

**Salisbury University Policy Prohibiting Sexual Misconduct and Other Sex
and Gender-Based Discrimination¹**

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¹ Policy effective date: December 19, 2014. This Policy replaces and supersedes all previous versions of the “Salisbury University Sexual Harassment Policy & Procedure.”

Salisbury University Policy Prohibiting Sexual Misconduct and Other Sex and Gender-Based Discrimination

I. Purpose & Applicability

Salisbury University (“SU” or “University”) is committed to providing a working and learning environment free from all types of sex and gender-based discrimination prohibited by state and federal laws, including Title IX of the Education Amendments of 1972 as amended (“Title IX”) and Title VII of the Civil Rights Act of 1964. SU prohibits and will not tolerate any form of sex or gender discrimination. Sexual Misconduct, which includes Dating Violence, Domestic Violence, Sexual Assault, Sexual Coercion, Sexual Exploitation, Sexual Harassment, Sexual Intimidation, Sexual Violence, Stalking, and related Retaliation, is a form of sex discrimination prohibited by Title IX and may also constitute criminal activity.

SU endeavors to foster a climate free from any discrimination based on a person’s sex or gender (hereinafter “Prohibited Sex Discrimination”) through training, education, prevention programs, and through policies and procedures that promote prompt reporting, prohibit Retaliation, and promote timely, fair and impartial investigation and resolution of Prohibited Sex Discrimination cases in a manner that eliminates the Prohibited Sex Discrimination, prevents its recurrence, and addresses its effects. All SU Community members are subject to this Policy, regardless of sex, sexual orientation, gender identity and/or gender expression. This includes all students, faculty, and staff of SU, applicants for employment and/or admission to SU, as well as third parties, agents, and contractors under SU control. This Policy applies to Prohibited Sex Discrimination in connection with any SU office or regional center education programs or activities, including, but not limited to, Prohibited Sex Discrimination : (1) in any SU facility or on any SU property or location under SU control; (2) in connection with any SU sponsored, recognized or approved program, visit or activity, regardless of location; (3) that impedes equal access to any SU education program or activity or adversely impacts the employment of a member of the SU Community; or (4) that otherwise threatens the health or safety of anyone, including, but not limited to, members of the SU Community. Nothing in this Policy is intended to supersede or conflict with any state or federal compliance obligations.

Retaliation for participating in any way in any Prohibited Sex Discrimination matter is also a form of sex or gender-based 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, 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.

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 constitutes Prohibited Sex Discrimination. 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. 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 aids, or frank and graphic discussion of the biology of human sexuality.

II. Definitions

For purposes of this Policy, the following definitions apply:

- A. **Complainant** means (1) the person who initiated the filing of a report of Prohibited Sex Discrimination or (2) an individual who reportedly experienced Prohibited Sex Discrimination, regardless of whether that individual participates in the disclosure or review of that report by the University at any point.
- B. **Consent** means a knowing, voluntary, and affirmatively communicated willingness to mutually participate in a particular sexual activity or behavior. Consent can only be given by a person with the ability or capacity to exercise free will and make a rational and reasonable judgment. Consent may be expressed either by affirmative words or actions, as long as those words or actions create a mutually understandable permission regarding the conditions of sexual activity. Consent may be withdrawn at any time. Consent cannot be obtained by force, threat, coercion, fraud, manipulation, reasonable fear of injury, intimidation or through the use of one's mental or physical helplessness or Incapacity. Consent cannot be implied based on the mere fact of a previous consensual dating or sexual relationship. Consent to engage in sexual activity with one person does not imply Consent to engage in sexual activity with another.

Examples of what does not constitute Consent include, but are not limited to, the following:

1. Silence or lack of protest or resistance is not, in and of itself, Consent. Inferring Consent from solely silence or non-verbal communication is risky and can lead to a finding of Sexual Misconduct.
2. Previous sexual activity with a person does not imply Consent for future sexual acts with that person or any other person.
3. Consent to one form of sexual activity cannot automatically imply Consent to other forms of sexual activity.
4. Consent must be present throughout sexual activity and may be withdrawn at any time. If there is confusion as to whether there is Consent or whether prior Consent has been withdrawn, it is essential that the participants stop the activity until the confusion is resolved.

5. Consent cannot be obtained by use of physical force, threats, intimidating behavior or coercion.
 6. If you have sex with someone you know is Incapacitated, or you should know is Incapacitated, you do not have Consent. The relevant standard is whether a reasonable person in the same position should have known that the other party was Incapacitated and, therefore, unable to Consent. A person who is not of legal age is Incapacitated. Incapacitation may also result from other factors, including, but not limited to, (a) sleep or unconsciousness, (b) temporary or permanent mental or physical disability, (c) involuntary physical restraint, and/or (d) the influence of alcohol, drugs or medication, including, but not limited to, Rohypnol, Ketamine, GHB, Burundanga, and other substances used to facilitate “date-rape” or any Sexual Misconduct.
- C. Dating Violence** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- D. Domestic Violence** means violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant, or by any other person against an adult or youth Complainant protected from those acts by applicable state or federal domestic or family violence laws.
- E. Good Faith Requirement.** Allegations of Prohibited Sex Discrimination are very serious and could cause great harm. This Policy shall not be used to bring baseless, frivolous or malicious complaints against a member of the SU Community. Disciplinary action may be taken against any person who files a complaint or reports Prohibited Sex Discrimination under this Policy in bad faith or without justification.
- F. Incapacitation.** An individual who is Incapacitated is unable to give Consent to sexual contact. States of Incapacitation include sleep, unconsciousness, intermittent consciousness, or any other state where the individual is unaware that sexual contact is occurring. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to Consent to sexual contact. Alcohol or drug use is one of the prime causes of Incapacitation. Because the impact of alcohol or other drugs varies from person to person, evaluating whether an individual is Incapacitated, and therefore, unable to give Consent, requires an assessment of whether the consumption of alcohol or other drugs has rendered the individual physically helpless or substantially incapable of:
1. Making decisions about the potential consequences of sexual contact;
 2. Appraising the nature of one’s own conduct;

3. Communicating Consent to sexual contact; or
4. Communicating unwillingness to engage in sexual contact.

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

H. Respondent means an individual who has been accused of Prohibited Sex Discrimination.

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

J. Retaliation means intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law, SU or USM Policy relating to Prohibited Sex Discrimination, or because an individual has made a report, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing related to Prohibited Sex Discrimination. Retaliation includes retaliatory harassment. After an investigation is conducted, if any act of reprisal, including interference, coercion, restraint, or adverse academic or employment action, or any other action that harms another by a SU employee, student, or by someone acting on

behalf of SU, is found to be Retaliation, it will constitute a violation of this Policy and will result in appropriate disciplinary action.

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

L. Sexual Assault

1. **Sexual Assault I. – Non-Consensual Sexual Intercourse.** Any act of sexual intercourse with another individual without Consent. Sexual intercourse includes vaginal or anal penetration, however slight, with any body part or object, or oral penetration involving mouth to genital contact. This includes, but is not limited to, penetration of a bodily opening without Consent through the use of coercion.
2. **Sexual Assault II. – Non-Consensual Sexual Contact.** Any intentional sexual touching with any object or body part, including, but not limited to, touching the intimate parts of another person, touching another with one's intimate parts, causing another to touch one's intimate parts, or disrobing or exposure of another without Consent. Intimate parts may include genitalia, groin, breast, or buttocks, or clothing covering them, or any other body part that is touched in a sexual manner. Sexual Assault II also includes attempted sexual intercourse.

M. Sexual Coercion means an act of using unreasonable pressure in an effort to obtain Consent for sexual activity. Coercion arises after the victim clearly communicates verbally or non-verbally the intent to stop or refrain from sexual activity.

N. Sexual Exploitation means taking non-consensual or abusive sexual advantage of another person for one's own advantage or benefit, or for the advantage or benefit of anyone other than the person being exploited. This includes, but is not limited to, utilizing any image, video or recording device for the purpose of posting or publishing and/or capturing images of a sexual act without the Consent or knowledge of the involved parties; intentionally or unintentionally publishing, recreating, or reproducing images of a sexual act without the knowledge or Consent of the parties involved; voyeurism; inducing Incapacitation for the purpose of having sex with the Incapacitated person regardless of whether or not sexual activity actually takes place; knowing transmission of HIV or a sexually-transmitted infection; and prostitution.

O. Sexual Harassment is any unwelcome sexual advance, unwelcome request for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature, generally characterized by non-consensual, unwelcome sexual behavior whether between people of the same gender or different genders or sexual orientation, when: (1) submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, evaluation of academic work, or participation in any aspect of an SU program or activity (commonly referred to as "Quid Pro Quo Sexual Harassment"); (2) submission to or rejection of such conduct by an individual is used as the basis for academic, employment, or activity or program participation-related

decisions affecting an individual (also Quid Pro Quo Sexual Harassment); or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, i.e., it is sufficiently severe or pervasive to create a hostile working, academic, residential or social environment (commonly referred to as "Environmental Sexual Harassment").

In assessing whether a particular act constitutes Sexual Harassment, the standard shall be the perspective of a reasonable person within the SU Community. The rules of common sense and reason shall prevail. Allegations of Sexual Harassment shall be judged with attention to the facts particular to the case and the context in which the alleged incident(s) occurred. The behavior does not need to be directed at or to a specific person, but may be generalized unwelcome comments of a sexual nature based on sex or gender stereotypes. Harassment can occur between equals (e.g., student to student, staff to staff, faculty member to faculty member) or between persons of unequal power status (e.g., supervisor to subordinate, faculty member to student, coach to student athlete, graduate student to undergraduate student, student leader to first-year student). Although most often committed by persons perceived to be with greater power against those who appear to have less power, it can also be committed by a person perceived to be with less power (e.g., student harassing a faculty member). It can be committed by or against an individual of any sex, gender identity, gender expression, or sexual orientation.

1. Examples of "Quid Pro Quo" Sexual Harassment

- a. Unwelcome requests or demands for sexual favors accompanied by implied or overt threats or promised rewards, e.g., grades, references or awards (for students) or assignments, promotions, discipline (for employees).

2. Examples of "Hostile Environment" Sexual Harassment, **If Severe or Pervasive**

- i. Unwanted harassment through public or private insult, sexually suggestive comments concerning a person's body or behavior, and sexual demands.
- ii. Undue and unwanted remarks about another person's clothing, body, sexual activities, sexual preferences, or sexual orientation; unwelcome flirting, teasing, jokes, or gestures that are sexual in nature.
- iii. Unwanted touching, kissing, pinching, patting or brushing another's body or clothing.
- iv. Touching, kissing, pinching, patting, or indecent exposure of one's own private body parts.
- v. Unwanted communications of a sexual nature in any form, over any medium, and in any media.
- vi. Repetition of unwanted invitations for dates.

Comment [HH1]: For consistency with definition of (Discriminatory) Harassment set forth by federal government.

See:
<http://www.eeoc.gov/laws/types/harassment.cfm>
<http://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>

This list is merely illustrative and is not an exhaustive list of examples.

- P. Sexual Intimidation** means (1) threatening to sexually assault another person; (2) sex or gender-based Stalking, including cyber-Stalking; or (3) engaging in indecent exposure.
- Q. Sexual Misconduct** is an umbrella term that includes Dating Violence, Domestic Violence, Sexual Assault, Sexual Coercion, Sexual Exploitation, Sexual Harassment, Sexual Intimidation, Sexual Violence, Stalking, and related Retaliation.
- R. Sexual Violence** is a form of Sexual Harassment and refers to physical sexual acts perpetrated without Consent. Sexual Violence includes rape, Sexual Assault, sexual battery, and Sexual Coercion. Sexual Violence, in any form, is a criminal act.
- S. Stalking** means engaging in a sex or gender-based course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. While Stalking in any form may constitute a violation of University policies, Stalking under this Policy is limited to Stalking that is related in any way to Prohibited Sex Discrimination.
- T. Witness** means anyone who has witnessed or provides factual information and/or observations regarding a Prohibited Sex Discrimination matter.

III. Title IX Policy Compliance

A. General Statement of Nondiscrimination – Sex and Gender-Based Discrimination

Title IX of the Education Amendments of 1972, as amended, prohibits SU from discriminating on the basis of sex in its education programs and activities. Inquiries concerning the application of Title IX may be referred to SU's Title IX Coordinator or the U.S. Department of Education, Office for Civil Rights, Wannamaker Building, 100 Penn Square Street East, Room 6300 Suite 515, Philadelphia, Pennsylvania 191047-3323; 215-656-8541; <http://www2.ed.gov/about/offices/list/ocr/index.html>.

B. Title IX Policy Compliance Oversight

The President designates the following Title IX Coordinator responsible for coordinating SU's efforts to comply with and carry out its responsibilities under Title IX and this Policy:

Humberto Aristizabal
Title IX Coordinator, Fair Practices Officer, and Associate Vice President for
Institutional Equity
Office of Institutional Equity (“OIE”)
Holloway Hall Suite 100
(410) 548-3508
hxaristizabal@salisbury.edu

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

The following individuals are designated as the Title IX Team for SU:

Team Chair:

1. Title IX Coordinator and Fair Practices Officer/Associate Vice President of Institutional Equity: Humberto Aristizabal, Holloway Hall (HH) 100, (410) 548-3508, hxaristizabal@salisbury.edu

Team Members:

1. Senior Vice President of Academic Affairs and Provost: Dr. Diane Allen, Holloway Hall (HH) 245, (410) 548-3374, ddallen@salisbury.edu
2. Vice President of Administration and Finance: Ms. Betty Crockett, Holloway Hall (HH) 228, (410) 543-6050, bpcrockett@salisbury.edu
3. Vice President of Student Affairs: Dr. Dane Foust, Guerrieri University Center (GC) 212, (410) 543-6080, drfoust@salisbury.edu
4. Vice President of Advancement and External Affairs: Mr. T. Greg Prince, Alumni House (AH) 211, (410) 546-6939, tgprince@salisbury.edu
5. Associate Provost: Dr. ~~Melanie Perreault~~, ~~Jason McCartney (Interim)~~, Holloway Hall (HH) 242, (410) ~~548-4085~~543-6020, ~~mpperreault@salisbury.edu~~~~jsmccartney@salisbury.edu~~
6. Assistant Vice President of Student Affairs/Dean of Students: Ms. Valerie Randall-Lee, Guerrieri University Center 212, (410) 543-6080, vjrandall-lee@salisbury.edu

7. Associate Vice President for Human Resources: Ms. Nancy Siegert, Holloway Hall (HH) 153, (410) 546-6213, nlsiegert@salisbury.edu

8. Athletics Director: Mr. Gerard DiBartolo (Interim), Maggs Center (MC) 214, (410)-546-4144, grdibartolo@salisbury.edu

8.9. Complaint Resolution and Compliance Specialist: Ms. Jennifer Barnes, Holloway Hall (HH) 100, (410) 548-4056, jlbarnes@salisbury.edu

9.10. Diversity and Inclusion Specialist: Ms. Helena Hill, Holloway Hall (HH) 100, (410) 543-6426, hlhill@salisbury.edu

10.11. Fair Practices Coordinator: Ms. Abigail Ebron, Holloway Hall (HH) 100, (410) 677-5311, alebron@salisbury.edu

IV. Prompt Investigation, Resolution & Notice of Outcome

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

A. Complaints or Reports

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

Humberto Aristizabal
Title IX Coordinator, Fair Practices Officer and Associate Vice President for
Institutional Equity
Office of Institutional Equity
Holloway Hall Suite 100
(410) 548-3508
hxaristizabal@salisbury.edu

Individuals may alternatively report to any Title IX Team Member and/or Responsible Employee (as defined above), including, but not limited to, the following specific Title IX Team Members and Responsible Employees:

1. Complaints Against Students

- a. Dr. Dane Foust, Vice President of Student Affairs, Guerrieri University Center 212, (410) 543-6080, drfoust@salisbury.edu
- b. Ms. Valerie Randall-Lee, Assistant Vice President of Student Affairs/Dean of Students, Guerrieri University Center 212, (410) 543-6080, vrandall-lee@salisbury.edu
- c. Mr. Ralph Chittams, Assistant Dean of Students, Guerrieri University Center 212B, (410) 543-6080, rjchittams@salisbury.edu

2. Complaints Against Faculty

- a. Dr. Maarten Pereboom, Dean, Fulton School of Liberal Arts, (410) 543-6450, mlpereboom@salisbury.edu
- b. Dr. Karen Olmstead, Dean, Henson School of Science and Technology, (410) 543-6425, kolmstead@salisbury.edu
- c. Dr. Christy Weer, ~~Interim~~ Dean, Perdue School of Business, (410) 677-6571, chweer@salisbury.edu
- d. Dr. ~~Cheryl Parks, Kelly Fiala~~, ~~Interim~~ Dean, Seidel School of Education and Professional Studies, (410) 543-6335, eparkskafiala@salisbury.edu
- e. Dr. Beatriz Hardy, Dean, Libraries and Instructional Resources, (410) 543-6133, bbhardy@salisbury.edu
- f. Dr. Clifton Griffin, Dean, Graduate Studies and Research, (410) 677-0047, cpgriffin@salisbury.edu

3. Complaints Against Staff

- a. Ms. Betty Crockett, Vice President of Administration and Finance, (410) 543-6050, bpcrockett@salisbury.edu
- b. Ms. Nancy Siegert, Associate Vice President for Human Resources, (410) 546-6213, nlsiegert@salisbury.edu

Regardless of whether a report is filed directly with the persons named in Section IV.A, SU will investigate any report of Prohibited Sex Discrimination made to a Responsible

Employee, in accordance with its applicable policies and procedures for complaints against students and non-students.

B. Time for Filing a Complaint

Complaints should be submitted as soon as possible after the alleged Prohibited Sex Discrimination occurs. While the University will investigate allegations of Prohibited Sex Discrimination regardless of the amount of time that has elapsed between the violation and the report date, SU's response may be limited if too much time has passed due to the absence of Witnesses and/or Witness inability to recall all details.

C. Adjudication

1. Allegations Against Students

Allegations against a student will be adjudicated in accordance with the procedures set forth in the University's "[Discrimination and Sexual Misconduct Grievance Procedures for Complaints Against Students](#)," found in the SU Student Code of Conduct.

2. Allegations Against Employees

Allegations against non-student employees will be adjudicated in accordance with the procedures set forth in the University's "[Salisbury University Procedures for Investigating and Adjudicating Complaints of Sexual Misconduct and Other Sex and Gender-Based Discrimination Against Non-Students](#)."Salisbury University Procedures for Investigating and Adjudicating Complaints of Sexual Misconduct and Other Sex and Gender-Based Discrimination Against Non-Students."

3. Allegations Against Third Parties Not Affiliated With SU

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

4. Standard of Review

Regardless of whether a complaint is launched against a student or employee, a preponderance of the evidence standard (i.e., a finding that the Prohibited Sex

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



D. Timeframe

1. Timeframe

In most circumstances, SU will conduct a full investigation and notify both parties of the outcome within 60 calendar days from the date a report is made to SU. This timeframe does not include the appeal process.

2. Exceptions

There may be exceptional circumstances under which SU is unable to meet the 60-day timeframe. In such cases, the University will notify the Complainant and the Respondent.

E. Notice of Outcome & Sanctions

As permitted by law, SU will notify the parties concurrently, in writing, about the outcome of the complaint and whether or not Prohibited Sex Discrimination was found to have occurred. SU will also, as it is permitted by law, concurrently 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 Prohibited Sex Discrimination violations.

V. Interim Measures & Resources

A. Available Interim Measures

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

1. Examples of Potential Interim Measures for Students

- a. Assistance in obtaining or enforcing a “No Contact” Order
- b. Moving a student to another lab/lecture section
- c. Allowing a student to take an incomplete or withdraw from a class without a penalty

- d. Moving a student to another residence hall
- e. Allowing a student to break a housing contract without penalty
- f. Providing escort services
- g. Providing counseling services
- h. Providing student health services

2. Examples of Potential Interim Measures for Employees

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

3. How to Request Interim Measures

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

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

Generally, it is not confidential when a person reports Prohibited Sex Discrimination. If an individual desires to keep an incident of Prohibited Sex Discrimination confidential, they should speak with individuals who have professional or legal obligations to keep communications confidential. When seeking advice and support, individuals should always consider whether they want to discuss their concerns with a Confidential or Non-Confidential Resource. The Parties to a Prohibited Sex Discrimination matter are provided with the full OIE Resource Document List, also available at the following link: <http://www.salisbury.edu/equity/library/docs/OIE%20Resource%20Document%20List.pdf>. OIE is also available to assist in identifying resources.

1. Non-Confidential SU Resources

a. OIE & The Title IX Team

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

www.salisbury.edu/equity

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

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

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

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

c. Responsible Employees (Non-Confidential Employees)

All Responsible Employees can assist individuals to report Policy violations to the University. If you report an instance of Prohibited Sex Discrimination to a Responsible Employee, you cannot be guaranteed confidentiality or anonymity. Responsible Employees are required to report knowledge of

Policy violations to the Title IX Coordinator. For a list of SU's Responsible Employees and their duties, see Definition of Responsible Employees above.

d. Escort Service

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

http://www.salisbury.edu/police/Crime_Prevention/escorts.htm

e. SafeRide

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

<http://www.saferidesu.org>

2. Confidential Resources

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

a. On-Campus Confidential Resources

i. Salisbury University Counseling Center

Guerrieri University Center

Room 263

(410) 543-6070

counseling@salisbury.edu

ii. Salisbury University Student Health Services

Holloway Hall

Room 180

(410) 543-6262

StudentHealth@salisbury.edu

iii. Salisbury University Campus Against Violence Program Coordinator
Guerrieri University Center
Room 263
(410) 543-6070
counseling@salisbury.edu

b. Off-Campus Confidential Resources

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

i. Employee Assistance Program (EAP) – USM

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

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

Username: Salisbury
Password: Seagulls

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

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

iii. Life Crisis Center

Services are available at no charge to all individuals who are victims of Domestic Violence, rape, Sexual Assault, and child abuse. The toll free hotline operates 24/7 for anyone in the community needing crisis assistance or referral information.

P.O. Box 387
Salisbury, MD 21803-0387
(410) 749-HELP
<http://www.lifecrisiscenter.org/>

3. Requests for Confidentiality

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

4. Adviser

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

5. FERPA

The Family Education Rights and Privacy Act (“FERPA”) is a federal privacy law that concerns student Education Records. Student conduct records, including student conduct records that are maintained in the course of a Prohibited Sex Discrimination proceeding, are Education Records under FERPA. FERPA has various implications in Prohibited Sex Discrimination hearings. Generally, FERPA prohibits disclosure of student conduct records, absent a student’s consent. However, there are a number of exceptions that may subject student conduct records to disclosure in the course of or in the aftermath of a Prohibited Sex Discrimination investigation:

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

FERPA permits disclosure of the outcome of a student conduct investigation to the victim of a crime of violence or non-forcible sex offense. Where the alleged Prohibited Sex Discrimination relates to a crime of violence or a non-forcible sex offense, SU will disclose the outcome of the hearing and any sanctions to the victim, regardless of whether or not the behavior was found to have violated SU’s Policy Prohibiting Sexual Misconduct and Other Sex and Gender-Based Discrimination.

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

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

c. Transfer Students

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

d. Disclosure Where University is a Party in Litigation

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

e. Subpoenas and Court Orders

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

f. FERPA Right to Inspect and Review

FERPA also vests students with a limited right to inspect and review their own Education Records. Any document or recording maintained in a student conduct proceeding that is directly related to a student is an Education Record, subject to inspection and review upon request. Practically speaking, if you are a student party or Witness, and you give any written or recorded statement in the Prohibited Sex Discrimination proceeding, your statement will be made available, to the extent required by law, and to the extent that it relates to any student who invokes his or her right to inspect and review his/her Education Records.

VI. Steps to Take Following an Act of Sexual Violence

A. Stay Warm

Persons who experience Sexual Violence may be in a state of shock. It is important to stay warm by wrapping up in a blanket or coat. This will help recovery from shock and make it less likely that physical evidence is disturbed.

B. Get to a Safe Place and Seek Emotional Support

If you are in physical danger or in need of immediate medical attention, call 911. When you get to a safe place, talking with a trusted friend or relative or someone who is professionally trained to deal with Sexual Violence, such as a confidential mental health professional of the University, can help you make decisions about what to do. Whether you decide to go to law enforcement or not, it is important to take care of your own emotional needs. Professional counseling may be beneficial.

C. Preserve Evidence

If possible, consider taking steps to preserve physical evidence - on the body and at the location of an assault. It is important not to shower or bathe, eat or drink, brush teeth or gargle, change clothes, urinate or defecate, brush or comb hair, or smoke. Clothing worn at the time of an assault should not be washed but placed in a paper bag "as is" and brought to the hospital. In order to avoid forgetting important details, write down the facts about the accused and the assault.

D. Seek Medical Attention

It is important to seek medical attention as soon as possible. A medical examination will ensure appropriate medical treatment, including testing for pregnancy or sexually transmitted infections. You may also want to obtain a Sexual Assault Forensic Exam (SAFE). A SAFE exam allows for the collection of evidence and can ensure any physical evidence is preserved in the event of a report to law enforcement. A SAFE exam may be obtained within 120 hours after an assault at:

Peninsula Regional Medical Center
100 E Carroll St, Salisbury, MD 21801
(410) 546-6400

Campus personnel will cooperate to assist a victim of Sexual Misconduct to obtain appropriate medical attention, including providing assistance to summon emergency personnel for transportation to the nearest designated hospital offering a SAFE exam.

VII. ~~Medical~~ Amnesty Policy for Students

The use of alcohol or drugs will never function as a defense for committing any violation of this Policy. However, SU recognizes that a student who is under the influence of alcohol and/or drugs at the time of an incident may be hesitant to report a Policy violation because of the threat of disciplinary sanctions for his or her own violation of SU Code of Conduct policies relating to alcohol or drug use. Therefore, the SU ~~Medical~~ Amnesty Policy may apply where a student ~~summoningsummons~~ medical assistance ~~or requiring, requires~~ help, ~~or serves as a witness~~ 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/docs/codeofconduct/14-15/Code_Conduct_2014-15.pdf~~
~~<http://www.salisbury.edu/studentconduct/code.html>~~

VIII. Consensual Relationships & Professional Conduct

In its commitment to foster an educational or work environment free from all forms of harassment and discriminatory behavior, SU strongly discourages any romantic or sexual relationships between faculty and student, supervisor and subordinate employee, and any other relationship where a power differential exists between the parties. Even if consensual, these relationships are always a cause for concern including, but not limited to, the following:

- A. They may involve one person's exerting power over another;

Comment [HH2]: Per state law and USM policy, information on transportation to hospital for those seeking medical attention has been added.

See:
<http://mgaleg.maryland.gov/2015RS/bills/hb/hb0571e.pdf>
<http://www.usmd.edu/regents/bylaws/SectionVI/VI160.pdf>

Comment [HH3]: Per state law and USM policy, Amnesty Policy for Students is broadened beyond the narrow scope of seeking medical assistance.

See:
<http://mgaleg.maryland.gov/2015RS/bills/hb/hb0571e.pdf>
<http://www.usmd.edu/regents/bylaws/SectionVI/VI160.pdf>

- B. Conflict of interest issues may arise in evaluating a student or employee;
- C. There is a strong potential for Retaliation when a relationship ends;
- D. A third party may allege favoritism; and/or
- E. They undermine the professional interaction upon which faculty-student and supervisor–subordinate relationships should be based.

In particular, consensual sexual or romantic relationships that occur in the context of educational or employment supervision and evaluation may present potential conflicts of interest. Relationships in which one party maintains a supervisory or evaluative responsibility over the other also reflect an imbalance of power, leading to doubt as to whether such relationships are truly consensual.

Because of the potential conflicts of interest, persons involved in consensual sexual or romantic relationships with anyone over whom they have supervisory and/or evaluative responsibilities must inform their supervisor(s) of the relationship(s). Supervisory or evaluative responsibilities may be reassigned, as appropriate. While no relationships are expressly prohibited by this Policy, failure to self-report such relationships in a timely manner, as required by this Policy, may result in disciplinary action.

IX. Training Programs, Educational Initiatives, & Cooperative Efforts

Creating an environment free of Prohibited Sex 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 Prohibited Sex 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, including, but not limited to, Sexual Misconduct. At a minimum, Sexual Misconduct educational initiatives must contain information regarding what constitutes Sexual Misconduct, definitions of Consent and prohibited conduct, the institution's procedures, bystander intervention, risk reduction, and the consequences of engaging in Sexual Misconduct. Sexual Misconduct 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 addressing, at a minimum, the same information regarding Sexual Misconduct.

2. Training for Persons Involved in Sexual Misconduct Cases

All persons involved in any way in responding to, investigating, or adjudicating Sexual Misconduct reports, including, but not limited to, the Title IX Team, Responsible Employees, law enforcement, counselors, health professionals, resident assistants, and Complainant advocates, must have annual training in receiving, reporting and handling complaints of Sexual Misconduct; must be familiar with the institution's procedures; and must understand the parameters of confidentiality.

3. Campus Against Violence Program

The Campus Against Violence (CAV) Program represents SU's commitment to ending Sexual Violence in all its forms and providing students with knowledge and skills that will serve them throughout their lives. The CAV program coordinates peer education, counseling services for affected students, skills training, and public awareness campaigns. The CAV program works in collaboration with faculty, staff, and students to create a community that is actively engaged in the prevention of Sexual Violence.

a. CAV Publications

Publications providing information about Sexual Misconduct are distributed each semester. You can also obtain a copy of these publications from the Campus Against Violence Program, which is located in Room 263 of the Guerrieri University Center. The pamphlets are also published electronically at <http://www.salisbury.edu/counseling>.

b. CAV Activities

Throughout the year, the CAV Program hosts campus-wide events and programs related to Domestic Violence Awareness Month (October), Stalking Awareness Month (January), and Sexual Assault Awareness Month (April).

4. Community Trainings

The Life Crisis Center, which is not affiliated with SU, offers various trainings, including Trauma 101 Training, Darkness to Light Training, ASIST Training, Resident Life Training, Abuser Intervention, and others. More information about their educational programs can be obtained from their web site at <http://www.lifecrisiscenter.org/#!services/c21kz>.

B. ~~MOU~~ Agreements with Local Law Enforcement and Rape Crisis Programs

~~SU will, as necessary, enter into and review any existing, and if necessary pursue new, Memoranda of Understanding ("MOU") with local police forces to and a State designated rape crisis program and/or federally recognized sexual assault coalition. SU~~

Comment [HH4]: State law and USM policy require that institutions pursue agreements with local law enforcement units and local rape crisis program(s).

See:
<http://mgaleg.maryland.gov/2015RS/bills/hb/hb0571e.pdf>
<http://www.usmd.edu/regents/bylaws/SectionVI/VI160.pdf>

~~will ensure that the terms of any MOU allow SU to meet its legal obligations with any law enforcement agency complies with Title IX and clearly states when an institution will refer a matter to a local law enforcement agency. Any SU MOU with rape crisis or sexual assault programs will formalize a commitment to provide trauma-informed services to victims of sexual assault and to improve the institution's overall response to sexual assault.~~

C. Campus Sexual Assault Climate Survey

~~On or before March 1, 2016, and at least every two (2) years thereafter, SU shall: (1) develop an appropriate Sexual Assault campus climate survey using nationally recognized best practices for research and climate surveys; and (2) administer the Sexual Assault campus climate survey to students in accordance with the procedures set by the Maryland Higher Education Commission (MHEC) and in accordance with USM requirements and requirements set forth in Md. Code Annotated, Education Article, Section 11-601(g).~~

Comment [HH5]: State law and USM policy require that institutions implement campus climate surveys on or before 3/1/16, and regularly thereafter.

See:
<http://mgaleg.maryland.gov/2015RS/bills/hb/hb0571e.pdf>
<http://www.usmd.edu/regents/bylaws/SectionVI/VI160.pdf>

X. Record Keeping

A. SU will keep records of Sexual Misconduct Proceedings

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

B. Training Programs

~~The University will maintain, but not limited to records of trainings, to include a listany: (1) complaints/reports of Sexual Misconduct; (2) investigation, adjudication and resolution of complaints; (3) training (including, but not limited to, lists of trainees, dates of training, and training dates and content); and (4) related surveys and reports. All records shall be kept in accordance with Salisbury University's Records Retention Schedule.~~

Comment [HH6]: State law and USM policy expand record keeping and data reporting obligations.

See:
<http://mgaleg.maryland.gov/2015RS/bills/hb/hb0571e.pdf>
<http://www.usmd.edu/regents/bylaws/SectionVI/VI160.pdf>

XI. External Reporting Options & Obligations

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

A. Criminal Reporting

Because Sexual Misconduct may constitute both a violation of SU policy and a crime, SU encourages persons to report incidents of Sexual Misconduct to the campus police or

other appropriate law enforcement agencies. SU will comply with its legal and policy obligations to report criminal Sexual Misconduct and child abuse and neglect. See Board of Regents Policy on the Reporting of Suspected Child Abuse and Neglect, V-1.50.

B. Clery Act

SU will continue to report instances of Sexual Misconduct in accordance with the Crime Awareness and Campus Security Act of 1990 (“Clery Act”) and its amendments.

C. Employees

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

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

D. Students

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

E. Related Policies:

1. USM Non-Discrimination Policy VI-1.05
2. USM Policy on Violence and Extremism VI-1.10
3. USM Policy on the Reporting of Suspected Child Abuse and Neglect VI-1.50
4. USM Policy on Sexual Misconduct VI- 1.60.

5. SU Code of Conduct and Employee Manuals
6. Employee Policies and Procedures
7. Discrimination and Sexual Misconduct Grievance Procedures for Complaints Against Students
8. Salisbury University Procedures for Investigating and Adjudicating Complaints of Sexual Misconduct and Other Sex and Gender-Based Discrimination Against Non-Students

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