

CHAPTER 4 – PERSONNEL POLICIES

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Chapter 4 – Personnel Policies

{AFFIRMATIVE ACTION AND EQUAL OPPORTUNITY (BOR VI-1.00)}

A. *Purposes of the Affirmative Action Plan*

The purpose of this report is to provide a written plan representing Salisbury University's moral and legal commitment to insure equal opportunity for employment to all its employees and applicants for employment. This plan constitutes a revision and updating of information appearing in the University's affirmative action plans dated December 1994, December 1, 1993, July 31, 1992, December 20, 1991, July 31, 1990, July 31, 1989, July 31, 1988, June 22, 1987, July 31, 1986, June 10, 1985, and, prior to that, November 15, 1983. In accordance with federal and state guidelines, essential components of the plan include a policy statement on equal opportunity and affirmative action, pertinent legal mandates, assignment of responsibility, a utilization analysis of the University's workforce, measures to achieve plan commitments, and monitoring and record keeping procedures. Updating of information and data in the plan will occur on an annual basis.

B. *Equal Employment Opportunity Policy: Equal Opportunity Statement*

It is the policy of Salisbury University to provide equal employment and educational opportunities without regard to race, color, religion, national origin, sex, age, marital status or handicap as required by Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Civil Rights Act of 1991, Section 504 of the Rehabilitation Act of 1973, the Americans With Disabilities Act of 1990, and other equal opportunity regulations. It is also the policy of Salisbury University to provide equal employment and educational opportunities without regard to sexual orientation. More specifically, it is the University's policy to make all decisions regarding educational opportunities and employment, including recruitment, hiring, promotion and other terms and conditions of employment without discrimination. Notwithstanding the above, nothing herein shall give rise to a claim or complaint for alleged discrimination on the basis of sexual orientation because of any University action or omission taken in compliance with any Federal or Department of Defense Regulation prohibiting or restricting or otherwise creating disparate treatment in the participation of any Military, Defense, National Guard or Reserve training program. Nothing herein shall give rise to any claim or complaint of alleged discrimination against Salisbury University, the State of Maryland, its employees, agents or assigns because of an act of alleged discrimination committed by any third party. Inquiries should be directed to the Affirmative Action Officer, Salisbury University, 1101 Camden Avenue, Salisbury, Maryland 21801-6837 (Telephone (410) 543-6025).

Furthermore, the University commits itself to an affirmative action program, as described in this plan, to provide for equal employment opportunity. The intent of this program is to achieve the following:

1. To enjoin upon all members of the Salisbury University community the responsibility to comply with affirmative action plans and assure a work and classroom environment without discrimination.
2. To determine the extent to which blacks, women, and other minorities are underutilized in the University's workforce in relation to labor market availability and identify specific actions (including the setting of goals and a timetable) designed to rectify any underutilization.
3. To identify and eliminate any employment practices or policies which might adversely affect minorities, women and others protected by applicable law.
4. To develop monitoring procedures that will serve to ensure equal opportunity in the hiring process.
5. To expand applicant pools of minorities, women and other protected groups through identification of recruitment methods and sources.

The University hereby commits itself to the policies, objectives, and goals as stated in this plan.

{NON-DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION (BOR VI-1.05)}

In the matter of non-discrimination on the basis of sexual orientation, Salisbury University operates under **BOR VI - 1.05 UNIVERSITY SYSTEM OF MARYLAND POLICY ON NON-DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION**, which is reproduced in full below.

The commitment of the University System of Maryland to the most fundamental principles of academic freedom, equality of opportunity, and human dignity requires that treatment of students, faculty, and staff of University System of Maryland institutions, and applicants for admission and employment, be based on individual abilities and qualifications and be free from invidious discrimination.

This policy specifically prohibits discrimination against students, faculty, and staff on the basis of sexual orientation in academic admissions, financial aid, educational services, housing, student programs and activities, recruitment, hiring, employment, appointment, promotion, tenure, demotion, transfer, layoff or termination, rates of pay, selection for training and professional development, and employee services. "Sexual orientation" is defined as the identification, perception, or status of an individual as to homosexuality,

heterosexuality, or bisexuality. The Board of Regents reserves the right to observe the terms of any bona fide employee benefit plan such as a retirement, pension, or insurance plan, and to enforce or comply with any federal or State law, regulation, or guideline, including conditions for the receipt of federal funding.

This policy shall be published in all appropriate University System of Maryland Headquarters and individual institutions documents, and University System of Maryland Headquarters and each System institution shall adopt procedures to implement and enforce this policy, including the designation and publication of the officials responsible for receiving, investigating and resolving complaints of discrimination prohibited by this policy.

Approved by the Board of Regents, July 11, 1997

{ACTS OF VIOLENCE AND EXTREMISM (BOR VI-1.10)}

1. Salisbury University faculty and staff operate under **BOR VI - 1.10 UNIVERSITY SYSTEM OF MARYLAND POLICY ON ACTS OF VIOLENCE AND EXTREMISM**. That policy is reproduced in full below.

The essential nature of the University requires an atmosphere of tolerance and understanding of diverse groups, ideas, and opinions.

Acts of destruction or violence which are racially, ethnically, religiously, and/or otherwise motivated against the person or property of others and which infringe on the rights and freedom of others will not be tolerated at the University System's institutions or facilities.

Individuals committing such acts at any facility of the System are subject to campus judicial and personnel action, including suspension, expulsion or termination.

In addition, the Board of Regents encourages its institutions to pursue criminal prosecution of persons committing such acts under State and federal criminal laws.

2. Faculty are also responsible for supporting the University's **Student Code of Conduct**, which appears in full in the Student Handbook, published by the Student Affairs Office.
3. Threats of Violence
 - a. Salisbury University is committed to providing a learning and working environment that provides the highest possible sense of safety and security for all members of the University community. The University is committed to upholding the laws involving threats of violence, and violations will be handled accordingly. Additionally, some threats

(verbal or other) to kill or do harm do not necessarily violate Maryland criminal law but, nonetheless, are in direct conflict with the mission of the University and violate our standards of conduct. Consequently, the University reserves the right to have complaints concerning all kinds of threats of violence that have a direct or significant impact on the University heard by the appropriate University committee (emergency meetings may be required) and to take appropriate action based on the committee's findings.

- b. Individuals who have experienced or witnessed incidents of violent acts or threats are encouraged to report the incident to the University Police. Alleged threats or acts of violence will be investigated and may result in criminal charges being filed and the accused being arrested. If the continued presence of the accused on campus is dangerous, threatening or disruptive to the conduct of the University business, the University also reserves the right to temporarily remove the person from the campus pending further action.
- c. Policies contained in this document relate to situations where faculty members are accused of making threats of violence. Provisions to terminate tenured faculty members from the University are defined in section II, 3, g of the *1999-2001 Salisbury State University Faculty Handbook* and no part of this policy is intended to extend those provisions. Complaints that have not been resolved by informal processes will be heard by one of the following University committees: 1) The University Faculty Welfare Committee will hear all cases except those where the central issues relate to academic freedom or tenure; and 2) The University Academic Freedom and Tenure Committee will hear all cases where the central issues relate to academic freedom or tenure.

Approved by the Faculty Senate 12/11/01

{SEXUAL HARASSMENT (BOR VI-1.20)}

I. Policy Statement

Salisbury University is committed to creating a safe work and learning environment of tolerance, civility and mutual respect. This policy is enacted to prohibit sexual harassment, including sexual violence, sexual discrimination and sexual exploitation; to establish a complaint procedure to investigate allegations of sexual harassment; and to provide appropriate sanctions for violators of this policy. Any action of retaliation against or interference with a witness, investigator or person who reports an alleged violation of this policy is strictly prohibited and will be subject to disciplinary action.

II. Scope

This policy applies to the University Community, including all faculty, staff and students, as well as applicants for employment or applicants for admission to University programs, third-party vendors and contractors, and any person who serves as an agent of the University under the control of the University. Any University official, administrator, director, manager, supervisor, resident assistant, teaching assistant, or any faculty member who has knowledge that conduct involving Sexual Harassment or other Sexual Misconduct may have occurred must report and/or take action to address the matter immediately.¹⁵ Failure to report the behavior as provided in this policy may have serious legal implications for the employee and the University and may result in disciplinary action.

III. Definitions

- a. **Sexual Harassment.** There are generally two kinds of sexual harassment characterized by non-consensual, unwelcome sexual behavior whether between people of the same or different genders or sexual orientation.
- i. **Quid Pro Quo.** Sexual harassment as a “bargain for exchange” includes unwelcome sexual advances or sexual contact, requests for sexual favors, and other verbal and physical conduct of a sexual nature by one in a superior or authority position when submission to or rejection of the conduct by one person
1. is made either a term or condition, either explicitly or implicitly, of employment or academic standing, and
 2. is used as the basis for employment or academic decisions affecting that person.

The key to this form of sexual harassment is the unequal power relationship between the accused and the victim. This authority relationship may take the direct form of a supervisor and subordinate or a teacher and student, or indirectly such as when the harasser has the power to direct others who have power over the victim. Quid pro quo sexual harassment may be created in a single act.

Examples may include, but are not limited to, the request for sexual favors in exchange for a favorable grade in a

present course, the expectation of a future reference or job evaluation, or condition of employment or participation in a University-sponsored program or activity.

- ii. **Environmental.** Unwelcome sexual advances, requests for sexual favors, and other unwelcome verbal and physical conduct of a sexual nature constitute environmental sexual harassment, if this conduct is intended to or has the effect of creating an intimidating, hostile or offensive environment that unreasonably interferes with the work, academic performance or privacy of the victim. Environmental sexual harassment is generally a persistent, severe and/or pervasive course of conduct that creates a hostile environment if the conduct is sufficiently serious that it interferes with or limits a Community Member’s ability to participate in or benefit from any University employment or program. Although generally sexual harassment is a persistent, severe and/or pervasive course of conduct, in some cases, for example some cases involving physical conduct of a sexual nature, one instance can be considered severe enough to constitute a policy violation. Actual emotional or psychological harm is not required to be proven to trigger a violation of this policy and the law.

Examples may include, but are not limited to,

Visual: Displaying degrading sexual images whether in writing, telephone, electronically (e-mail, video or social media); offensive sexually oriented objects, pictures, cartoons, posters; or exposure of a person’s body.

Verbal: Crude suggestive comments, conversations, sexual jokes, slurs, epithets, sexual comments about appearance, clothing, body, sexual orientation or sexual preferences or sexual relations.

Non-verbal: Making sexual gestures, staring or leering, including all forms of non-verbal behavior that imply and/or are of a sexual nature.

Physical: Physical contact of a sexual nature, touching, impeding or blocking movement that interferes with usual work or class movement, tools or possessions, sexual assault, attempted sexual assault or sexual violence.

b. **Sexual Violence.** Sexual violence is a form of sexual harassment that may include, but is not limited to, rape, non-consensual sodomy, sexual assault or sexual battery.

c. **Sexual Contact.** Any intentional sexual touching, however slight, with any object, by a man or a woman upon a man or a woman, as determined by the preponderance of evidence. In addition, any sexual

¹⁵ 1 In order to report an allegation of a violation to this policy, the Salisbury University employee in a supervisory capacity, resident assistant, teaching assistant, or any Faculty position must complete the form “Salisbury University Sexual Harassment Complaint Form” (**Appendix A – found on page 17 of the on-line policy**). The form must be submitted within 24 hours of receiving the complaint or as soon as reasonably possible. The Complainant must be given an opportunity to select a resolution option by completing and signing the form “Complainant’s Acknowledgement of Advice and Choice Resolution Option” (**Appendix B - found on page 18 of the on-line policy**).

touching seemingly unintended but easily avoidable, as determined by the preponderance of evidence.

d. **Sexual Exploitation.** When one person takes non-consensual or abusive sexual advantage of another person for advantage or benefit of him/herself or for any person other than the victim.

e. **Sexual Misconduct.** Generally and broadly encompasses any sexual harassment, sexual assault, sexual battery, sexual violence, sexual exploitation, or other illegal or inappropriate conduct of a sexual nature, as defined in Section III above.

f. **Consent.** Consent is active words or actions that create mutually understood and voluntary permission. Silence alone is not sufficient. Consent to one form of sexual activity does not imply consent to other forms of sexual activity. Likewise, previous relationships or previous consent does not imply consent to future sexual interaction. Consent is attained neither with use of physical force, threats or coercion, nor when a victim is incapable of giving consent due to mental or physical incapacitation due to, for example, excessive alcohol, drugs, lack of consciousness or mental disability.

g. **Coercion.** Unreasonable pressure in an effort to obtain consent for sexual activity. Coercion arises after the victim clearly communicates, verbally or nonverbally, intent to stop or refrain from sexual activity.

h. **Student.** Students are broadly defined to include all people taking University courses, whether full time or part time, online, in person in practicum, internship or study abroad, pursuing undergraduate, graduate, professional, certificate or continuing studies.

i. **University Community.** The University Community is broadly defined to include all University administrators, faculty, staff, students, alumni, volunteers and some third parties, such as contractors hired by the University or agents under contract with and acting on behalf of the University.

IV. Procedures

a. Reporting Requirement.

i. **Responsible Reporting Office/Officer.** Any member of the University Community who feels he/she may be a victim of sexual harassment should seek assistance and report the inappropriate behavior to the following responsible University offices/officers listed herein below and/or to anyone in a supervisory position within the University with whom they feel comfortable. The report may be initially communicated orally, but must be memorialized in writing promptly thereafter, preferably in the form of a report from the

Complainant, as well as a separate written report from the University official receiving the Complaint. Regardless of whether the Complainant files a report, the University official receiving the Complaint must prepare a written report, per the process set forth above and in the form specified in Appendix A (found on page 17 of the on-line policy). Any member of the University Community may report to the Fair Practices Officer/Title IX Coordinator. Students may alternatively choose to report to the Dean of Students/Deputy Title IX Coordinator. Faculty and staff (other than University Police) may alternatively choose to report to the Associate Provost/Deputy Title IX Coordinator. University Police may report to the Chief of Police or his/her supervisor if the Chief is the subject of the allegations.

ii. Responsible Offices/Officers

1. Fair Practices Officer/Title IX Coordinator (hereinafter "FPO"):

Director of Fair Practices & EEO/AA
Humberto Aristizabal
Holloway Hall Room 131
410-548-3508
hxaristizabal@salisbury.edu

2. Deputy Title IX Coordinators:

a. Assistant V.P. of Student Affairs/Dean of Students

Valerie Randall-Lee
Guerrieri University Center Room 212
410-543-6080
vjrandall-lee@salisbury.edu

b. Associate Provost

Melanie Perreault
Holloway Hall Room 242
410-538-4085
mlperreault@salisbury.edu

3. University Police. In compliance with state law and police department policies and procedures, complaints against a sworn police officer will be handled as an internal police investigation. The University Police Department will notify the FPO and general counsel of any such investigation and its outcome.

iii. **Employees.** In the event an employee reports an alleged violation of this policy to a supervisor, department head, dean, chair or any other administrator in the employee's direct line of supervision, that person shall promptly refer the

complaint to the FPO. The FPO will then notify the person who initiated the complaint (“Complainant”) about the policy prohibiting Sexual Harassment and the procedures for filing a complaint. The only exception to this provision regards University Police employees as identified above in section IV.a.ii.3.

iv. **Students.** In the event a student reports an alleged violation of this policy to a University employee, that employee shall promptly refer the Complainant to the Dean of Students, or the matter may be referred to the FPO. Student complaints against another student will be adjudicated pursuant to the process set forth in the Student Code of Conduct. Student complaints against any other individual will be pursued under this policy.

b. **Retaliation Prohibited.** This policy seeks to encourage the University Community to express freely, appropriately, responsibly and without fear of retaliation any opinions and feelings about any problem or complaint of sexual harassment or sexual violence. Any act of reprisal, if after an investigation is found to be retaliatory, including internal interference, coercion, restraint, or adverse academic or employment action by a University employee, student or by someone acting on behalf of the University is a violation of this policy or any other action that harms the accuser, is a violation of this policy and will result in appropriate disciplinary action.

c. **Good Faith Requirement.** Allegations of sexual harassment and other sexual misconduct 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 University Community. Disciplinary action may be taken against any person who files a complaint under this policy in bad faith or without justification.

d. **Confidentiality.** Information generated in the course of reviewing a complaint filed in accordance with this policy will be afforded confidentiality to the extent permitted by law regarding employee personnel records and student education records. Any parties involved at any stage of the investigation process should be notified in writing about their obligation to maintain confidentiality. Any person who, without authorization, fails to exercise due care and reveals such information may be subject to disciplinary action. Any information shared in the course of the investigation and resolution of a complaint will be on a “need-to-know” basis. In any event, the accused person will be informed of the relevant details regarding the complaint in order to be able to properly respond to the allegations. The University is obligated to investigate all allegations that may be prohibited sexual harassment under this policy; therefore, absolute confidentiality cannot be guaranteed.

e. **Scope of Review.** In determining whether the alleged conduct constitutes Sexual Harassment, the University will look at the record of the particular complaint as a whole and the totality of the circumstances of the complaint, including, but not limited to, the nature of the sexual behavior, the particular facts of the case, the nature of the relationship between the parties and the context in which the alleged conduct occurred. The University may also consider any prior conduct of the parties in making the determination. To determine whether the alleged conduct is prohibited by this policy, the standard shall be from the perspective of “a reasonable person within the University Community.” Common sense and reason shall guide the official reviewing the case.

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. At the same time, faculty members may not engage in classroom behavior that is Sexual Harassment, as that term is defined and prohibited by this policy. Academic freedom 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, and is not prohibited by this policy. This may include, but is not limited to, reading and discussing a piece of literature depicting scenes of a graphic sexual nature, discussing social issues involving sexuality or sexual conduct, even if such discussion includes graphic references or visual aides, or frank and graphic discussion of the biology of human sexuality.

The required standard of proof in Sexual Harassment and other Sexual Misconduct cases is “preponderance of the evidence” that the conduct set forth in Section III has occurred. Preponderance of the evidence means that the information and facts establish it is “more likely than not” that the alleged Sexual Harassment or Sexual Misconduct occurred, as defined in this Policy. The University is cognizant that, on occasion, baseless complaints are intentionally filed. The University will take strong steps to address spurious complaints and may take appropriate disciplinary action if a Complainant is believed to have filed a baseless complaint intentionally.

f. **Duties of the Official Receiving a Complaint.** Compliance with federal law requires the University, through its Title IX Coordinator, to (1) provide prompt and equitable resolution of complaints of sexual harassment, (2) end the harassment and prevent its recurrence, (3) remedy any effects of the harassment on the Complainant, and (4) protect the rights of those accused of harassment. The official who receives a complaint under this policy must do and document¹⁶ the following:

¹⁶ See appropriate form online for details

- i. Advise the Complainant of the meaning and importance of this policy, the seriousness of the complaint, the penalties for making improper complaints, and the University's commitment to prevent retaliation.
- ii. Make written notes of the allegations.
- iii. Explain the options for handling the complaint and document the Complainant's choice.
- iv. Advise the Complainant of the University's policy on confidentiality.
- v. Notify the Office of General Counsel, in writing, of the Complainant, of the advice given to the Complainant and, if applicable, the option chosen by the Complainant.

g. **Complaint Procedures.** The University is committed to take all appropriate action as promptly as possible against individuals who violate this policy, including interim or emergency action, pending the outcome of an investigation. Interim protective action may include changing academic or living arrangements for students, changing office responsibilities or location for employees, and prohibiting the alleged offender from having contact with the Complainant pending results of the investigation. Complainants may choose among informal or formal campus administrative procedures for alleged violations of this policy.

- i. **Informal Complaint Procedure.** Some Sexual Harassment complaints may be handled by informal procedures. The informal complaint process is intended to be a flexible process allowing each case to be handled according to the facts presented and the preferences of the parties. In some cases, informing the offender that the behavior is unwelcome and needs to stop immediately may be enough to stop the behavior. Whenever possible and safe, the University encourages, but does not require, students and employees to first discuss any problem with the individual involved in the complaint.

Faculty, exempt, nonexempt and contingent employees, and students should feel free to informally raise a concern about any form of Sexual Harassment to any person in a position to advise them and with whom they feel comfortable. For example, these persons could include a faculty member, dean, department chair or director, the Associate Vice President of Administration and Finance for Human Resources, the Fair Practices Officer (FPO), the Provost, Dean of Students or another University administrator. Upon notification of any informal complaint of Sexual Harassment, University personnel in a supervisory capacity or any faculty member must immediately notify the FPO in writing within 24 hours of receiving the complaint or as soon as reasonably possible.

The University personnel approached by a student, faculty or staff member for an informal complaint should take notes to document the conversation, even if the Complainant objects, and should forward those notes to the FPO as part of the notification. Any legally recognized form of privileged communication is exempt from this requirement. The Complainant and the FPO will thereafter work together to decide additional steps necessary to resolve the complaint, and in appropriate instances, a complaint may be resolved informally.

Informal complaints may be resolved by one of the following:

- 1. A decision to stop further action on the informal complaint.
- 2. A resolution of the informal complaint by agreement of the parties and with approval of the FPO.
- 3. Initiation of the formal complaint process.

Possible resolutions by agreement of the parties may include, but is not limited to, agreeing to cease the conduct claimed to be "unwelcome"; an apology by the Respondent to the Complainant and a commitment to stop the harassment; providing the Respondent with assistance to better understand the effects of his/her conduct and ways in which this behavior could be changed; participation in educational programs about Sexual Harassment; verbal or written reprimands; and/or other interventions or actions aimed at ending the misconduct. They will also include appropriate remedies for the victim and the University Community.

In some cases, informal resolution may not be appropriate and it may be necessary to refer the complaint formally to the University for resolution despite possible Complainant objection. For example, informal resolution in the form of mediation will **not** be used to resolve Sexual Assault/Sexual Violence complaints. Still, Sexual Assault/Sexual Violence complaints can be resolved informally where the accused individual is willing to accept responsibility without a hearing. A Complainant may end the informal process at any time and may initiate the formal process as provided herein. The University will take steps to ensure confidentiality of the Complainant and Respondent during any informal complaint procedure to the fullest extent possible and to the extent maintenance of confidentiality does not interfere with the University's obligation to address allegations of Sexual Harassment.

- ii. **Formal Complaint Procedure.** A person wishing to initiate a formal complaint shall file his/her complaint in writing or in person with the FPO as promptly as possible to permit the University to accurately investigate the allegations and appropriately remedy any violation(s). Generally, complaints should be made within six (6) months of the conduct at issue; however,

the University reserves the discretion to investigate complaints brought at a later date in light of the facts and circumstances of the particular case and whether there is sufficient reason to extend the filing period. In any event, the University will review all complaints in compliance with this policy and procedure. The complaint should be signed by the Complainant and should include the following information: a description of the allegations with relevant dates, places and statements made, the name(s) of the person(s) involved, the names of any witnesses to the events in question, any documentation to support and substantiate the claim, and the remedy requested. If the complaint is not available in writing, the FPO may document the Complainant's statements and obtain the Complainant's signature on those notes to signify that the Complainant agrees with the description of the alleged harassment as recounted by the FPO. Complainants will be provided by the Fair Practices Office with an intake form to facilitate the process of collecting germane information on their complaint.¹⁷ If the Complainant refuses to cooperate with the investigation, is reluctant to pursue the investigation or for any reason refuses to sign the alleged complaint, the FPO may go forward with the procedure as required to address the allegations in an effort to end the harassment, prevent its recurrence, and remedy its effects on the Complainant and the University Community. The Respondent, the person accused in the complaint, shall be notified of the complaint by the FPO and will be invited to submit a written response to the FPO within ten (10) University business days of receiving the notification. The FPO shall also notify the Associate Vice President of Administration and Finance for Human Resources and the Vice President of the appropriate unit(s) in the event of employee involvement and the Dean of Students in the event of student involvement in a complaint of sexual harassment.

Upon receipt of the written complaint, the FPO shall begin a neutral investigation into the claims or appoint one or more investigators from the trained pool of faculty and staff who serve as an Investigative Panel to investigate the claims under the FPO's guidance and supervision. During the investigation, the FPO or designee is not permitted to discuss this investigation with the University Community except to the extent they are witnesses, are otherwise involved in the determination of the merits of the case to ensure that a fair and unbiased investigation is conducted, or as circumstances warrant on a need-to-know basis. Legal counsel to the University is exempt from this requirement. The investigation ordinarily will include a discussion with the Complainant, a discussion with the Respondent, interviews of any witnesses to the events, a review of any pertinent documents and any other actions

deemed appropriate by the investigator(s). The FPO and/or investigator(s) shall make every effort to keep the investigation confidential, although this cannot be guaranteed, and all participants in the investigation shall be subject to the requirement that all parts of the investigation remain confidential. The privacy of all parties to a complaint under this policy must be strictly observed, except insofar as it interferes with the University's obligation to fully investigate allegations of violation of this policy. Where privacy is not strictly kept, it will still be tightly controlled on a need-to-know basis. In these cases, privacy and confidentiality should be maintained to the extent possible. Breach of confidentiality by a member of the Investigative Panel will result in a permanent removal from the panel and may subject that person to disciplinary action. The FPO may assist to initiate interim measures to address the allegations, as appropriate, while the investigation is pending. Examples of interim measures that may be taken include, but are not limited to, changing a student's schedule or requesting an employee's temporary reassignment. Where appropriate, the proceedings shall be transcribed, recorded or otherwise preserved in order to make a right of appeal meaningful.

The Complainant and Respondent may each choose an advocate from the University community who is not acting as an attorney to accompany, support and assist him/her. The advocate may not actively participate in the hearing, though s/he may quietly communicate with the person for whom s/he is advocating as needed. This advisor/advocate is bound by the same requirements of confidentiality as are the other parties to an investigation or hearing.

The FPO or investigator(s) shall complete the investigation within sixty (60) days of receiving the Complaint. If the investigation cannot be completed within that timeframe, the reasons for delay should be noted in writing for the file and copied to the Complainant and the Respondent. Investigators appointed by the FPO will work closely with the FPO during the investigation and make recommendations to the FPO, who will make the final decision regarding the findings of fact and recommend the sanctions, if any. The standard for making the final decision shall be a preponderance of evidence, i.e., *it is more likely than not* that the sexual harassment/violence occurred.

A written decision shall be prepared by the investigators and/or the FPO at the conclusion of the investigation, setting forth (1) a statement of the findings of fact concerning the alleged events; (2) a detailed statement identifying relevant elements of the policy to support the conclusion that a violation of University policy did or did not occur; (3) a recommendation of a sanction(s), if applicable; and (4) notification of right to appeal.

¹⁷ See the "Internal Fair Practices Complaint Intake Form" (Appendix C - found on page 19 of the on-line policy).

All sanctions will be consistent with any other procedures or protections that individuals may be subject to on the basis of their employment or school status. The possible sanctions include, but are not limited to, a letter of reprimand, a letter of apology, service to the University, counseling, demotion or suspension, termination of employment, or expulsion from the University. These sanctions may be imposed even after a first offense, under appropriate circumstances. This written decision shall be provided to the Complainant, Respondent and the appropriate Vice President in the Respondent's reporting line when it is finalized.

iii. Other Violations.

1. **No Written Complaint.** The University may be limited in its ability to pursue an investigation without the continuous cooperation of a Complainant. Nevertheless, even if a Complainant chooses not to formally pursue the complaint process, the University reserves the right to investigate all complaints where necessary to protect the interests of the University or the Community.¹⁸ In this case, a member of the University Community believes that a violation of this policy has likely occurred, s/he may prepare a written complaint instead of the alleged victim and the University will proceed with the complaint. In the event the complaint is written by the FPO, when appropriate, the FPO's role in the remainder of the process will be fulfilled by the Deputy Title IX Coordinator. SU may proceed with a review of a reported complaint, make efforts to eliminate effects of the alleged harassment and prevent its recurrence. The Respondent, the person notified in the complaint, shall be notified of the complaint by the FPO within ten (10) University business days of receiving the complaint. The FPO shall also notify the Associate Vice President of Administration and Finance for Human Resources and the Vice President of the appropriate unit(s) in the event of involvement, and the Dean of Students in the event of student involvement in a complaint of sexual harassment. If, in the absence of a complaint and after thorough investigation, the FPO finds the alleged activity constitutes a violation of this policy, the Vice President for that unit shall notify an employee and Vice President for Student Affairs shall notify a student of such violation(s) in writing, including the sanction(s), if any, to be imposed and notification of right to appeal.

2. **Patterns.** The FPO shall be responsible to identify policies, practices or patterns of behavior that exhibit prohibited Sexual Harassment under this policy. The FPO shall report these observations and findings to the appropriate unit officials and recommend appropriate action to eliminate the alleged Sexual Harassment. In the event the FPO is unsuccessful, he/she may report the matter to the appropriate Vice President.

h. **Right to Appeal.** The Complainant and the Respondent both have the right to appeal.

There are two choices for appealing the decision. If either the Complainant or Respondent disagrees with any conclusion reached by the FPO, either the Complainant or the Respondent can appeal the FPO's decision by filing a written statement of appeal to the Vice President who was copied on the written decision. The appeal shall be received by the Vice President within ten (10) University business days of the date of the FPO's written decision. The statement of appeal shall identify which conclusions are disputed as well as specify whether the appellant is requesting either (1) an appeal hearing or (2) an administrative appellate review by the appropriate Vice President in the Respondent's reporting line. A copy of the statement of appeal shall be sent to the FPO.

i. **Appeal Hearing.** If an appeal hearing is requested, the appropriate Vice President then shall appoint a hearing committee of three persons, one of whom shall be designated by the Vice President as the Presiding Officer, within ten (10) University business days, or as soon as practically possible. The committee members shall be chosen from a group of members of the University Community who have received training on sexual harassment, investigation techniques, law and procedures applicable to this policy. A procedure to select the members of the hearing committee will be implemented with the input of the shared governance bodies on campus. No member of the committee shall have been involved at any earlier stage of the process. Efforts should be made to ensure that the Respondent has an appropriate peer on the appeal hearing committee, e.g., a tenured faculty member when the appellant is a tenured faculty member. The Vice President shall advise the parties of the identities of the committee members in writing. If either party has a reason to challenge the appointment of any member to the committee hearing the case, s/he shall notify the Vice President in writing as soon as possible, but in no event later than three (3) business days of the Vice President's written notification. The Vice President shall make the final decision on the makeup of the Committee.

¹⁸The Complainant's decision not to pursue a complaint must be documented in the form "Complainant's Acknowledgement of Advice and Choice Resolution Option" (**Appendix B - found on page 18 of the on-line policy**).

A hearing shall be conducted within ten (10) University business days after the appointment of the hearing committee when possible. The Presiding Officer shall be in charge of organizing the hearing. S/He shall make all reasonable efforts to schedule the hearing at such time that the Complainant and the Respondent can both be present. The Presiding Officer shall contact potential witnesses and arrange for their appearance at the hearing. Notice of the hearing shall be given at least five (5) University business days in advance of the scheduled hearing.

The Presiding Officer may focus the hearing so that it concerns only those aspects of the decision about which the parties disagree. The decision of the FPO shall be offered into evidence at the hearing. The Complainant and the Respondent may each choose an advocate from the University Community who is not acting as an attorney to accompany, support and assist him/her. The advocate may sit in the hearing, but may not publicly participate in the hearing though s/he may quietly communicate with the person for whom s/he is advocating as needed. The advisor/advocate is bound by the same requirements of confidentiality as the other parties to an investigation or hearing. If the Committee requests legal assistance, the University's General Counsel may be present at the hearing to provide advice related only to procedural questions during the hearing.

The questioning of the Complainant, the Respondent and the FPO shall be conducted by the Committee and should be directly related to the issue being disputed as described in the request for appeal. The Complainant may not be cross examined. The Presiding Officer may exclude irrelevant, repetitious, or unduly prejudicial evidence. The Presiding Officer shall be in charge of gathering the documentary evidence that is presented at the hearing, audio/video recording of the hearing if applicable, and transmitting all such documentary evidence to the FPO after the Committee no longer needs it, so that a record is created. The hearing should be recorded and the recording entered into the record.

Within ten (10) University business days of the conclusion of the hearing, the hearing committee shall issue a written report to the appropriate Vice President containing its findings, conclusions and recommendations on the matter. The written report shall be provided to the Complainant, Respondent and FPO.

Within ten (10) University business days of receiving the report, the appropriate Vice President

shall issue a written decision. The Vice President may accept, reject or modify the findings and proposed sanction(s) recommended by the hearing committee. The Vice President's decision shall be mailed to the Complainant, the Respondent, the FPO and the members of the hearing committee. The Vice President's decision is final; there is no right to appeal this decision. If the Vice President was previously involved to a degree that represents a conflict of interest, as documented by the FPO, an alternative Vice President shall render the final decision.

ii. **Administrative Appeal Review.** Instead of opting for a hearing, either the Complainant or the Respondent can appeal the decision of the FPO by filing a written statement of appeal with the appropriate Vice President within ten (10) University business days of the FPO's decision. The Vice President will have full discretion to address the issues of the appeal as s/he sees fit. The Vice President shall issue a written decision and shall convey it to the Complainant, the Respondent and the FPO within ten (10) University business days. The Vice President's decision is final; there is no right to appeal this decision.

iii. **Final Decision Absent An Appeal.** If neither the Complainant nor the Respondent requests an appeal in writing within ten (10) University business days following notification of the FPO's written decision, the FPO's decision is final.

i. **Sanction.** The Vice President can accept and issue the sanction(s) as recommended by the FPO or may modify the sanction(s) as s/he deems appropriate. All sanctions must be consistent with USM and SU policies. The Vice President should issue the sanction(s) and copy only the FPO, the Associate Vice President of Administration and Finance for Human Resources and the Respondent's direct supervisors. Every Complainant has the right to know the outcome of a complaint. However, in cases in which a faculty member or a staff member receives a sanction(s), the Complainant will not be notified of the final sanction; this is a confidential personnel action. In cases that involve a student grievance, the Complainant has a right to know.

j. **Disciplinary Penalties.** Violations of this policy are subject to disciplinary action up to and including dismissal from the University. Disciplinary employment action and student conduct action will be addressed on a case-by-case basis dependent on the facts of each situation, the extent of harm to the individuals involved, and whether and to what extent the accused has a history of documented previous wrongdoing. Penalties will be assessed according to regulations governing student conduct and employment relationships as enumerated in the Student Code of Conduct, Faculty Handbook and/or Policy Manual for

Employees. All sanctions must be consistent with USM and SU policies.

V. Training

a. **Employees.** The University shall require all University employees likely to witness or receive reports of Sexual Harassment and Violence including, but not limited to, faculty, University Police, administrators, counselors, grievance investigators and adjudicators, general counsel, student health personnel, coaches, residence life staff, any employee who regularly interacts with students, and employees who serve in a supervisory capacity to participate in Sexual Harassment training on a routine, ongoing basis, but in no event less frequently than annually. The training should include how to recognize and report Sexual Harassment and Violence. The Title IX Coordinator is responsible for making Sexual Harassment prevention education available to the University Community. The Title IX Coordinator and all designated Deputy Title IX Coordinators must attend yearly training on Title IX and anti-discrimination topics.

b. **Students.** The Dean of Students/Deputy Title IX Officer is responsible for developing, coordinating and/or providing consultation on Sexual Harassment education and training, and prevention reporting and procedures to Students on a routine ongoing basis. Programs will be presented for Students at least four (4) times per year to promote awareness and risk reduction. Sexual Harassment, Violence and Sexual Assault education information shall be presented annually. The University System of Maryland and Salisbury University policies and educational materials shall be distributed during these programs.

VI. External Filing Procedures

While there is no further appeal from the Vice President's decision provided under this Policy, regular employees and tenured and tenure-track faculty may have additional rights to challenge the sanctions of suspension and termination pursuant to University policy or State law. Further information on these rights may be obtained from the Office of Human Resources for employees and the Office of the Provost for faculty. Employees, but not students, may choose to pursue a formal complaint of discriminatory harassment under the State-wide anti-discrimination policy applicable to all regular State employees. **If this choice is made, it is an alternative to the use of the University process for handling harassment complaints and not an additional avenue of complaint.**

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

- i. The Equal Employment Opportunity Commission (EEOC), 131 M Street, N.E., Washington, DC 20507; 202-663-4900; TTY 202-663-4494; www.eeoc.gov
- ii. The Equal Employment Opportunity Commission (EEOC), 10 S. Howard Street, Third Floor, Baltimore, Maryland 21201; 800-669-4000; TTY 8000-669-6820
- iii. 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
- iv. United States Department of Education, Office for Civil Rights, Wannamaker Building, 100 Penn Square Street East, Room 6300Suite 515, Philadelphia, Pennsylvania 191047-3323; 215-656-8541; <http://www2.ed.gov/about/offices/list/ocr/index.html>

b. **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 6300Suite 515, Philadelphia, Pennsylvania 191047-3323; 215-656-8541; <http://www2.ed.gov/about/offices/list/ocr/index.html>

Related Policies:

USM Sexual Harassment Policy VI-1.20 USM Sexual Assault Policy VI-1.30 USM Non-Discrimination Policy VI-1.05

USM Policy on Violence and Extremism VI-1.10

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

Policy and Procedures approved by Dr. Janet Dudley-Eshbach, President: April 11, 2001

Updated: December 22, 2008; February 23, 2009; May 23, 2012; October 14, 2013

{**SEXUAL ASSAULT** [\(BOR VI-1.30\)](#)}

I. Purpose and Applicability

As a constituent institution in the University System of Maryland, Salisbury University has adopted this policy on sexual assault, consistent with the requirements of (I) Section 484 (f) of the Higher Education Act of 1965, as amended by Section 486 (c) (2) of the Higher Education Amendments of 1992, and (ii) Section 11-601 of the Education Article of the Annotated Code of Maryland. This policy applies to all students and employees, both faculty and non-faculty, of the University System of Maryland or its constituent institutions.

II. Definitions

The following policy recognizes two levels of sexual assault.

Sexual Assault I.

By stranger or acquaintance, rape, forcible sodomy, or forcible sexual penetration, however slight, of another person's anal or genital opening with any object. These acts must be committed either by force, threat, intimidation or through the use of the victim's mental or physical helplessness of which the accused was aware or should have been aware.

Sexual Assault II.

By stranger or acquaintance, the touch of an unwilling person's intimate parts (defined as genitalia, groin, breast, or buttocks, or clothing covering them) or forcing an unwilling person to touch another's intimate parts. These acts must be committed either by force, threat, intimidation or through the use of the victim's mental or physical helplessness of which the accused was aware or should have been aware.

III. Responsibilities of the Chief Executive Officer

Each chief executive officer of a constituent institution shall have the following responsibilities pursuant to this policy: (i) identification of the person responsible for coordinating the constituent institution's educational program to promote awareness of sexual assault; (ii) identification of the person who will serve as the initial contact after an alleged sexual assault has occurred; and (iii) adoption of procedures to be followed should a sexual assault occur, including the importance of preserving evidence as may be necessary to the proof of criminal sexual assault, and to whom the alleged offense should be reported.

IV. Educational Programs to Promote Awareness of Sexual Assault

Each institution in the University System of Maryland shall make available to its students, faculty and employees programs to promote awareness of what constitutes sexual assault, how to prevent it, and what the institution's procedures are for handling reports of alleged sexual assault. In addition to general educational programs for the campus community, each institution shall provide specialized training on the topic of sexual assault and the provisions of sexual assault procedures to those individuals who might be involved in providing services to or interacting with alleged victims so as to ensure timely, accurate and sensitive assistance to all concerned. The USM policy, together with the institution's procedures concerning sexual assault, shall be distributed to all students, faculty members and employees and shall be posted in appropriate locations at the institution and published in appropriate institution and System publications.

V. Off-Campus Reporting of Sexual Assaults

When a report of sexual assault is made to the institution's initial contact, that person will encourage the alleged victim to contact law enforcement and medical personnel as soon as possible following the incident to receive guidance in the preservation of evidence needed for proof of criminal assaults and the apprehension and prosecution of assailants. Campus authorities will assist in notification of off-campus authorities at the request of the alleged victim. Additionally, campus personnel will retain the right to contact law enforcement personnel directly where an issue of campus security is involved. Campus personnel will also assist the alleged victim in obtaining medical attention, if the victim chooses, including providing transportation to the hospital or other emergency medical facility. Each institution shall designate one or more nearby hospitals which are equipped with the Maryland State Police sexual assault evidence collection kit.

VI. Campus Disciplinary Procedures

A. Student Disciplinary Procedures

1. In addition to any criminal or civil remedies available under law, any act of sexual assault is a violation of this University System of Maryland Policy on Sexual Assault and is subject to disciplinary proceedings under the institution's judicial system. The range of judicial system penalties for students shall include, but not be limited to, one or more of the following: alteration of class schedule, disciplinary reprimand, loss of privilege, restitution, disciplinary probation, disciplinary suspension, disciplinary dismissal, and disciplinary expulsion.
2. The on-campus procedures shall provide that (1) the accuser and the accused are afforded the same opportunities to have others present during a campus disciplinary proceeding; (2) both the accuser and the accused are informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault; and (3) the offense must be reported according to federal reporting mandates and Maryland State law.

B. Faculty and Employee Disciplinary Procedures

In addition to any criminal or civil procedures available under law, any act of sexual assault is a violation of the University System of Maryland Policy on Sexual Assault and is subject to appropriate faculty and employee disciplinary procedures. The range of employment penalties for faculty and employees shall include, but not be limited to, one or more of the following: counseling, reprimand, suspension, or termination of employment.

VII. *Services for Victims*

Faculty, employees and students who are victims of sexual assault shall be offered access to counseling through mental health services available at the institution, other victim service entities in the surrounding community, or the nearest state designated rape crisis program. Each institution shall designate existing counseling, mental health and student services, both on campus and in the community, which are available to victims of sexual assault.

After a sexual assault has been reported at the institution, and upon the request of the alleged victim, the victim shall be offered an alternative academic, living or employment situation if such alternative is available, feasible, and appropriate to the facts of the sexual assault reported.

VIII. *Implementation and Reporting Procedures*

Each chief executive officer shall identify his/her designee(s) as appropriate for this policy; shall develop procedures as necessary to implement this policy; shall communicate this policy and applicable procedures to his/her institutional community; and shall forward a copy of such designations and procedures and any subsequent changes in such designations and procedures to the chancellor.

Institutional procedures that are part of this policy are on file in the Office of the Chancellor.

Approved by BOR December 1, 1995
Amended by BOR December 4, 1999

{SEXUAL MISCONDUCT ([BOR VI-1.60](#))}

In the matter of the policy on sexual misconduct, Salisbury University operates under the **USM SEXUAL MISCONDUCT POLICY**. The policy can be found at www.usmd.edu/regents/bylaws/SectionVI/.

{INCLUSIVE LANGUAGE (SU)}

As an institution that stands for equality of educational and employment opportunity, Salisbury University affirms its commitment to creating a campus environment free of arbitrary discrimination and bias, both subtle and overt. All personnel, when representing the university to its public, are urged to use language that indicates respect for human diversity.

In accordance with that aim, those preparing official university publications or written communications shall avoid biased language of two kinds: 1) using generic masculine words or titles to refer to all persons; and 2) using terms or expressions that reinforce demeaning attitudes or assumptions about persons or groups without regard to race, color, religion, national origin, sex, age, marital status, disability, or sexual orientation.

When illustrations are included in publications, they shall be chosen to reflect diversity according to guidelines suggested in style sheets of appropriate academic professional organizations. Care shall be taken to ensure that women, minorities and disabled persons are portrayed in non-stereotypical ways.

1. This policy is mandatory with respect to the public documents of the university. That is, the university is obligated to ensure that the form of the following documents reflects inclusive language.
 - a. The Faculty Handbook
 - b. The Advising Handbook
 - c. The Academic Administrators' Handbook
 - d. The Undergraduate Catalog
 - e. The Graduate Catalog
 - f. Recruitment and Admissions Materials
 - g. Student Financial Aid Materials
 - h. Brochures with Campus wide Distribution
 - i. Publications of Career Services
 - j. Publications of Counseling Services
 - k. Press Releases
 - l. Publications for Alumni
 - m. Fund-raising Materials
2. This policy is suggested and encouraged with respect to the content of individual documents related to instruction and collegial communication that faculty and administrators prepare and use. That is, faculty and administrators are asked to exercise their own judgment and to practice the spirit of inclusiveness in the language they use with students and their colleagues. Individual documents of instruction and collegial communication include but are not limited to:
 - a. Course Syllabi
 - b. Problems and Exercises
 - c. Cases and Case Studies
 - d. Drills and Quizzes
 - e. Tests and Examinations
 - f. Lab Manuals and Handbooks
 - g. Simulations and Games
 - h. Lectures and Speeches
3. Deans, department chairs and administrators will review their unit's contributions to the public documents of the University for the use of inclusive language and a balance of illustrations. The University Curriculum Committee will review and if necessary offer editorial suggestions for all new course titles and course descriptions which appear in public documents. It is the responsibility of the Public Relations Office to ensure that the changes decided upon by the appropriate university committees or by university authorities are integrated into the public documents of the university.

4. All those involved in making changes should follow the guidelines set forth in the following documents:
 - a. The Style Sheet of the Salisbury University Public Relations Office.
 - b. Guidelines for Nonsexist Language of the American Psychological Association (APA).
 - c. Guidelines for Nonsexist Use of Language of the National Council of Teachers of English (NCTE) (revised, 1985).

{THE ROLE OF ALCOHOL AT EVENTS SPONSORED BY THE UNIVERSITY AND UNIVERSITY-RELATED ORGANIZATIONS (SU)}

The University seeks to foster a culture of conversation where meaningful experiences are shared and bonds of community are formed. If the inclusion of alcohol is deemed appropriate at any on- or off-campus event sponsored by any university department or student organization, it should be included in a way that is compatible with the kind of culture the university strives to promote. It should not be included in a way that encourages underage drinking or inhibits the participation of either underage students or those who choose not to drink.

The members of any university department or student organization who are contemplating the inclusion of alcohol at a sponsored event should discuss the issue among themselves and, if alcohol is to be included, should discuss the concrete steps to be taken to ensure that considerations described above are addressed.

The distribution and use of alcohol must be in compliance with state law and university policy (see **SU Student Handbook**). Faculty/staff advisors and student leaders are especially encouraged to consult the *Faculty Handbook* and the *Guide to Policies and Procedures for Registered Student Organizations* for additional information on state alcohol laws and the potential for criminal or civil liability.

{USE OF ALCOHOLIC BEVERAGES ([BOR VI-8.00](#))}

In the matter of the use of alcoholic beverages by faculty and staff, Salisbury University operates under the **Executive Order 01.01.1985.05 STATE OF MARYLAND SUBSTANCE ABUSE POLICY**. That policy is reproduced in full below.

The State of Maryland Executive Department

**EXECUTIVE ORDER 01.01.1991.16
State of Maryland Substance Abuse Policy**

WHEREAS, Substance abuse is a serious national crisis which has had a detrimental effect on the lives of many of our citizens, and has exerted a negative impact on the operation of business and government; and

WHEREAS, Surveys indicate that nationally, 65 percent of the 18-25 year-old adult working population have used illicit drugs; and

WHEREAS, It is estimated that at least 15 percent of the American workforce works under the influence of drugs or alcohol daily; and

WHEREAS, Every employer, including the State of Maryland, experiences a loss in productivity due to drug related absenteeism, injuries on the job, decreased work quality, and wasted dollars; and

WHEREAS, Substance abusing employees function below established standards, may make impaired decisions, may have negative effects on their co-workers, and are not as alert as non-using employees; and

WHEREAS, The illegal use of the workplace as a drug market endangers the health, safety, and welfare of State employees; and

WHEREAS, In order to serve the citizens of Maryland properly, the state must maintain a work environment which is free of drugs; and

WHEREAS, The Federal Omnibus Drug Abuse Act of 1988 requires that any state which is a recipient of federal funds must establish a Drug-Free Workplace, including a policy on the use of substances, an employee drug awareness program, and a procedure for employees to report their own convictions; and

WHEREAS, A drug-free workplace is fundamental to efficient, effective, and responsible government.

NOW, THEREFORE, I, WILLIAM DONALD SCHAEFER, GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, HEREBY RESCIND EXECUTIVE ORDER 01.01.1989.05 AND PROCLAIM THE FOLLOWING EXECUTIVE ORDER, EFFECTIVE IMMEDIATELY:

1. Definitions. In this Executive Order the following words have the meanings indicated.
 - a. "Substance" means alcohol or drugs.
 - b. "Alcohol" means ethyl alcohol or ethanol.
 - c. "Drug" means:
 - 1) A controlled dangerous substance;
 - 2) Any other substance which must be dispensed by a licensed health care professional; or
 - 3) An over-the-counter drug.
 - d. "Abuse" means:

- 1) The use of an illegal drug;
 - 2) The intentional misuse of an over-the-counter drug, if the misuse impairs the job performance of the state employee or could impair the job performance of an applicant for state employment;
 - 3) The intentional use of any prescription drug in a manner inconsistent with its medically prescribed intended use, or under circumstances where its use is not permitted, if it impairs the job performance of a state employee or could impair the job performance of an applicant for state employment; or
 - 4) The use of alcohol if it impairs job performance of the state employee or could impair the job performance of an applicant for state employment.
- e. "Workplace" means any place where an employee is performing work for the State of Maryland.
- f. "Employee" means:
- 1) A classified, unclassified, contractual, key employee, or other employee or official in the Executive Branch;
 - 2) A volunteer who provides a service to or for a unit in the Executive Branch; or
 - 3) A member of a board or commission in the Executive Branch.
- g. "Sensitive Employee" means an employee whose classification or position has been designated sensitive by the employee's appointing authority or personnel system.
- h. "Conviction" means:
- 1) A judgment of conviction, whether entered upon a finding of guilt or acceptance of a plea of *nolo contendere*, and the imposition of sentence; or
 - 2) The staying of the entry of judgment and the placing of the defendant on probation after a finding of guilty or the acceptance of a plea of *nolo contendere*.
- i. "Alcohol Driving Offense" means:
- 1) Driving or attempting to drive while:
 - a) Intoxicated; or
 - b) Under the influence of alcohol; or
 - 2) Operating or attempting to operate a vessel while:
 - a) Intoxicated; or
 - b) Under the influence of alcohol.
- j. "Controlled Dangerous Substance Offense" means:
- 1) A controlled dangerous substance violation, under Article 27 of the Annotated Code of Maryland;
 - 2) An offense of the law of any other jurisdiction if the prohibited conduct would be a controlled dangerous substance violation if committed in this State;
 - 3) Driving or attempting to drive while:
 - a) Under the influence of drugs or drugs and alcohol; or
 - b) Under the influence of a controlled dangerous substance; or
 - 4) Operating or attempting to operate a vessel while:
 - a) Under the influence of drugs or drugs and alcohol; or
 - b) Under the influence of a controlled dangerous substance.
2. General Policy. The State of Maryland establishes and adopts the following substance abuse policy for the Executive Branch of State Government.
- a. The State of Maryland is committed to making good faith efforts to insure a safe, secure, and drug-free workplace for its employees consistent with the Drug-Free Workplace Act as enacted by Congress.
 - b. All employees in the workplace must be capable of performing their duties.
 - c. Employees experiencing substance abuse problems are encouraged to seek assistance through:
 - 1) Their employer;
 - 2) Self referral to the employer's Employee Assistance Program; or
 - 3) Self referral to an alternative certified rehabilitation program.
 - d. An appointing authority may not hire anyone whom it knows currently abuses drugs or alcohol.
 - e. Employees are prohibited from:
 - 1) Abusing alcohol or drugs;
 - 2) Committing a controlled dangerous substance offense; or
 - 3) Committing an alcohol driving offense.
3. Alcohol Abuse Policy.
- a. Working under the influence of alcohol is a violation of this policy and shall subject the employee to disciplinary action.
 - b. An employee charged with an alcohol driving offense must report a finding of guilty, an acceptance of a plea of *nolo contendere*, or a probation before judgment to the employee's appointing authority within five (5) work days.
 - c. A sensitive employee shall be suspended for 15 days and required to successfully participate in an alcohol treatment program designated by an employee assistance program the first time the employee is:
 - 1) Convicted of an at-the-workplace alcohol driving offense; or
 - 2) Found under the influence of alcohol while at-the-workplace.
 - d. A sensitive employee convicted of an off-the-workplace alcohol driving offense, and a non-sensitive employee convicted of any alcohol driving offense shall:
 - 1) On the first conviction be referred to an employee assistance program, and in addition, be subject to any other appropriate disciplinary actions;

- 2) On the second conviction, at a minimum, be suspended for at least five (5) days, be referred to an employee assistance program, be required to participate successfully in a treatment program, and in addition, be subject to any other appropriate disciplinary actions, up to and including termination;
 - 3) On the third conviction, be terminated.
4. Drug Abuse Policy.
- a. Working under the inappropriate influence of prescription drugs or over-the-counter drugs is a violation of this policy and shall subject the employee to disciplinary action.
 - b. Working under the influence of a controlled dangerous substance is a violation of this policy and shall subject the employee to disciplinary action.
 - c. An employee charged with a controlled dangerous substance offense shall report a finding of guilty, an acceptance of a plea of *nolo contendere*, or a probation before judgment to the appointing authority within five (5) work days.
 - d. A sensitive employee convicted of any controlled dangerous substance offense shall be terminated.
 - e. A sensitive employee who tests positive for a controlled dangerous substance as a result of a random drug test shall be suspended for 15 work days and be required to successfully participate in a drug treatment program designated by an employee assistance program, as provided for by the appointing authority's drug testing protocol.
 - f. A sensitive employee who abuses a legally prescribed drug or an over-the-counter drug shall, on the first offense:
 - 1) Be suspended for five (5) work days; and
 - 2) Be required to participate successfully in a drug treatment program designated by an employee assistance program.
5. General Sanctions. Any employee otherwise in violation of this Executive Order shall be subject to appropriate progressive disciplinary actions up to and including termination.
6. Law Enforcement.
- a. When an appointing authority learns or, based on observation or reliable information suspects, that an employee has committed a controlled dangerous substance or alcohol offense at the workplace, the appointing authority shall refer the matter to an appropriate law enforcement authority for further investigation and prosecution.
 - b. All employees shall cooperate fully with law enforcement authorities in the investigation and prosecution of suspected criminal violations.
7. Employee Education. All appointing authorities shall educate and inform their employees about:
- a. The dangers of drug and alcohol abuse in the workplace and the community at large;
 - b. The State of Maryland's policy of maintaining a drug-free workplace;
 - c. Any drug and alcohol abuse counseling, rehabilitation, and employee assistance program that is available; and
 - d. The penalties that may be imposed upon employees for violations of this Executive Order.
8. Implementation.
- a. The Secretary of Personnel and the head of every other personnel system in the Executive Branch shall adopt such policies and regulations as are necessary or desirable for the implementation of this Executive Order.
 - b. All appointing authorities are responsible for implementing and enforcing and monitoring compliance with the requirements of this Executive Order.
 - c. All employees are required to acknowledge receipt of a copy of this Executive Order by returning an acknowledgment of receipt to their supervisor for insertion in their personnel file.

GIVEN Under My Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 1st day of April, 1991.

{SMOKING POLICY (SU)}

In accordance with Executive Order 01.01.1992.20, smoking or carrying any lighted tobacco product is prohibited in all university buildings and facilities and in all space rented or leased by the university. Further, smoking in residence halls is prohibited by law.

Smoke-Free Campus Policy

Salisbury University is committed to promoting a healthy and safe environment for students, faculty, staff and visitors. Therefore, smoking is prohibited on the campus of Salisbury University ("University"). This consists of all buildings, including residence halls; all grounds, including exterior open spaces, parking lots and garages, on-campus sidewalks, streets, driveways, stadiums, recreational spaces and practice facilities; and in all University-owned or leased vehicles.

This policy is intended to reduce the health risks related to smoking and secondhand smoke for the campus community. Smoke-free and tobacco-free policies are becoming a standard to foster a healthy environment in municipalities, businesses, and colleges and universities alike.

Definition:

For purposes of this policy, "smoking" is defined as the burning of tobacco or any other material in any type of smoking equipment, including but not restricted to cigarettes, cigars or pipes. This policy applies to all individuals on Salisbury

University's campus, including faculty, staff, students, parents, vendors, and visitors.

Responsible Executive and Office:

The Vice President of Administration and Finance and/or her designee will be responsible for implementing this policy for faculty and staff and the Vice President of Student Affairs will be responsible for implementing the policy for students.

Procedures:

Faculty, staff and students who violate this policy are subject to University disciplinary action. Visitors who violate this policy may be denied access to the University campus. Concerns regarding student, faculty/staff, and visitor violations of this policy should be respectively referred to the Office of Student Affairs, the Office of Human Resources and the University Police Department.

The smoke-free policy can be found on the following website: <http://www.salisbury.edu/smokefree/policy.html>

Approved:

Faculty Senate - Spring 2006

Staff Senate - Spring 2006

Student Government Association - Spring 2006

Executive Staff - May 2006

Revised and Enforced August 22, 2010

Smoking in Fleet Vehicles

University policy prohibits smoking in all fleet vehicles.

Smokeless Tobacco in Campus Buildings

Students, faculty, staff and campus visitors are prohibited from using or discarding smokeless tobacco products or tobacco waste in classrooms, restrooms, hallways, lounges, labs, study, and work areas, or any other common area of campus buildings.

Persons violating this policy may be asked to discontinue use or leave the facility. This request may be made by any university official, faculty or staff member. Persons not responding to requests to abide by this policy will be subject to judicial action.

{AIDS ([BOR VI-11.00](#))}

- A. In all matters relating to persons who have AIDS or who are infected with HIV, Salisbury University will observe requirements of applicable federal and state laws.
- B. Salisbury University will observe confidentiality as to information about individuals who know or suspect that they have AIDS or HIV infection unless an exception is granted by the affected person, a report of infection is required by law or a report of possible infection of others is required by law or infection control policy. However,

such information will be shared among institution officials and the university's legal counsel on a need-to-know basis.

- C. The university provides AIDS and HIV education to all students through the required, general education course PHEC 106. AIDS and HIV education is also provided to all new students through the New Student Seminar. The Students Affairs Office conducts regular AIDS and HIV education programs in cooperation with academic departments and these programs are open to all. The University Health Center makes AIDS and HIV education materials available to all employees of the university upon request.
- D. The university has established the position of environmental safety specialist within the Department of Public Safety. This position has responsibility for developing and implementing infection control policies campus-wide. The university has also established an ad hoc committee on AIDS to evaluate campus needs with respect to AIDS and HIV protection and education.
- E. The Department of Nursing and Health Sciences has developed policies for the disposal of hazardous bio-medical waste. These policies are posted in the medical technology laboratory, are available on all material safety sheets in the laboratory and are distributed to every student who uses the laboratory.
- F. The University Health Center maintains a current list of agencies and organizations to which persons seeking further information about AIDS, including persons concerned that they may have AIDS or are infected with HIV, may be referred for counseling and other related services.
- G. Faculty members, employees or students with any form of HIV infection will be permitted to continue their activities at the university without change as follows:
 - 1. Regular activities can continue unchanged to the extent permitted by an individual's health status, including their risk of contraction of infectious diseases from others.
 - 2. Regular activities can continue unchanged to the extent consistent with the university's interest in preventing infection of others.
- H. Salisbury University subscribes to the current medical position that there is no health risk from living-quarter contact with persons with AIDS or HIV infection, but will consider requests to change living arrangements to minimize contact with persons with AIDS or to minimize contact of the HIV-infected with others persons who have infectious diseases.

{DRUG-FREE WORKPLACE (BOR VII-1.10)}

Salisbury University, as an employer, strives to maintain a workplace free from the illegal use, possession, or distribution of controlled substances.¹⁹ Unlawful manufacture, distribution, dispensation, possession or use of controlled substances by University employees in the workplace is prohibited under university policy.

In addition to any legal penalties under federal and state law, employees found to be in violation of this policy may be subject to corrective action under applicable university personnel policies. Sanctions shall be considered and imposed on a case-by-case basis and may range from required counseling to termination of employment. It is a condition of employment at Salisbury University that all employees, including classified, contractual, faculty and administration whether full or part time, abide by the provisions of this notice and policy and notify the employer of any drug statute conviction for a workplace violation no later than five (5) days after such conviction. The university shall in the event of such conviction impose a sanction upon the employee and/or require treatment for the employee.

The university supports programs aimed at the prevention of substance abuse by university employees. Employees are encouraged to seek assistance for substance-dependency problems. Employee-assistance counseling and leaves of absence to attend rehabilitation programs are appropriate means for dealing with these problems. To determine the availability of such prevention programs including counseling, inquiries should be directed to the university's Human Resources Office or the Counseling Services Office.

Approved February 14, 1989

{CAMPUS POLICY ON STORAGE (SU)}

INTRODUCTION:

The University utilizes a variety of spaces for storage including offices, classrooms, laboratories, outbuildings, closets, etc. During routine investigations, required by law, it was found that the manner in which some offices and other campus areas have been maintained may be unsafe. State regulations apply to all storage areas that promote fire safety and meet established standards related to occupational safety & health.

University staff routinely require access to offices and storage areas for housekeeping or maintenance purposes. For their personal safety, health and well-being, walkways must be maintained free from hazards that might cause employees to slip, trip or fall. Faculty and staff need to use containers,

cabinets and/or shelving to safely manage storage of books, periodicals, papers, etc. Further, storage must not block the flow of air to wall-mounted air conditioning/heating systems in offices. If the flow is blocked, Physical Plant is unable to perform system maintenance which negatively impacts air quality in that office/area.

POLICY:

Storage in campus buildings is regulated under the Code of Maryland Regulations (COMAR) 04.05.01.03 and National Fire Prevention Association (NFPA) Life Safety Code (7.1.10.1). All University personnel are expected to comply with these regulations.

Some of the requirements of these regulations include some of the following:

- Maintain unobstructed office exit pathway (egress)
- Maintain unobstructed corridor egress
- No storage in stairways
- Storage height limited to 18 inches below ceiling in sprinkled areas
- No storage within 36 inches of an electrical panel
- Adequate clearance around and access to fire equipment
- Proper storage for flammable materials

Though not a part of the regulations described above, the following Salisbury University requirement applies:

- Maintain unobstructed access to wall-mounted air conditioning/heating systems

Rev: 1/2009

{POLICY REGARDING PETS IN CAMPUS BUILDINGS (SU)}

In accordance with State of Maryland COMAR 04.05.01.03, dogs and other pets are not permitted in University buildings. The only exceptions to this policy include the following: President's Residence, Regent's Retreat, Carriage House, laboratory animals and service animals for people with disabilities or law enforcement. Employees and / or visitors in violation of this regulation will be asked to leave the building immediately. Repeated violations of State of Maryland COMAR 04.05.01.03 will be added to an employee's personnel file and notification sent to the appropriate administrator.

Rev: 1/2009

¹⁹As defined pursuant to Controlled Substances Act, 21 U.S.C. Sections 801, et seq.