

Salisbury University Policy Prohibiting Non-Sex Based Discrimination¹

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¹“Salisbury University Policy Prohibiting Sexual and Other Discriminatory Harassment,” as it related to Non-Sex Based Discrimination.

Salisbury University Policy Prohibiting Non-Sex Based Discrimination

I. Purpose & Applicability

Salisbury University (“SU” or “University”) is committed to providing a working and learning environment free from all types of discrimination prohibited by State and Federal laws, including on the basis of sex, gender, marital status, pregnancy, race,



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

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

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

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

II. Definitions

For purposes of this Policy, the following definitions apply:

- A. **Complainant** means (1) a person who reports experiencing Non-Sex Based Prohibited Discrimination or (2) the University, in a case where the University initiates or opts to continue a complaint investigation or adjudication (for example, despite a person's request for no further action), pursuant to University legal or policy obligations or decisions.
- B. **Discrimination** is defined as the unequal

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(410) 548-3508
hxaristizabal@salisbury.edu

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

IV. Prompt Investigation, Resolution

3. Complaints Against Students

- a. Dr. Dane Foust, Vice President of Student Affairs, Guerrieri University Center 212,
(410) 543-6080, drfoust@salisbury.edu
- b.



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

D. Notice of Outcome & Sanctions

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

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

V. Interim Measures & Resources

A. Available Interim Measures

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

1. Examples of Potential Interim Measures for Students

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

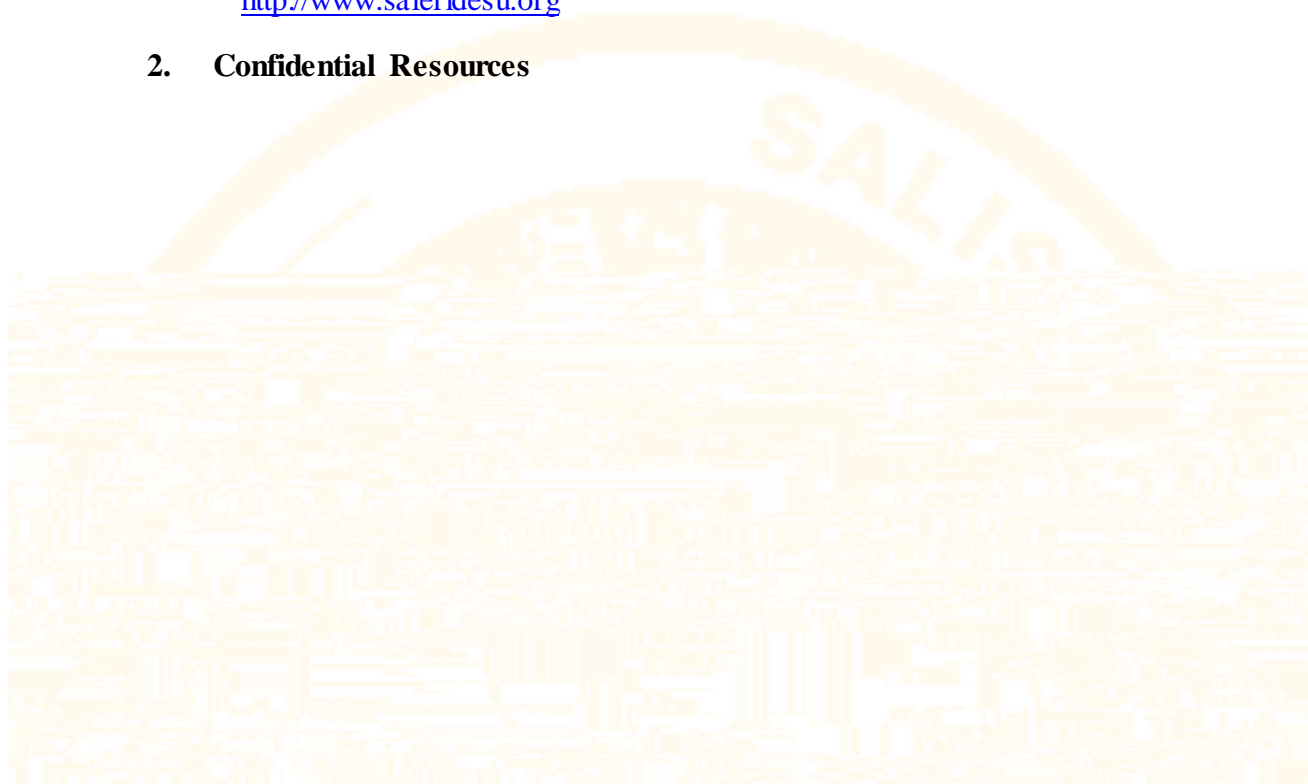


e. **SafeRide**

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

<http://www.saferidesu.org>

2. **Confidential Resources**



b. Off-Campus Confidential Resources

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

i. Employee Assistance Program (EAP) – USM

The University System of Maryland has contracted with Inova Employee Assistance (IEA) to offer a wide variety of work/life services through both phone-based and web-based services. Employee Assistance Programs have often been known for the traditional counseling and consultation resources. IEA offers the traditional services, but the services have been expanded to provide

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

4. Adviser

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

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

FERPA permits disclosure of the outcome of a student conduct investigation to anyone if: (1) the alleged Non-Sex Based Prohibited Discrimination relates to a crime of violence; (2) the Respondent was found to have violated this Policy; (3) the alleged instance of Non-Sex Based Prohibited Discrimination occurred after October 7, 1998; and (4) the names of non-party students, such as Witnesses, have been redacted.

c. Transfer Students

FERPA permits disclosure of a student's Education Records to officials of another institution of postsecondary education where the student seeks as

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

VII. Training Programs, Educational Initiatives, & Cooperative Efforts

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

A. Training and Education

1. Prevention and Awareness Education

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

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

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

B. MOU with Local Law Enforcement

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

VIII. Record Keeping

A. Disciplinary Proceedings

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

B. Training Programs

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

C. Retention

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

IX. External Reporting Options & Obligations

The FPO shall ensure that each Complainant is informed of the reporting options and obligations.

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

D. Students

Students who wish to file a formal

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

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