

# Salisbury University Policy Prohibiting Non-Sex Based Discrimination<sup>1</sup>

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<sup>1</sup> Policy effective date: August 18, 2015. This Policy replaces and supersedes all previous versions of the “Salisbury University Policy Prohibiting Sexual and Other Discriminatory Harassment,” as it related to Non-Sex Based Discrimination.

# Salisbury University Policy Prohibiting Non-Sex Based Discrimination

## I. Purpose & Applicability

Salisbury University (“SU” or “University”) is committed to providing a working and learning environment free from all types of discrimination prohibited by State and Federal laws, including on the basis of sex, gender, marital status, pregnancy, race, color, ethnicity, national origin, age, disability, genetic information, religion, sexual orientation, gender identity or expression, veteran status, or other legally protected characteristics (hereinafter “Protected Status”). SU values diversity among its students, faculty and staff and believes that interactions with those holding various perspectives, backgrounds, and beliefs contributes to a well-rounded educational experience and promotes personal and professional development. The University is committed to providing qualified individuals access to all academic and employment programs, benefits and activities on the basis of demonstrated ability, performance and merit, without regard to personal factors that are irrelevant to the program involved. Therefore, no person, on the basis of their Protected Status, shall be excluded from participation in, be denied the benefits of, or be subjected to unlawful discrimination, harassment or retaliation under any University program or activity, including employment terms and conditions.

SU endeavors to foster a climate free from discrimination based on any individual’s Protected Status through training, education, prevention programs, and through policies and procedures that promote prompt reporting, prohibit retaliation, and promote timely, fair and impartial investigation and resolution of discrimination cases in a manner that eliminates any discrimination, prevents its recurrence, and addresses its effects. This Policy specifically applies to claims of discrimination based on marital status, pregnancy, race, color, ethnicity, national origin, age, disability, genetic information, religion, veteran status, or other legally protected characteristics (hereinafter “Non-Sex Based Prohibited Discrimination”). The Salisbury University Policy Prohibiting Sexual Misconduct and Other Sex and Gender Based Discrimination applies to address sex and gender based misconduct matters, such as sexual misconduct, or discrimination on the basis of gender identity and expression, and sexual orientation, and is available at:

<http://www.salisbury.edu/equity/library/docs/SUProhibitedSexDiscriminationPolicy.pdf>.

All SU Community members are subject to the Salisbury University Policy Prohibiting Non-Sex Based Discrimination (hereinafter “Policy”), including all students, faculty, and staff of SU, applicants for employment and/or admission to SU, as well as third parties, agents, and contractors under SU control. This Policy applies to Non-Sex Based Prohibited Discrimination in connection with any SU office or regional center education programs or activities, including, but not limited to, Non-Sex Based Prohibited Discrimination: (1) in any SU facility or on any SU property or location under SU control; (2) in connection with any SU sponsored, recognized or approved program, visit or activity, regardless of location; (3) that impedes equal access to any SU education program or activity or adversely impacts the employment of a member of the SU Community; or (4) that otherwise threatens the health or safety of anyone, including, but not limited to, members of the SU Community. Nothing in this Policy is intended to supersede or conflict with any State or Federal compliance obligations.

The University encourages all SU Community members to take reasonable and prudent actions to prevent or stop Non-Sex Based Prohibited Discrimination. Taking direct action may include, but is not limited to, direct intervention, when safe to do so, contacting law enforcement, or seeking assistance from a person in authority.

Retaliation for participating in any way in any Non-Sex Based Prohibited Discrimination matter is also a form of discrimination prohibited by this Policy. Any retaliatory action or interference with any person participating in any stage of the process (including, but not limited to, engaging or participating in reasonable intervention, reporting, investigating, resolution and appeal) is strictly prohibited and will be subject to appropriate disciplinary action. Likewise, this Policy shall not be used to bring baseless, frivolous or malicious complaints against a member of the SU Community and disciplinary action may also be taken against any person who files a complaint under this Policy in bad faith or without justification.

Protected Status rights to equal opportunity and freedom from discrimination must, of course, be honored in concert with First Amendment rights to freedom of speech and association. For example, the University fully supports the principles of academic freedom and is committed to protecting the free expression of ideas, teaching methods and course content in the academic setting. Academic freedom generally protects the use of, and is defined as, in part, verbal or visual environmental factors that are germane to the course material and not directed at any individual in the University Community. This may include, but is not limited to, reading and discussing a piece of literature depicting scenes using racially charged language, involving a character's opinion on behavior that involves Protected Status, and/or discussing social issues involving Protected Status conduct, even if such discussion includes references or visual aids, or frank discussion. Non-Sex Based Prohibited Discrimination, however, is not a proper exercise of academic freedom and may not be legally protected expression.

This Policy replaces and supersedes all previous versions of the "Salisbury University Policy Prohibiting Sexual and Other Discriminatory Harassment," as such policy prohibited and related to Non-Sex Based Prohibited Discrimination.

## II. Definitions

For purposes of this Policy, the following definitions apply:

- A. **Complainant** means (1) a person who reports experiencing Non-Sex Based Prohibited Discrimination or (2) the University, in a case where the University initiates or opts to continue a complaint investigation or adjudication (for example, despite a person's request for no further action), pursuant to University legal or policy obligations or decisions.
- B. **Discrimination** is defined as the unequal treatment of a person based on that person's Protected Status. It also includes any unlawful distinction, preference, or detriment to an individual as compared to others that is based on an individual's Protected Status and that is sufficiently serious to unreasonably interfere with or limit:

- An employee or applicant for employment's access to employment or conditions and benefits of employment;
- A student or admission applicant's ability to participate in, access, or benefit from educational programs, services, or activities;
- An authorized volunteer's ability to participate in a volunteer activity; or
- A guest or visitor's ability to participate in, access, or benefit from the University's programs.

Discrimination includes failing to provide reasonable accommodations, consistent with State and Federal law, to a qualified person with a disability.

**C. Good Faith Requirement.** Allegations of Non-Sex Based Prohibited Discrimination are very serious and could cause great harm. This Policy shall not be used to bring baseless, frivolous or malicious complaints against a member of the SU Community. Disciplinary action may be taken against any person who files a complaint or reports Non-Sex Based Prohibited Discrimination under this Policy in bad faith or without justification.

**D. Discriminatory Harassment.** Discriminatory Harassment is a type of Discrimination that occurs when verbal, physical, electronic, or other conduct based on an individual's Protected Status interferes with that individual's educational or work environment, participation in a University program or activity, or receipt of legitimately requested services, and 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 an SU program or activity (commonly referred to as "Quid Pro Quo Harassment"); (2) submission to or rejection of such conduct by an individual is used as the basis for academic, employment, or activity or program participation-related decisions affecting an individual (also Quid Pro Quo Discriminatory Harassment); or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, i.e., it is sufficiently severe or pervasive to create a hostile working, academic, residential or social environment (commonly referred to as "Environmental Discriminatory Harassment").

Consistent with the definitions provided above, conduct that may constitute Non-Sex Based Prohibited Discrimination:

- May be blatant and involve an overt action, threat, or reprisal; or may be subtle and indirect, with a coercive aspect that is unstated but implied;
- May or may not include intent to harm;
- May not always be directed at a specific target;
- May be committed by anyone, regardless of Protected Status, position or authority. While there may be a power differential between the Complainant and the Respondent – perhaps due to differences in age or educational, employment, or social status – Non-Sex Based Prohibited Discrimination can occur in any context;
- May be committed by a stranger or an acquaintance;
- May be committed by or against an individual or by or against an organization or group;

- May occur in the classroom, in the workplace, in residential settings, or in any other setting;
- May be a pattern of behavior or, if sufficiently severe, a one-time event;
- May be committed in the presence of others when the Complainant and Respondent are alone, or through remote communications, including email, text messages, or social media;
- May take the form of threats, assault, property damage, economic abuse, and violence or threats of violence; and
- May include harassing or retaliatory behavior directed to a sexual or romantic partner, family member, friend, or pet of the Complainant.

**E. Interim Measures** means reasonably available steps SU may take to protect the parties while a Non-Sex Based Prohibited Discrimination investigation is pending. Interim protective action may include, but is not limited to, changing academic or living arrangements for students, changing office responsibilities or location for employees, and prohibiting contact among the parties and others pending resolution.

**F. Respondent** means an individual who has been accused of Non-Sex Based Prohibited Discrimination.

**G. Responsible Employee** includes any employee who (1) has the authority to take action regarding Non-Sex Based Prohibited Discrimination; (2) is an employee who has been given the duty of reporting Non-Sex Based Prohibited Discrimination; or (3) is someone another individual could reasonably believe has that authority or duty. **At SU, Responsible Employees include the Fair Practices Officer (“FPO”) and all Office of Institutional Equity (“OIE”) employees, all institution administrators, all non-confidential employees in their supervisory roles, all faculty members (including adjunct faculty), all teaching assistants, all athletic coaches, all institutional law enforcement, all resident assistants, all resident directors, all area directors, and all other non-confidential first responders. Responsible Employees must report allegations of Other Prohibited Discrimination to the University’s FPO within twenty-four (24) hours of receiving such information. If you report an instance of Non-Sex Based Prohibited Discrimination to a Responsible Employee, you cannot be guaranteed confidentiality or anonymity, although the Responsible Employee will make reasonable efforts to disclose information on a need-to-know basis only. Responsible Employees are required to complete the form “Salisbury University Discrimination Complaint Form,” attached as Appendix A. A Responsible Employee’s failure to comply with this portion of the Policy may result in disciplinary action.** Any disciplinary action will be consistent with any other procedures or protections that individuals may be subject to on the basis of their employment and/or student status. The possible sanctions include, but are not limited to, a letter of reprimand, counseling, retraining, demotion, suspension, or termination of employment. These sanctions may be imposed even after a first offense, under appropriate circumstances.

**H. Retaliation** means intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law, SU or USM Policy relating to Non-Sex Based Prohibited Discrimination, or because an

individual has made a report, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing related to Non-Sex Based Prohibited Discrimination. Retaliation includes retaliatory harassment. After an investigation is conducted, if any act of reprisal, including interference, coercion, restraint, or adverse academic or employment action, or any other action that harms another by a SU employee, student, or by someone acting on behalf of SU, is found to be Retaliation, it will constitute a violation of this Policy and will result in appropriate disciplinary action.

**I. Special Conditions.** The following actions do not constitute Discrimination under this Policy:

1. Compliance with Federal, State or other laws and regulations, or actions such as separate housing or other facilities for men and women; establishing separate athletic teams when required by athletic conference regulations; or permitting political, religious and ethnic/cultural clubs.
2. The University may establish bona fide job qualifications or qualifications required for the fulfillment of bona fide educational or other institutional goals. Complaints concerning the legitimacy of such qualifications may be the subject of other University procedures.

**J. SU Community** is broadly defined to include all SU administrators, faculty, staff, students, alumni, volunteers, and some third parties under SU control.

**K. Witness** means anyone who has witnessed or provides factual information and/or observations regarding Non-Sex Based Prohibited Discrimination matter.

### **III. Policy Statement & Compliance**

**A. General Statement of Nondiscrimination.** Salisbury University (SU) has a strong institutional commitment to diversity and nondiscrimination in all programs, events, and services. To that end, the University prohibits discrimination on the basis of sex, gender, marital status, pregnancy, race, color, ethnicity, national origin, age, disability, genetic information, religion, sexual orientation, gender identity or expression, veteran status or other legally protected characteristics. Direct all inquiries regarding the nondiscrimination policy to Humberto Aristizabal, Associate Vice President of Institutional Equity, FPO, Holloway Hall Room 100, (410)543-6426. See also Section IX below for external reporting options.

**B. Compliance Oversight.** The President designates the following Fair Practices Officer (“FPO”) responsible for coordinating SU’s efforts to comply with and carry out its responsibilities under the law and this Policy:

Humberto Aristizabal  
Title IX Coordinator, FPO, and Associate Vice President for Institutional Equity

Office of Institutional Equity  
Holloway Hall Suite 100  
(410) 548-3508  
[hxaristizabal@salisbury.edu](mailto:hxaristizabal@salisbury.edu)

The FPO is responsible for, among other things: (1) overseeing SU's response to Non-Sex Based Prohibited Discrimination reports and complaints, and identifying and addressing any patterns or systemic problems revealed by such reports or complaints; (2) conducting Non-Sex Based Prohibited Discrimination investigations; (3) overseeing, reviewing content, and, in collaboration with other SU offices, conducting training for students, faculty and staff on Non-Sex Based Prohibited Discrimination issues; (4) ensuring that appropriate policies and procedures are in place for responding to complaints of Non-Sex Based Prohibited Discrimination against students, faculty, and staff; and (5) working with local law enforcement to ensure coordinated responses to Non-Sex Based Prohibited Discrimination cases, where appropriate.

#### **IV. Prompt Investigation, Resolution & Notice of Outcome**

Once SU knows or reasonably should know of possible Non-Sex Based Prohibited Discrimination, it will take immediate and appropriate action to investigate or otherwise determine what occurred. This obligation applies to Non-Sex Based Prohibited Discrimination covered by this Policy regardless of whether a parallel law enforcement or action is pending and regardless of whether a formal complaint is filed. In very limited circumstances, SU may need to delay temporarily the fact-finding portion of an investigation while the police are initially gathering evidence. If SU determines that Non-Sex Based Prohibited Discrimination has occurred, it will take prompt and effective steps to eliminate the Non-Sex Based Prohibited Discrimination, prevent its recurrence, and address its effects.

##### **A. Complaints or Reports**

A complaint or report alleging Non-Sex Based Prohibited Discrimination may be made by a student, a member of the faculty, administration or support staff, a visitor or guest to the campus community, campus or local police, a family member, or anyone else who has reason to believe that Non-Sex Based Prohibited Discrimination may have occurred. Complaints or Reports of Non-Sex Based Prohibited Discrimination should be directed to the University's FPO:

Humberto Aristizabal  
Title IX Coordinator, FPO, and Associate Vice President for Institutional Equity  
Office of Institutional Equity  
Holloway Hall Suite 100  
(410) 548-3508  
[hxaristizabal@salisbury.edu](mailto:hxaristizabal@salisbury.edu)

Individuals may alternatively report to any Responsible Employee (as defined above), including, but not limited to, the following specific Responsible Employees:

### **3. Complaints Against Students**

- a. Dr. Dane Foust, Vice President of Student Affairs, Guerrieri University Center 212, (410) 543-6080, [drfoust@salisbury.edu](mailto:drfoust@salisbury.edu)
- b. Ms. Valerie Randall-Lee, Assistant Vice President of Student Affairs/Dean of Students, Guerrieri University Center 212, (410) 543-6080, [vjrandall-lee@salisbury.edu](mailto:vjrandall-lee@salisbury.edu)

### **4. Complaints Against Faculty**

- a. Dr. Richard Wilkens, Associate Provost, Holloway Hall (HH) 242, (410) 543-6022, [rtwilkens@salisbury.edu](mailto:rtwilkens@salisbury.edu)
- b. Dr. Maarten Pereboom, Dean, Fulton School of Liberal Arts, (410) 543-6450, [mlpereboom@salisbury.edu](mailto:mlpereboom@salisbury.edu)
- c. Dr. Karen Olmstead, Dean, Henson School of Science and Technology, (410) 543-6425, [klolmstead@salisbury.edu](mailto:klolmstead@salisbury.edu)
- d. Dr. Christy Weer, Dean, Perdue School of Business, (410)677-6571, [chweer@salisbury.edu](mailto:chweer@salisbury.edu)
- e. Dr. Kelly Fiala, Interim Dean, Seidel School of Education and Professional Studies, (410) 543-6335, [kafiala@salisbury.edu](mailto:kafiala@salisbury.edu)
- f. Dr. Beatriz Hardy, Dean, Libraries and Instructional Resources, (410) 543-6133, [bbhardy@salisbury.edu](mailto:bbhardy@salisbury.edu)
- g. Dr. Clifton Griffin, Dean, Graduate Studies and Research, (410) 677-0047, [cpgriffin@salisbury.edu](mailto:cpgriffin@salisbury.edu)
- h. Dr. James Buss, Dean, Honors College, (410) 546-6902, [jjbuss@salisbury.edu](mailto:jjbuss@salisbury.edu)

### **1. Complaints Against Staff**

- a. Mr. Marvin Pyles, Interim Vice President of Administration and Finance, (410) 543-6050, [mlpyles@salisbury.edu](mailto:mlpyles@salisbury.edu)
- b. Associate Vice President for Human Resources: Mr. Kevin Vedder, Holloway Hall (HH) 153, (410)543-6213, [kavedder@salisbury.edu](mailto:kavedder@salisbury.edu)

Regardless of whether a report is filed directly with the persons named in Section IV.A, SU will investigate any report of Non-Sex Based Prohibited Discrimination made to a Responsible Employee, in accordance with its applicable policies and procedures for complaints against students and non-students.

## **B. Time for Filing a Complaint**

Complaints should be submitted as soon as possible after the alleged Non-Sex Based Prohibited Discrimination occurs, but no later than 300 calendar days after the last incident of alleged discrimination. OIE may waive the 300-day period upon a showing of good cause or where law requires.

## **C. Adjudication**

### **1. Allegations Against Students**

Allegations against a student will be adjudicated in accordance with the procedures set forth in the University's [Salisbury University Procedures for Investigating and Adjudicating Complaints of Non-Sex Based Discrimination Against a Student](http://www.salisbury.edu/equity/library/docs/NonSexBasedDiscriminationProceduresForStudents.pdf) available at:

<http://www.salisbury.edu/equity/library/docs/NonSexBasedDiscriminationProceduresForStudents.pdf>, and found in the SU Student Code of Conduct.

### **2. Allegations Against Employees**

Allegations against non-student employees will be adjudicated in accordance with the procedures set forth in the University's the [Salisbury University Procedures for Investigating and Adjudicating Complaints of Non-Sex Based Discrimination Against Non-Students](http://www.salisbury.edu/equity/library/docs/NonSexBasedDiscriminationProceduresForNonStudents.pdf) available at:

<http://www.salisbury.edu/equity/library/docs/NonSexBasedDiscriminationProceduresForNonStudents.pdf>. However, in accordance with State law and police department policies and procedures, complaints against a sworn police officer will be handled as an internal police investigation. The police department will notify OIE of any investigation and its outcome.

### **3. Allegations Against Third Parties Not Affiliated With SU**

If any individual files or reports allegations against someone who is not affiliated with the SU Community, the FPO will take reasonable steps to convey the allegation to the proper individual for investigation, and will take any available and reasonable steps at SU to address the Non-Sex Based Prohibited Discrimination and limit its discriminatory effects. The matter may be referred to law enforcement with a request that a formal letter be issued to the third party denying access to SU buildings and grounds for acting in a manner that disrupts or disturbs the normal educational functions of SU. See Md. Code Annotated, Education Article, Sections 26-101 and 26-102.

### **4. Standard of Review**

Regardless of whether a complaint is filed or reported against a student or employee, a preponderance of the evidence standard (i.e., a finding that the Non-Sex Based

Prohibited Discrimination is more likely than not to have occurred) will be the standard of review in Non-Sex Based Prohibited Discrimination proceedings.

#### **D. Notice of Outcome & Sanctions**

As permitted by law, SU will notify the parties, in writing, about the outcome of the complaint and whether or not Non-Sex Based Prohibited Discrimination was found to have occurred. SU will also, as it is permitted by law, inform the parties of any change to the results or outcome that occurs before the results or outcome become final, and SU will inform the parties when the results or outcome become final. See also Section V.B.5, below.

Depending on the nature and severity of the findings, sanctions may range from a formal warning up to and including suspension, permanent dismissal, expulsion, or termination from employment. Sanctioning will take into account any previous violation(s) of University Policy.

#### **V. Interim Measures & Resources**

##### **A. Available Interim Measures**

Interim Measures are reasonably available steps SU may take to protect the parties while a Non-Sex Based Prohibited Discrimination investigation is occurring. Interim Measures may be available for academic modifications, alternative housing, and alternative employment. The following Interim Measures are listed as examples that may be considered, if appropriate under the circumstances, but this list is not all inclusive:

##### **1. Examples of Potential Interim Measures for Students**

- a. Assistance in obtaining or enforcing a “No Contact” Order
- b. Moving a student to another lab/lecture section
- c. Allowing a student to take an incomplete or withdraw from a class without a penalty
- d. Moving a student to another residence hall
- e. Allowing a student to break a housing contract without penalty
- f. Providing escort services
- g. Providing counseling services
- h. Providing student health services

## **2. Examples of Potential Interim Measures for Employees**

- a. Assistance in obtaining or enforcing a “No Contact” Order
- b. Changing an employee’s employment arrangements (hours, location, job placement, etc.)
- c. Allowing for authorized leave without penalty
- d. Referral to an Employee Assistance Program
- e. Providing escort services

## **3. How to Request Interim Measures**

Contact OIE with any requests for Interim Measures. OIE is responsible for ensuring that appropriate policies and procedures are in place for responding to allegations of violations of this Policy, which includes coordinating the implementation of reasonable and appropriate Interim Measures in consultation with appropriate SU offices.

### **B. Non-Confidential Resources, Confidential Resources, Confidentiality, and Advisers**

Generally, it is not confidential when a person reports Non-Sex Based Prohibited Discrimination. If an individual desires to keep an incident of Non-Sex Based Prohibited Discrimination confidential, they should speak with individuals who have professional or legal obligations to keep communications confidential. When seeking advice and support, individuals should always consider whether they want to discuss their concerns with a Confidential or Non-Confidential Resource. The Parties to a Non-Sex Based Prohibited Discrimination matter are provided with the full OIE Resource Document List, also available at the following link:

<http://www.salisbury.edu/equity/library/docs/OIE%20Resource%20Document%20List.pdf>. OIE is also available to assist in identifying resources.

#### **1. Non-Confidential SU Resources**

##### **a. OIE**

The SU OIE supports and advances SU’s commitment to create an inclusive environment free of discrimination and supportive of all by leading campus efforts to manage all aspects of the Fair Practices/AA programs, and weaving the diversity strategy throughout our campus.

[www.salisbury.edu/equity](http://www.salisbury.edu/equity)

**b. Salisbury University Police Department (SUPD) & Reporting a Crime**

Some forms of discrimination may constitute a crime. SU will assist any individual who wishes to report criminal conduct related to this Policy to law enforcement authorities, including campus police. Representatives of the OIE, Office of Student Affairs, and other Responsible Employees may assist students in reporting to Salisbury University Police (SUPD), SU's campus police department. SUPD will also assist Complainants in notifying other law enforcement authorities in other jurisdictions, as appropriate. To report to the SUPD, please call 410-543-6222.

Because the standards for a violation of criminal law are different from the standards for a violation of this Policy, criminal investigations and proceedings are not determinative of whether a violation of this Policy has occurred. In other words, conduct may violate this Policy even if law enforcement agencies or local prosecutors decline to prosecute. Complaints under this Policy and related internal SU processes may occur prior to, concurrent with, or following criminal proceedings off-campus.

Upon receipt of a report under this Policy that may constitute a crime, SUPD will advise the student that, in addition to making a criminal report, they also have the right to file a complaint with the University and engage the University's investigation and adjudicative processes under this Policy. In addition, as Responsible University Employees under this Policy, campus police who receive any type of report of Non-Sex Based Prohibited Discrimination, whether it rises to the level of a crime or not, shall promptly notify the FPO at [equity@salisbury.edu](mailto:equity@salisbury.edu).

**c. Responsible Employees (Non-Confidential Employees)**

All Responsible Employees can assist individuals to report Policy violations to the University. If you report an instance of Non-Sex Based Prohibited Discrimination to a Responsible Employee, you cannot be guaranteed confidentiality or anonymity. Responsible Employees are required to report knowledge of Policy violations to the FPO. For a list of SU's Responsible Employees and their duties, see Definition of Responsible Employees in Section II.G.

**d. Escort Service**

An escort service is provided by the SUPD for anyone who feels uncomfortable walking alone on campus or to nearby off-campus locations during the hours of darkness.

[http://www.salisbury.edu/police/Crime\\_Prevention/escorts.html](http://www.salisbury.edu/police/Crime_Prevention/escorts.html)

e. **SafeRide**

As a Registered Student Organization, SafeRide provides free and safe transportation to SU students to prevent tragedy for students and the surrounding community that can often be associated with seeking unsafe means of getting home.

<http://www.saferidesu.org>

2. **Confidential Resources**

An individual can speak confidentially with certain persons in legally protected roles or in SU designated confidential roles. **Notification to Confidential Resources below does not constitute notification to the University.** With the exception of on-campus professional counselors whose official responsibilities include providing mental-health counseling to SU students, on-campus Confidential Resources listed below may still be required to report incidents of Non-Sex Based Prohibited Discrimination to SU in a general way (nature, date, time and general location) for reporting or statistical purposes. In addition, all Confidential Resources may need to breach confidentiality if there is an imminent threat to health or safety or other basis for disclosure, such as child abuse.

a. **On-Campus Confidential Resources**

- i. **Salisbury University Counseling Center**  
Guerrieri University Center  
Room 263  
(410) 543-6070  
[counseling@salisbury.edu](mailto:counseling@salisbury.edu)
- ii. **Salisbury University Student Health Services**  
Holloway Hall  
Room 180  
(410) 543-6262  
[studenthealth@salisbury.edu](mailto:studenthealth@salisbury.edu)
- iii. **Salisbury University Campus Against Violence Program Coordinator**  
Guerrieri University Center  
Room 263  
(410) 543-6070  
[counseling@salisbury.edu](mailto:counseling@salisbury.edu)

## **b. Off-Campus Confidential Resources**

Individuals may also seek assistance from off-campus Confidential Resources, and they should inquire about the parameters of confidentiality prior to disclosing any information that the individual desires to keep confidential.

### **i. Employee Assistance Program (EAP) – USM**

The University System of Maryland has contracted with Inova Employee Assistance (IEA) to offer a wide variety of work/life services through both phone-based and web-based services. Employee Assistance Programs have often been known for the traditional counseling and consultation resources. IEA offers the traditional services, but the services have been expanded to provide nontraditional services such as financial, legal, child care, education, identity theft, and pet services. All services are private and confidential, and there is no cost associated with the services.

To access the information online, go to [Employee Assistance Program \(EAP\)](#). Click Member Login, and then enter the following username and password:

Username: Salisbury

Password: Seagulls

### **ii. Employee Assistance Program (EAP) – State of Maryland**

The EAP provides confidential and professional assessment and referral services to State employees who are experiencing personal/medical problems affecting their work performance. To access the information online, go to [State of Maryland Employee Assistance Program \(EAP\)](#).

## **3. Requests for Confidentiality**

The FPO works collaboratively with a reporting individual to establish the appropriate parameters of confidentiality in each case, always making every effort to operate with discretion and maintain the privacy of the individuals involved. If the Complainant asks that the FPO keep the matter confidential, the FPO will carefully evaluate that request by balancing the Complainant's wish for privacy against the safety and welfare of the SU Community. While the University is committed to protecting the privacy of Complainants, information may be shared on a need-to-know basis in appropriate instances, for example, where there is a need to preserve the health and safety of a victim and/or other members of the University community. When health and safety is implicated, or where otherwise appropriate or required by law or Policy, the University may proceed with an investigation despite the Complainant's desire to keep the matter confidential. In instances in

which SU is able to honor the Complainant's request for confidentiality, the University may be limited in how it can address and remedy the situation.

#### **4. Adviser**

Parties to a matter involving an allegation of Policy violation are entitled to an Adviser, which means a member of the University community who is not acting as an attorney, who has been chosen by a Complainant or Respondent, and who has agreed to provide advice, review documents, and generally provide moral support. Advisers may accompany advisees to any interviews or hearings that result from this Policy. Advisers are bound by the same confidentiality requirements applicable to the parties, are not permitted to speak on behalf of their advisees, and are not to represent themselves as speaking on behalf of the University with respect to the matter on which they are advising. Any individual acting as an Adviser under this Policy who violates confidentiality is in violation of this Policy and subject to disciplinary action up to and including, but not limited to, being barred from acting as an Adviser in future complaints or termination of employment, depending on severity. It is important, when one chooses an Adviser, to ask for the individual's consent to serve in this capacity before divulging any confidential information. Notice of the identity of any Adviser and their expected appearance must be given to the OIE at least 24 hours prior to any meeting or proceeding that an Adviser will attend.

#### **5. FERPA**

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 Non-Sex Based Prohibited Discrimination proceeding, are Education Records under FERPA. FERPA has various implications in Non-Sex Based Prohibited Discrimination hearings. Generally, FERPA prohibits disclosure of student conduct records, absent a student's consent. However, there are a number of exceptions that may subject student conduct records to disclosure in the course of or in the aftermath of a Non-Sex Based Prohibited Discrimination investigation:

##### **a. Disclosure to Victim in Crime of Violence**

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 Non-Sex Based Prohibited Discrimination relates to a crime of violence, SU 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 SU's Policy on Non-Sex Based Prohibited Discrimination.

**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 Non-Sex Based Prohibited Discrimination relates to a crime of violence; (2) the Respondent was found to have violated this Policy; (3) the alleged instance of Non-Sex Based Prohibited Discrimination occurred after October 7, 1998; and (4) the names of non-party students, such as Witnesses, have been redacted.

**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 University is a Party in Litigation**

FERPA permits disclosure of Education Records when a student initiates legal action against the University and the Education Records are relevant to the University's defense.

**e. Subpoenas and Court Orders**

FERPA permits disclosure of Education Records when the party seeking disclosure presents a lawfully 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 vests students with 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. If you are a student party or Witness, and you give any written or recorded statement in the Non-Sex Based Prohibited Discrimination proceeding, your statement will be made available, to the extent required by law, and to the extent that it relates to any student who invokes his or her right to inspect and review his/her Education Records.

**VI. Medical Amnesty Policy for Students**

The use of alcohol or drugs will never function as a defense for committing any violation of this Policy. However, SU recognizes that a student who is under the influence of alcohol and/or drugs at the time of an incident may be hesitant to report a Policy violation because of the threat of disciplinary sanctions for his or her own violation of SU Code of Conduct policies relating to alcohol or drug use. Therefore, the SU Medical Amnesty Policy may apply where a

student summoning medical assistance or requiring help in a matter covered by this Policy is under the influence of alcohol and/or drugs. The Medical Amnesty Policy, located in the Code of Conduct, is a policy administered by the Office of Student Conduct that will reduce barriers to seeking help in cases of alcohol and/or drug-related emergencies by providing relief from administrative or disciplinary action on the part of the University under certain circumstances if either a University official or other authority is contacted in a timely fashion. <http://www.salisbury.edu/studentconduct/code.html>

## **VII. Training Programs, Educational Initiatives, & Cooperative Efforts**

Creating an environment free of Non-Sex Based Prohibited Discrimination is the responsibility of all members of the University community. In addition to the investigation and adjudicative procedures at SU, SU is committed to fostering a campus climate that is free from Non-Sex Based Prohibited Discrimination and all forms of discrimination through education and prevention programs.

### **A. Training and Education**

#### **1. Prevention and Awareness Education**

SU shall develop and implement preventive education, directed toward both employees and students, to help reduce the occurrence of Policy violations. Educational initiatives shall be for all incoming students and new employees. SU must also develop ongoing prevention and awareness campaigns for all students and employees.

#### **2. Training for Persons Involved in Non-Sex Based Prohibited Discrimination Cases**

All persons involved in any way in responding to, investigating, or adjudicating discrimination reports, including, but not limited to, the OIE and the FPO, Responsible Employees, law enforcement, counselors, health professionals, and resident assistants will receive appropriate training in receiving, reporting and handling complaints of discrimination; will be familiar with the institution's procedures; and will understand the parameters of confidentiality.

### **B. MOU with Local Law Enforcement**

SU will, as necessary, enter into and review any Memoranda of Understanding ("MOU") with local police forces to ensure that the terms of any MOU allow SU to meet its legal obligations.

## **VIII. Record Keeping**

### **A. Disciplinary Proceedings**

The University will maintain a written summary of the findings. The findings will summarize the evidence presented and the findings, including the reasons for the finding and the sanction if the Respondent is found in violation.

### **B. Training Programs**

The University will maintain records of trainings, to include a list of trainees, dates of training, and training content.

### **C. Retention**

All records shall be kept in accordance with Salisbury University's Records Retention Schedule.

## **IX. External Reporting Options & Obligations**

The FPO shall ensure that each Complainant is informed of his/her right to file the complaint with the appropriate State and Federal agencies. In the event a Complainant files an external complaint with a State or Federal agency, the Complainant is responsible for contacting that agency to determine and comply with any filing requirements or time limitations.

### **A. Criminal Reporting**

Because Non-Sex Based Prohibited Discrimination may constitute both a violation of SU policy and a crime, SU encourages persons to report incidents of this nature to the campus police or other appropriate law enforcement agencies. SU will comply with its legal and policy obligations to report criminal acts and child abuse and neglect. *See* Board of Regents Policy on the Reporting of Suspected Child Abuse and Neglect, V-1.50.

### **B. Clery Act**

SU will continue to report instances of applicable crimes that are a violation of this Policy and required to be reported including but not limited to certain hate crimes in accordance with the Crime Awareness and Campus Security Act of 1990 ("Clery Act") and its amendments.

### **C. Employees**

Employees who wish to file a formal complaint of any type of discrimination with an external agency may contact any of the following offices:

1. The Equal Employment Opportunity Commission (EEOC), 131 M Street, N.E., Washington, DC 20507; 202-663-4900; TTY 202-663-4494; [www.eeoc.gov](http://www.eeoc.gov)
2. The Equal Employment Opportunity Commission (EEOC), 10 S. Howard Street, Third Floor, Baltimore, Maryland 21201; 800-669-4000; TTY 800-669-6820 [www.eeoc.gov](http://www.eeoc.gov)
3. Maryland Commission on Human Relations, 20 East Franklin St. Paul's Street, Baltimore, Maryland 21202 800-637-6247; TTY 410-333-1737; [www.mchr.state.md.us](http://www.mchr.state.md.us)
4. United States Department of Education, Office for Civil Rights ("OCR"), Wannamaker Building, 100 Penn Square Street East, Room 6300 Suite 515, Philadelphia, Pennsylvania 191047-3323; 215-656-8541; <http://www2.ed.gov/about/offices/list/ocr/index.html>

#### **D. Students**

Students who wish to file a formal complaint with an external agency may contact the United States Department of Education, Office for Civil Rights, Wannamaker Building, 100 Penn Square Street East, Room 6300 Suite 515, Philadelphia, Pennsylvania 191047-3323; 215-656-8541; <http://www2.ed.gov/about/offices/list/ocr/index.html>

#### **E. Related Policies and Procedures:**

1. Procedures for Investigation and Adjudication of Non-Sex Based Prohibited Discrimination:
  - a. [Salisbury University Procedures for Investigating and Adjudicating Complaints of Non-Sex Based Discrimination Against a Student](#)
  - b. [Salisbury University Procedures for Investigating and Adjudicating Complaints of Non-Sex Based Discrimination Against Non-Students](#)
2. **Other Related Policies and Procedures:**
  - a. USM Policy of Non-Discrimination on the Basis of Sexual Orientation VI-1.05
  - b. USM Policy on Acts of Violence and Extremism VI-1.10
  - c. USM Policy on the Reporting of Suspected Child Abuse and Neglect VI-1.50
  - d. USM Policy on Sexual Misconduct VI- 1.60
  - e. SU Student Code of Conduct  
Employee Manuals, Policies and Procedures, including Employee MOUs

- f. Salisbury University Procedures for Investigating and Adjudicating Complaints of Non-Sex Based Discrimination Against a Student
- g. Salisbury University Procedures for Investigating and Adjudicating Complaints of Non-Sex Based Discrimination Against Non-Students

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