

# Salisbury University Procedures for Investigating and Adjudicating Complaints of Non-Sex Based Discrimination Against a Student

## I. Purpose

These Procedures (“Procedures”) provide a process for the prompt and equitable investigation and adjudication of complaints 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”)<sup>1</sup> against a Salisbury University (“SU” or “University”) student (hereinafter referred to as “Student”).<sup>2</sup> These Procedures ensure SU’s compliance with Federal and State law, University System of Maryland (“USM”), and SU policies prohibiting discrimination based upon any individual’s protected characteristics (“Protected Status”), including, but not limited to, Salisbury University’s Policy Prohibiting Non-Sex Based Discrimination. These Procedures replace any prior SU procedures related to complaints, investigation, and adjudication of any allegation of Non-Sex Based Discriminatory Harassment and/or Discrimination against any Student.

Any person, including, but not limited to, a Student, a member of the faculty, administration or support staff, a visitor or guest to the campus community, campus or local police, or a family member, alleging Non-Sex Based Prohibited Discrimination against a Student may file a complaint or report against such Student with the University as set forth herein. The University, on its own, may also initiate, investigate, and adjudicate complaints of Non-Sex Based Prohibited Discrimination against a Student under these Procedures. The Procedures also address complaints or reports of Retaliation allegedly committed by a Student in connection with any Non-Sex Based Prohibited Discrimination matter. For example, Retaliation covered by these Procedures could include, but it is not limited to, alleged Retaliation against individuals who have filed complaints or reports, testified, or otherwise participated in connection with a matter of Non-Sex Based Prohibited Discrimination. Complaints against a Non-Student (i.e., faculty, staff, or a third party) shall not proceed under these Procedures, but pursuant to 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>.

These Procedures are effective as of August 18, 2015, and supersede any former Procedures related to complaints or reports of Non-Sex Based Prohibited Discrimination filed against a Student.

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<sup>1</sup> Capitalized terms herein are defined in Salisbury University Policy Prohibiting Non-Sex- Based Discrimination (hereinafter “the Policy” or the “SU Policy Prohibiting Non-Sex Based Discrimination”).

As referred to in these Procedures, the term Student refers to a currently enrolled Student as well as any Student groups o.74 Tm( )JTETBT1 0 0 1 455.3i02.74 Tm -0t66

## II. Complaints and Reporting

### A. Reporting to SU

Complaints of Non-Sex Based Prohibited Discrimination against a Student should be made to the SU Office of Institutional Equity (“OIE”)/Fair Practices Officer (“FPO”)/Title IX Coordinator. Complaints made to OIE are not confidential. **For confidential reporting options, please refer herein to section “IV. Confidentiality”, A-C).** The OIE’s staff





## B. OIE's Role

The OIE is charged with coordinating the University's compliance with applicable Federal, State and local civil rights regulations, policy and laws, and does not act as an advocate for any party. Upon receipt of a complaint or report, the OIE will ensure that the Complainant is provided with a copy of the relevant SU policies and Procedures.

The OIE will explain to the parties the following:

1. The informal and formal resolution options and the confidentiality provisions outlined below.
2. As appropriate, provide to both parties information about options for obtaining medical and counseling services, information about making a criminal report, information about receiving advocacy services, information about other helpful campus and community resources. The OIE will provide the parties a list of available resources also located at [the OIE Web site](http://www.salisbury.edu/equity/library/docs/OIE%20Resource%20Document%20List.pdf) at the following link:  
<http://www.salisbury.edu/equity/library/docs/OIE%20Resource%20Document%20List.pdf>.
3. Offer to coordinate with other campus officials, when appropriate, to implement interim remedial measures such as no-contact orders, rearrangement of living or working arrangements, or academic accommodations.
4. The process of a fair and impartial investigation, and conduct the same. The OIE will explain the right of the parties to have similar and timely access to information

### **C. OIE Initial Assessment**

Responsible Employees must comply with their duties as set forth in Section II.B above. This may include, but is not limited to, gathering initial information when receiving a complaint or knowledge of any facts that could indicate potential Non-Sex Based Prohibited Discrimination. The Responsible Employee receiving the initial complaint must also promptly consult with OIE so that OIE may determine whether the alleged conduct would present potential Non-Sex Based Prohibited Discrimination under OIE jurisdiction and whether OIE action is warranted based on the alleged conduct. In the case of complaint involving allegations of student-on-student conduct that could constitute a violation of the Non-Sex Based Discrimination Policy, the Assistant Vice President of Student Affairs/Dean of Students will conduct an initial assessment in consultation with the OIE. The results of the initial assessment will be provided to the OIE, along with any relevant information used in making such assessment. The OIE will have final jurisdiction to make a determination on how to address the alleged conduct. Generally, during any initial assessment, the OIE will work with relevant SU officials to determine the risk of harm to the broader campus community and take steps necessary to address any risks, implement any Interim Measures, assess the nature and circumstances of the allegation, assess for pattern evidence or other similar conduct by the alleged Respondent, assess Complainant's expressed preference regarding resolution and any request for confidentiality, and assess whether the matter needs to be referred to the Office of Student Affairs, the SUPD, or any other appropriate entity for further action.

If an initial assessment reveals that the OIE lacks jurisdiction over any alleged action, the OIE will, if warranted and available, forward the complaint to any appropriate body at SU for consideration and action. If, after conducting the initial assessment, it is determined that the behavior in question involving a Student is not under OIE's jurisdiction, the matter will typically be referred to the Office of Student Affairs.

## **IV. Confidentiality**

### **A. Confidentiality of Complaints, Reports and Outcomes**

The University understands that the Complainant, Respondent, and Witnesses involved in any Non-Sex Based Prohibited Discrimination matter desire confidentiality during the investigation and adjudication of such matters. While the University will keep these matters confidential to the extent possible and as required by law, the University cannot ensure complete Confidentiality, or even the Confidentiality requested by parties, in all cases. The OIE will, to the best of its ability, keep confidential the complaint, report, Witness statements, and any other information provided by the Complainant, Respondent, or Witnesses, and will disclose this information only to any individual who needs to know and/or is allowed to know by law. For example, the OIE will need to disclose information to law enforcement consistent with State and Federal law; to other University officials as necessary for coordinating Interim Measures, for health, welfare, safety, and other

appropriate reasons, as well as to government agencies who review the University's compliance with Federal and State law.

A written decision from the OIE will be disclosed to the Complainant and Respondent only as allowed by law. For example, see [Salisbury University](#)



C.





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 this and/or 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.

## **VIII. Resolution<sup>3</sup>**

There are two avenues for resolution of alleged Non-Sex Based Prohibited Discrimination: informal and formal resolution. The OIE is available to explain the informal and formal resolution Procedures.

### **A. Informal Process and Resolution**

The Complainant generally has the option to proceed informally at any time during any adjudication process, when permissible per applicable law. However, the Complainant is never required to proceed informally.

Faculty, exempt, non-exempt and contingent employees, as well as students and third parties, should feel free to informally raise a concern about any form of Non-Sex Based Prohibited Discrimination committed by a Student to any Responsible Employee as defined in Section II.I of [Salisbury University's Policy Prohibiting Non-Sex Based Discrimination](#), available at:

<http://www.salisbury.edu/equity/library/docs/SUNonSexBasedProhibitedSexDiscriminationPolicy.pdf>. Upon notification of any informal or formal complaint of Non-Sex Based Prohibited Discrimination, University Responsible Employees must notify the OIE in writing within 24 hours of receiving the complaint. The Responsible Employee 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 OIE as part of the notification. Any legally recognized form of privileged communication is exempt from this requirement. The Complainant and the OIE, in consultation with the Office of Student Affairs, 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 the approval of the OIE; or
3. Initiation of the formal complaint process.

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<sup>3</sup> Individuals choosing to file a complaint are encouraged to complete the

Where permissible per applicable law, a Complainant or Respondent has the option to participate in any informal resolution. The Complainant also has the option to request a formal investigation and/or adjudication at any point in the informal process. The OIE also always has the discretion to initiate a formal investigation. If, at any point during the informal process, the Complainant, the Respondent, or the OIE wishes to cease the informal process and to proceed through formal grievance Procedures, the formal process outlined below will be invoked.

The informal resolution must adequately address the concerns of the Complainant, as well as the rights of the Respondent and the overall intent of the University to stop, remedy and prevent Non-Sex Based Prohibited Discrimination. Informal actions might include, but are not limited to: providing training to an individual or group; having an informal discussion with an individual whose conduct, if not stopped, could rise to the level of discrimination or hostile environment harassment; establishing agreed upon Interim Measures; increased monitoring or security at specified locations; or facilitating a confidential conversation with the parties; and any other remedy that can be tailored to the parties to achieve the goals of the relevant Policy.

## **B. Formal Process**

### **1. How to Start the Formal Process**



**c. Standard of Proof and Evidence**

In determining whether the alleged conduct constitutes Non-Sex Based Prohibited Discrimination, the OIE 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 behavior, the particular facts of the case, the nature of the relationship and interactions between the parties and the context in which the alleged conduct occurred. To determine whether the alleged conduct is prohibited by any relevant policy, the standard shall be from the perspective of “a reasonable

**d. Investigation And Decision**

All parties will have the same opportunity to present relevant Witnesses and evidence during the investigative process and all parties will have the same opportunity to review proposed written findings and provide written comments to the investigator regarding such findings prior to an initial outcome. The parties will have five (5) University business days after the proposed findings are emailed to them via their respective University assigned electronic mail accounts, or another appropriate manner in the case of non-



pursuant to the USM and SU Appointment, Rank & Tenure Policies, applicable MOU, and/or other applicable separate procedures giving employees a right to challenge implementation of or further appeal a disciplinary action.

## **X. Final Outcome & Post-Resolution Follow Up**

After all review processes are concluded, the OIE or designee will promptly notify the Complainant, the Respondent, the Assistant Vice President of Student Affairs/Dean of Students, and any other appropriate University Administrators, in writing, of the final outcome of the Non-Sex Based Prohibited Discrimination complaint.

After a final sanction and remedy is issued, the OIE may periodically follow up with the Complainant and Respondent to ensure that the Non-Sex Based Prohibited Discrimination has ended, to determine any additional remedies necessary, and to ensure compliance with sanctions imposed. Any violation of an Interim Measure or sanction imposed for Non-Sex Based Prohibited Discrimination should be promptly reported to the OIE.

## **XI. Conflict of Interest and Training**

All University officials who are involved in the discrimination grievance process, including the OIE, designated investigators and AO, will have adequate training. Training will address, but is not limited to, recognizing and appropriately responding to allegations of discrimination, harassment, including hostile environment harassment, and Retaliation, conducting investigations, and protecting confidentiality.

The names of the investigator and the individual who will serve as AO for a particular matter will be readily accessible. These individuals must promptly disclose any potential conflict of interest they might have in a particular case. In the rare situation in which an actual or perceived conflict of interest arises from the involvement of an Investigator or AO, that conflict must be disclosed to all parties and any potential or actual conflict will be appropriately addressed.