who are current students or were students at the time of the underlying alleged sexual misconduct), in Title IX proceedings on a pro bono basis or for

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reduced legal fees. A list of those attorneys are located at: [INSERT link to MHEC website once available]. Parties who seek representation from those attorneys are not responsible for the cost of legal services provided. Attorneys representing parties in Title IX proceedings are reimbursed directly from MHEC's Legal Representation Fund for Title IX Proceedings, subject to the availability of funding. Parties who seek representation from an MHEC identified attorney may contact MHEC at: [INSERT contact info once available].

iii. Off-Campus Confidential **Counseling and Advocacy Resources:**

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- **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/>

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- **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](http://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.smcfca.net](http://www.smcfca.net)
- **Rape, Abuse and Incest National Network (RAINN): (800) 656-4673**  
A confidential, anonymous national sexual assault hotline. [www.rainn.org](http://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.

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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.

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**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: Kyle Bishop**  
**(240) 895-3181, Calvert Hall 220**
- **Deputy Title IX Coordinator: Shannon Jarboe**  
**(240) 895-4309, Glendening Hall 170**

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

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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](mailto: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.

- **Vice President for Student Affairs/Dean of Students\***

Leonard Brown, [lebrown1@smcm.edu](mailto:lebrown1@smcm.edu)  
(240) 895-4208

The Vice President of Student Affairs/Dean of Students (“Dean of Students”) oversees Residence Life, Public Safety, and the Assistant Dean of Students. The Dean of Students can provide options and resources for students as well as assist with a variety of accommodations.

- **Assistant Dean of Students\***

Kyle Bishop, [kkbishop@smcm.edu](mailto:kkbishop@smcm.edu)  
(240) 895-3181

The Assistant Dean of Students oversees Counseling Services, Health Services, and the Office of Student Conduct. The Assistant Dean of Students can provide options and resources for students as well as assist with a variety of accommodations.

- **Department of Athletics & Recreation, Senior Woman Administrator\***

Erin McDonnell, [eemcdonnell@smcm.edu](mailto:eemcdonnell@smcm.edu)  
(240) 895-3304

The Senior Woman Administrator serves on the management team for the Department of Athletics & Recreation and liaises with the Office of Inclusion, Diversity, and Equity (IDES), among other responsibilities. The Senior Woman Administrator can provide options and resources for students.

- **Office of Student Conduct**

Leonard Brown, [lebrown1@smcm.edu](mailto:lebrown1@smcm.edu)  
(240) 895-4208

The Office of Student Conduct can connect students to on- and off-campus resources.

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- **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.

- **Office of Student Support Services**

(240) 895-4388

Student Support 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 Student Support 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.

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### 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 is fully committed to equal employment and educational opportunities for its employees and students. The College does not discriminate or condone discrimination or harassment in the workplace or academic setting, on the basis of race, color, religion, sex, national origin, gender identity/expression, sexual orientation, ethnicity, age, marital status, physical or mental disability, protected veteran status, or any other characteristic protected by law.

For purposes of this policy, harassment is defined as: (a) unwelcome conduct based on a legally protected class, including: race, color, religion, sex, national origin, gender identity/expression, sexual

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orientation, ethnicity, age, marital status, physical or mental disability, protected veteran status, or any other characteristic protected by law; and (b) that is so severe or pervasive that it interferes with an individuals' work or academic performance or creates an intimidating, hostile or offensive working environment.

The College's definitions of sexual harassment and related issues may be found in section VI, "Prohibited Conduct and Definitions," below.

All workplace and academic policies, programs and activities of the College are and shall be in conformity with applicable federal and State laws on non-discrimination including, but not limited to: Title VI of the Civil Rights Act of 1964 as amended, Title IX of 1972 Education Amendments, Section 504 of the Rehabilitation Act of 1973, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974. The College's equal opportunity policy applies to the College's educational policies, admission policies, scholarship and loan programs and athletic programs. The policy applies to all employment decisions, including those affecting recruitment, advertising, job application procedures, hiring, upgrading, training, promotion, transfer, compensation, job assignments, benefits, and/or other terms, conditions, or privileges of employment, provided the individual is qualified, with or without reasonable accommodations, to perform the essential functions of the job.

The College's students, employees and applicants shall not be subjected to harassment, intimidation or any type of retaliation because they have (1) filed a complaint; (2) assisted or participated in an investigation, compliance review, hearing or any other activity related to the administration of any federal, state or local law requiring equal employment opportunity; (3) opposed any act or practice made unlawful by any federal, state or local law requiring equal opportunity; or (4) exercised any other legal right protected by federal, state or local law requiring equal opportunity.

For questions or concerns about these matters, college employees are encouraged to contact the Assistant Director of Human Resources/AA and EEO Officer in Glendening Hall, phone: (240) 895-4309. Students are encouraged to contact the Vice President for Student Affairs, Dean of Students, Campus Center 143, phone: (240) 895-4208; and the Title IX Coordinator, Lucille Clifton House, phone: (240) 895-4105, regarding concerns about sex-based discrimination.

**a. Prohibited sex discrimination**

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, [titleix@smcm.edu](mailto:titleix@smcm.edu), [mkdunn@smcm.edu](mailto:mkdunn@smcm.edu)  
Lucille Clifton House, 47645 College Drive, St. Mary's City, MD 20686

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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](mailto:OCR.Philadelphia@ed.gov)  
[www.ed.gov/ocr](http://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

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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.

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**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:

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- 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:

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- 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 tommery/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.

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**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.

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**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.

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## 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**  
**Leonardtowntown 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.

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**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

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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.

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**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.

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## 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](http://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.

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**BOARD OF TRUSTEES  
ST. MARY'S COLLEGE OF MARYLAND  
STUDENT AFFAIRS COMMITTEE  
MEETING OF MAY 3, 2019  
INFORMATION ITEM III.A.  
DEAN OF STUDENTS REPORT**

Student Conduct Procedural Changes

The following changes to the Student Conduct Board processes will be implemented starting Fall 2019. These changes are supported by current Student Conduct Board members and have been shared with the Student Government Association and the President of the Faculty Senate. The goals of the changes are to: (1) improve Conduct Board efficiency, and (2) ensure that sanctions for responsible findings are consistent. The procedural changes are:

1. The Student Conduct Board will be comprised of three students instead of five students.
2. The Student Conduct Board and the advisor to the Board will agree on sanctions before they are finalized.
3. Conduct cases that may result in suspension, expulsion, or housing contract revocation will be heard by the College Conduct Board, comprised of a combination of three students and staff, instead of five.

**BOARD OF TRUSTEES  
ST. MARY'S COLLEGE OF MARYLAND  
STUDENT AFFAIRS COMMITTEE  
MEETING OF MAY 3, 2019  
ACTION ITEM III.B.  
STUDENT TRUSTEE REPORT**

Welcome back again!

As this will be my last report as a Student Trustee, I intend to submit not just an update on the past three months, but also a forecast of how I anticipate St. Mary's to be in the coming years. I will start at the very beginning, as I understand it is a very good place to start.

The Student Affairs Committee met March 29th to select the new Student Trustee-in-Training, who will follow and train under Jasmine Long ('21), when Jasmine sits on the Board. It is my joy to announce that the next Student Trustee-in-Training will be Fatima Bouzid, from the Class of 2022. Fatima is a captain on the Varsity Volleyball team, and her cheerful approachability will help make her a visible, trusted, and appreciated leader on campus. She plans to double-major in Public Policy and Chinese, and she is trilingual in English, Chinese, and Arabic. A member of the DeSousa-Brent (DB) Scholars program, Fatima will be a Summer Bridge Mentor for the next DB cohort, where she will guide a new generation of student leaders. For every reason, I am excited to see Fatima grow as she studies under Jasmine, and excel when she becomes Student Trustee in the academic year 2020-2021.

Similarly, I am confident and delighted to see Jasmine assume the role of Student Trustee. This year, Jasmine has shown herself to be a careful observer and a dependable helper; I know that next year she will prove to be an insightful thinker and a capable worker. I am fortunate to have known her in my time at St. Mary's, and likewise the Board is fortunate to have her serve as Student Trustee. During this year's Student Trustee selection meeting, Jasmine contributed to a fruitful discussion on improving the Student Trustee application process, including an updated plan to recruit strong candidates and publicize the opportunity starting every fall semester. As I prepare to leave St. Mary's, I am grateful to know that the future of the Student Trustee's office is in the capable hands of Jasmine Long and Fatima Bouzid.

In these final days of school, I think about the future of St. Mary's, and look back on the past several years. I remember applying to St. Mary's when I was a different kind of "senior," opening the school's website, and reading about the newly selected college President, Dr. Jordan. As I lived on campus, I witnessed a lot of changes, and many of these changes I learned were relevant to our Strategic Plan. Given my experience at St. Mary's, I would like to comment on the most visible actions and goals regarding our Plan, from the perspective of a student on campus. Please note that these observations do not cover every initiative or office serving our institution, but merely reflect the things that students generally notice and feel distinctly.

The most recent and visible changes include the campus beautification projects, subtle but widely appreciated improvements to school facilities that increase the accessibility and comfort of school

spaces. I expect this consideration to be key to the success of new college areas, like the Jamie L. Roberts Stadium, the commemorative art installment, and the new academic building, as students naturally gravitate to areas that are aesthetically pleasing, and comfortable to spend time in. Additionally, the public presence of art carries the potential to provoke both individual and communal reflection. As I will have graduated before these projects are completed, I know I must soon return to St. Mary's.

Another development that will be witnessed by future students will be the LEAD curriculum. I eagerly anticipate the full implementation of this system, as I am passionate to see the liberal arts made accessible and relevant to the world. In this vein, the Career Development Center's increased visibility is already playing a significant role in preparing students for life after graduation. And, for life after graduation, the Alumni Office has built a stellar presence on campus through Giving Tuesday and Hawktoberfest events, and I expect that the pleasant memories from these annual activities will positively impact the engagement of future alumni. I am grateful to have witnessed this period of growth, and am happy to see it continue.

Ultimately, while these developments have been good, this season of change has weighed on the student body, which at times can be as fragmented as the rest of our society. Enhancing the academic and social integration of the student body is key to attracting intellectually ambitious students, and it is essential to helping them thrive and respect a diverse and collaborative learning environment. As a student, this objective is dearest to my heart, particularly as the most vulnerable groups in a social context often suffer the most from polarization and fragmentation. This is one reason why the Inclusion, Diversity, and Equity (IDE) Vice President is so anticipated: a success in IDE is a success for all of campus. Especially in our times, I consider the social integration of our students to be a difficult, but not insurmountable, task. As it stands, student cohesiveness cycles through high and low points, following the general activity and outlook of graduating and entering cohorts. If next year's class follows the example of our current first-year cohort, student engagement and integration will continue to rise.

Thank you for your time and dedication to this unique and wonderful institution. I am excited to see Jasmine invent new ideas and refine old ones as she brings her perspective as the next Student Trustee, working to raise the visibility of the Board and students to each other. I am also hopeful to see the college continue to expand its resources and grow together, always striving to be a community that befits the National Public Honors College.

Finally, I am blessed to have been given the opportunity to serve this year. Thank you for your diligence, your understanding, and your support. I look forward to revisiting this treasured place by the St. Mary's River, and I hope to see you here again.

Sincerely,  
Justin Hoobler ('19)



**BOARD OF TRUSTEES  
STUDENT AFFAIRS COMMITTEE**

**MINUTES**

**Date of Meeting:** February 1, 2019

**Status of Minutes:** Approved March 18, 2019

**Student Affairs Committee Members Present:** Committee Co-Chair Cindy Broyles '79, John Bell '95, Peg Duchesne '77, Elizabeth Graves '95, Board Chair Sven Holmes, Justin Hoobler '19, President Tuajuanda Jordan, Larry Leak '76, Danielle Troyan '92

**Committee Members Absent:** Committee Co-Chair Lex Birney, Carlos Alcazar

**Staff Member:** Leonard Brown

**Others Present:** Betsy Barreto, Allison Boyle, Peter Bruns, Carolyn Curry, Michael Dunn, Susan Dyer, Misty Frantz, Cynthia Gross, David Hautanen, Gail Harmon, Anne Harvey-Diggs, Jasmine Long '21, Ann McDaniel, Andrew Messick '19, Dan Pindell, Paul Pusecker, Kate Shirey, Amanda VerMeulen, Allan Wagaman '06, Mike Wick, Anna Yates, Derek Young '02

**Executive Summary**

Committee Co-Chair Cindy Broyles '79 called the meeting to order at 9:55 a.m.

Career Center Services and Opportunities Kate Shirey, director of career development, spoke to the Committee about the ways in which services to students have expanded over the last few years and how those services will continue to evolve in concert with the LEAD curriculum initiatives. She provided a brief overview of the Honors College Promise as a guarantee for access to research/internship opportunities for all students. Ms. Shirey reviewed the increased opportunities available to students for career exploration through Federal Work Study, signature internships, educational/recruitment progress, micro-internships, career fairs, career immersion trips, Job IQ/mentoring, interview day, and mock interviews.

Trustee Larry Leak '76 expressed that the services and opportunities available to students were remarkable and applauded the director and her staff for their accomplishments. Trustee Ann McDaniel was pleased with the speed of the progress made by the Career Development Center (CDC) and suggested providing additional days, such as Reading Days, when classes would be suspended, to provide students time for job opportunities and internships. Dir. Shirey stated that the CDC does take advantage of Reading Days. Trustee McDaniel asked whether these services were marketed in collaboration with the admissions office, to which Vice President for Admissions and Financial Aid David Hautanen confirmed that collaboration was in progress. Trustee Danielle Troyan '92 applauded the director for bringing this concept to fruition. Trustee Peter Bruns asked if Bookbag-to-Briefcase program could take place via video. Ms. Shirey conveyed that it could, if appropriate, and that mock interviews allowed for great flexibility. Trustee John Bell '95 asked

how progress was measured and what the results indicated. The director stated that students were required to provide their reflections and that employers/partners share information with the CDC as well. Students also provide feedback after they have secured their first job.

Clarification of the Role of Student Trustee and the Connection to the Student Government Association (SGA) Student Trustee Justin Hoobler '19 provided an overview of the Student Government Association (SGA) and explained how the responsibilities of the student trustee are separate from those of the SGA. Hoobler '19 referenced the Memorandum of Understanding Regarding the Role of the Student Trustee and a letter from the SGA, both of which were available on the Board of Trustees Portal. He stated that communication is key and shared conversations he had with a senior SGA senator that revealed a misunderstanding regarding the chain of command. The Student Trustee position, though a separate position from that of the SGA president, is there to assist with leadership, encouragement, and support. Board Chair Holmes stated that the role of the student trustee is significant and then stated his appreciation to Dean Brown for his involvement.

Student Trustee Report Student Trustee Justin Hoobler '19 described a renewed civil ethic between the students and the administration. He described the process by which student Alec Bernstein '19 accumulated 20 hours of audio interviews with students living on north campus. These interviews were then organized to create a compact list of goals. A committee to address these goals, through coordination with administrators, was subsequently formed.

Hoobler '19 expressed his gratitude to Student Trustee-in-Training Jasmine Long '21 for updating the application form for the Student Trustee selection process. Her work focused on coalescing similar prompts together, grouping the application into sections of related questions, and framing the prompts to directly seek what the qualified candidates bring to their application. He looks forward to this year's process as they use these improvements to help future student trustees-in-training conduct an expedient and thorough first stage of the application process.

Response to Student Speak-Out Vice President for Student Affairs/Dean of Students (VPSA) Leonard Brown referred Committee members to the portal to review a copy of the January 19, 2019 email message that was distributed to all students.

Alcohol Task Force The task force will be comprised of staff, students, the St. Mary's County Health Department, and Trustee Allan Wagaman '06. The task force will meet with the Maryland Collaborative to review the 2016 and 2018 surveys. A report will be provided to the Trustees at the next Board meeting.

## **Action Items**

### **II.A. Endorsement of Emergency Operations Plan (EOP)**

The primary purpose of the EOP is to preserve and protect the lives of SMCM students, faculty, and staff by initiating, coordinating, and sustaining an effective College response to any emergency situation in order to maintain the continuity of mission-essential functions. The highlights of the EOP are:

1. Identify planning assumptions and develop policies.
2. Establish a concept of operations built on interdepartmental coordination.

3. Assign specific functional responsibilities to the appropriate areas.
4. Coordinate actions necessary to respond to an emergency.

The Emergency Response Team (ERT) is comprised of members from the following departments: student affairs, public safety, physical plant, academic affairs, environmental health and safety, strategic communications, information technology and other departments as appropriate. The ERT will continuously review and update the EOP incorporating best practices, thus ensuring preparedness.

Co-chair Cindy Broyles '79 asked whether tabletop exercises were being conducted. VPSA Leonard Brown indicated that current exercises underway are *Active Shooter* and *Pandemic*. The next exercise will pertain to chemical spills.

Board Chair Sven Holmes stated that safety is a priority that requires a sense of seriousness with students and asked how we plan to get students in that mindset. Brown stated that students tend to focus on an active threat and that they have already had some training by the time they arrive at the College. The *Run, Hide, Fight* training is given each semester and has been well attended. The ERT takes this subject seriously.

Co-chair Cindy Broyles '79 motioned to endorse the EOP and it was seconded by Danielle Troyan '92 and John Bell '95. The action item passed unanimously.

President Jordan offered her reflection on how Student Affairs has evolved in the areas of the CDC Department, EOP, and care for the students under Vice President Leonard Brown's guidance. He was congratulated on achieving his Doctorate of Management. Co-chair Cindy Broyles '79 stated that the CDC has evolved significantly since she was a student at the College.

The meeting adjourned at 10:55 a.m.