

VI - 1.40 BOWIE STATE UNIVERSITY POLICY ON EQUAL OPPORTUNITY, HARASSMENT, AND NONDISCRIMINATION FOR ALL FACULTY, STUDENTS, EMPLOYEES, AND THIRD PARTIES (Hereinafter, “the Policy”)¹

I. PURPOSE

Bowie State University is committed to providing an educational and employment environment that is free from Discrimination based on Protected Characteristics, Harassment, and Retaliation for engaging in protected activity.

Bowie State University values and upholds the equal dignity of all members of its community and strives to balance the rights of the Parties in the resolution process during what is often a difficult time for all involved.

To ensure compliance with federal, state, and local civil rights laws and regulations, and to affirm its commitment to promoting the goal of fairness in all aspects of the Education Program or Activity, Bowie State University has developed policies and procedures that provide a prompt, equitable, and impartial resolution of allegations of Protected Characteristic Discrimination, Harassment, or Retaliation.

II. SCOPE

The Policy applies to all Employees, Students, and other individuals participating in or attempting to participate in the Bowie State University’s Education Program or Activities, including education and employment.

The Policy prohibits all forms of Discrimination on the basis of the Protected Characteristic(s), and may be applied to incidents, to patterns, and/or to the institutional culture/climate, all of which may be addressed in accordance with the Policy.

III. DEFINITIONS

The following definitions apply to the Nondiscrimination Policies and Procedures:

- **Advisor.** Any person chosen by a party, or appointed by the institution, who may accompany the party to all meetings related to a resolution process, advise the party on that process, and conduct questioning for the party at the hearing, if any.
- **Administrator.** The person with primary responsibility for overseeing and enforcing the Nondiscrimination Policy and Procedures. As used throughout the Policy and procedures, the “Administrator” also includes their designee(s).

¹ Based on the ATIXA 2020 One Policy, Two Procedures (1P2P) Model. © 2025 ATIXA. Used with permission.

- **Appeal Decision-maker.** The person or panel who accepts or rejects a submitted appeal request determines whether any of the appeal grounds are met and directs responsive action(s) accordingly.
- **Complainant.** An individual who has allegedly been subjected to conduct that could constitute Discrimination, Harassment, Retaliation, or Other Prohibited Conduct under the Policy.
- **Confidential Resource.** An Employee who is not a Mandated Reporter of Notice of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct under the Policy (irrespective of Clery Act Campus Security Authority status).
- **Day.** A business day when Bowie State University is in normal operation. All references to days in the Policy refer to business days unless specifically noted as calendar days.
- **Decision-maker.** The person or panel who reviews evidence, determines relevance, and makes the Final Determination of whether the alleged conduct has violated the Policy and/or assigns sanctions.
- **Directly Related Evidence.** Evidence connected to the allegations, but which is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation), and which cannot be relied upon by the Decision-maker.
- **Education Program or Activity.** Locations, events, or circumstances in which Bowie State University exercises substantial control over both the Respondent and the context in which the Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct occurs. It also includes any building owned or controlled by a student organization that Bowie State University officially recognizes.
- **Employee.** A person, including Faculty, employed by Bowie State University, either full- or part-time, including Student-Employees when acting within the scope of their employment
- **Faculty.** Any member of the Bowie State University community who is responsible for academic activities, teaching, research, or the academic evaluation of Students.
- **Final Determination.** A conclusion by the standard of evidence that the alleged conduct did or did not violate the Policy.
- **Finding.** A conclusion by the standard of evidence that the conduct did or did not occur as alleged (as in a “finding of fact”).
- **Formal Complaint.** A document submitted or signed by a Complainant or signed by the Administrator alleging a Respondent engaged in Discrimination, Harassment, Retaliation, and/or Prohibited Conduct under the Policy and requesting that Bowie State University investigate the allegation(s).
- **Formal Grievance Process.** “Process A,” Bowie State University’s method of formal resolution to address Title IX Sexual Harassment allegations, which complies with the

requirements of the Title IX regulations (34 C.F.R. § 106.45) and the Violence Against Women Act amendments to the Clery Act (34 C.F.R. § 668). See “Process B” for information on the Administrative Resolution Process that Bowie State University may use to resolve complaints in certain situations.

- **Informal Resolution.** A Resolution the Parties agree to, and the Administrator approves, which occurs prior to a Final Determination.
- **Investigation Report.** The Investigator’s written summary of all Relevant Evidence gathered during the investigation. Versions include the Draft Investigation Report and the Final Investigation Report.
- **Investigator.** The person(s) Bowie State University authorizes to gather facts about an alleged violation of the Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigation Report of Relevant Evidence and a file of Directly Related Evidence.
- **Mandated Reporter.** A Bowie State University Employee who is obligated by Policy to share knowledge, Notice, and/or reports of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct with the Administrator.²
- **Nondiscrimination Team.** The Administrator, any deputy coordinators, and any member of the Resolution Process Pool.
- **Notice.** When an Employee, Student, or third party informs the Administrator or other Official with Authority of the alleged occurrence of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.
- **Official with Authority (OWA).** A Bowie State University Employee who has the responsibility to implement responsive measures for Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct on Bowie State University’s behalf.
- **Parties.** The collective term for the Complainant(s) and Respondent(s) involved in a complaint.
- **Pattern.** Allegations or evidence that one person has engaged in two or more substantially similar actions toward one or more targets, wherein the proof of one action is likely to increase the proof/likelihood of the other(s).
- **Process A.** The Formal Grievance Process is detailed in the procedures and defined [above](#).
- **Process B.** The Administrative Resolution Process only applies when Process A does not, as determined by the Administrator.

² Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of individuals with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility under the Policy.

- **Protected Characteristic.** Any characteristic for which a person is afforded protection against Discrimination and Harassment by law or Bowie State University policy.
- **Reasonable Person.** A reasonable person under similar circumstances and with similar identities to the Complainant.
- **Relevant Evidence.** Evidence that tends to prove or disprove any element of an offense or any issue materials to resolving a complaint.
- **Remedies.** Typically, post-Resolution actions are directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence of behaviors prohibited by the Policy, and restore access to Bowie State University's Education Program or Activity.
- **Resolution.** The result of an Informal Resolution, Formal Grievance Process, or Administrative Resolution Process.
- **Respondent.** A person who is alleged to have engaged in conduct that could constitute Discrimination based on a Protected Characteristic, Harassment, or Retaliation for engaging in a protected activity under the Policy, or Other Prohibited Conduct.
- **Sanction.** A consequence imposed on a Respondent who is found to have violated the Policy.
- **Student.** Any individual who has accepted an offer of admission, or who is registered for or enrolled in for-credit or non-credit-bearing coursework, and who maintains an ongoing educational relationship with Bowie State University, even if not currently taking classes.
- **Title IX Coordinator.** At least one official designated by Bowie State University to ensure compliance with Title IX and Bowie State University's Title IX program. References to the Title IX Coordinator throughout the Policy may also encompass a Coordinator's designee for specific tasks.
- **Title IX Team.** The Title IX Coordinator, any deputy coordinators, and any member of the Resolution Process Pool.
- **Title VI Coordinator.** At least one official designated by Bowie State University to ensure compliance with Title VI and Bowie State University's Title VI program. References to the Title VI Coordinator throughout the Policy may also encompass a Coordinator's designee for specific tasks.

IV. COMPLIANCE

Nondiscrimination Team Contacts

Bowie State University has appointed the Nondiscrimination Team, comprised of the following individual(s), to coordinate Bowie State University's compliance with federal, state, and local civil rights laws and ordinances:

For Discrimination and Harassment allegations (including sex discrimination and sex-based harassment):

Jasmyn A. Lucas

Assistant Director of the Office of Equity Compliance and Title IX Coordinator

Office of Equity Compliance

Thurgood Marshall Library, Suite 247

14000 Jericho Park Road

Bowie, MD 20715

301-860-4511

jlucas@bowiestate.edu

eeo@bowiestate.edu/jlucas@bowiestate.edu

TitleIXCoordinator@bowiestate.edu (for sex discrimination and sex-based harassment)

<https://bowiestate.edu/about/administration-and-governance/legal-and-government-affairs/office-of-equity-compliance/>

For disability-based allegations:

Adonna Green, MBA, Esq.

Director

Office of Equity Compliance

Thurgood Marshall Library, Suite 247

14000 Jericho Park Road

301-860-3442

agreen@bowiestate.edu

<https://bowiestate.edu/about/administration-and-governance/legal-and-government-affairs/office-of-equity-compliance/>

Additional Nondiscrimination Team Members:

Jasmine Johnson, J.D.

Deputy Title IX Coordinator

Office of Equity Compliance

Thurgood Marshall Library, Suite 247

injohnson@bowiestate.edu

TitleIXCoordinator@bowiestate.edu

Julia Peterson
Administrative Assistant
Office of Equity Compliance
Thurgood Marshall Library, Suite 247
jmesquitapeterson@bowiestate.edu

Collectively, these individuals are responsible for providing comprehensive nondiscrimination education and training; coordinating Bowie State University's timely, thorough, and fair response; investigation and resolution of all alleged prohibited conduct under the Policy; and monitoring the effectiveness of, and any barriers to, accessing the Policy and related procedures to ensure an education and employment environment free from Discrimination, Harassment, and Retaliation.

Bowie State University has determined that the following administrators are Officials with Authority (OWAs) to address and correct Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct. In addition to the Nondiscrimination Team members listed above, these OWAs may also accept Notice or Formal Complaints on behalf of Bowie State University.

OFFICIALS WITH AUTHORITY TO INSTITUTE CORRECTIVE MEASURES:

University President
301-860-3555
President@bowiestate.edu
Administration Building, Room 2000

Title IX Coordinator
301-860-4511
TitleIXCoordinator@bowiestate.edu
Thurgood Marshall Library, Suite 247

Director of Student Conduct and Community Standards
301-860-3394
StudentConduct@bowiestate.edu
Administration Building, Room 2400

Vice President of Student Affairs
301-860-4406
bcllemmons@bowiestate.edu
Administration Building, Room 2600

Provost and Vice President of Academic Affairs
301-860-3464
Provost@bowiestate.edu
Administration Building, Room 2200

Vice President of Athletics
301-860-3559
cdoughty@bowiestate.edu
Physical Education Complex, Room 118

General Counsel
301-860-3503
GeneralCounsel@bowiestate.edu
Administration Building, Room 2300

Bowie State University recognizes that allegations under the Policy may include multiple forms of Discrimination, Harassment, and Retaliation as well as violations of other Bowie State University policies; may involve various combinations of Students, Employees, and other members of the Bowie State University community; and may require the simultaneous attention of multiple Bowie State University departments. Accordingly, all Bowie State University departments will share information, combine efforts, and otherwise collaborate, to the maximum extent permitted by law and consistent with other applicable Bowie State University policies, to provide uniform, consistent, efficient, and effective responses to alleged Discrimination, Harassment, or Retaliation.

External Contact Information

Concerns about Bowie State University's application of the Policy and compliance with certain federal civil rights laws may be addressed to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline: (800) 421-3481
Facsimile: (202) 453-6012
TDD: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

OCR District Office
Philadelphia Office
Office for Civil Rights
U.S. Department of Education
The Wanamaker Building
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Telephone: 215-656-8541
FAX: 215-656-8605; TDD: 800-877-8339

Email: OCR.Philadelphia@ed.gov

EEOC Field Office (for employee-on-employee conduct)

GH Fallon Federal Building

31 Hopkins Plaza, Suite 1432

Baltimore, MD 21201

Telephone: 1-800-669-4000/ 410-801-6685

Fax: 443-992-7880

TTY: 1-800-669-6820

ASL Video Phone: 844-234-5122

Email: BFOContact@eeoc.gov

Maryland Commission on Civil Rights

William Donald Schaefer Tower

6 Saint Paul Street, Suite 900

Baltimore, MD 21202-1631

Phone: 410-767-8600

Toll Free: 1-800-637-6247

Maryland Relay 7-1-1

Fax: 410-333-1841

Fair Housing and Equal Opportunity (FHEO)

Philadelphia Regional Field Office of FHEO

U.S. Department of Housing and Urban Development

The Strawbridge Building

801 Market Street, 12th Floor

Philadelphia, PA 19107

215-861-7646

800-669-9777

V. SEXUAL HARASSMENT, SEXUAL MISCONDUCT AND DISCRIMINATION

A. Notice of Nondiscrimination

Bowie State University seeks to comply with all federal, state, and local laws, regulations, and ordinances prohibiting Discrimination in public post-secondary education institutions.

Bowie State University does not discriminate against any Employee, applicant for employment, Student, or applicant for admission on the basis of:

- Age
- Citizenship status
- Color
- Creed

- Disability (physical or mental)
- Domestic violence victim status
- Ethnicity and ethnic characteristics
- Family responsibilities
- Gender identity/expression³
- Genetic information (including family medical history)
- Height
- Marital status
- National origin (including shared ancestry)
- Place of business
- Political belief or affiliation
- Pregnancy or related conditions
- Race
- Religion
- Residence
- Sex (including sex characteristics and sex stereotypes)
- Sexual orientation⁴
- Source of income/social class status
- Veteran or military status (including disabled veteran, recently separated veteran, active-duty, wartime, or campaign badge veteran, and Armed Forces Service Medal veteran)
- Weight, hairstyle, or other similar aspect of appearance
- or any other Protected Characteristic under applicable federal, state, or local law, including protections for those opposing Discrimination or participating in any resolution process within the institution, with the Equal Employment Opportunity Commission, and/or other human/civil rights agency

The Policy covers nondiscrimination in both access to educational opportunities and employment. Therefore, any member of the Bowie State University community whose acts deny, deprive, or limit the educational or employment, residential and/or social access, benefits, and/or opportunities of any member of the Bowie State University community, guest, or visitor on the basis of that person's actual or perceived Protected Characteristic(s) listed above, is in violation of the Policy.

Bowie State University will promptly and effectively address any such Discrimination of which it has Notice using the applicable resolution process.

³ Complaints of Harassment or Discrimination on the basis of this Protected Characteristic may be addressed as collateral misconduct under Process A or under Process B.

⁴ Complaints of Harassment or Discrimination on the basis of this Protected Characteristic may be addressed as collateral misconduct under Process A or under Process B.

B. Mandated Reporting and Confidential Resources

All Bowie State University Faculty and Employees (including Student-Employees), other than those deemed Confidential Employees, are Mandated Reporters and are expected to promptly report all known details of actual or suspected Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct to appropriate officials immediately, although there are some limited exceptions.⁵ Supportive measures may be offered as a result of such disclosures without formal Bowie State University action, if appropriate.

Complainants, especially those who wish to remain anonymous, may want to carefully consider whether they share personally identifiable details with Mandated Reporters, as those details must be shared with the Administrator.

If a Complainant expects formal action in response to their allegations, making a disclosure to any Mandated Reporter can connect them with resources to report alleged crimes and/or Policy violations, and these Employees will immediately pass all known information to the Administrator (and/or police, if desired by the Complainant or required by law), who will act when an incident is reported to them.

Failure of a Mandated Reporter, as described above, to report an incident of Discrimination, Harassment, Retaliation, or Other Prohibited Conduct of which they become aware is a violation of Bowie State University policy and can be subject to disciplinary action for failure to comply/failure to report. This also includes situations in which a Respondent is a Mandated Reporter. Such individuals are obligated to report their own misconduct, and failure to do so is a chargeable offense under the Policy.

A Mandated Reporter who is themselves a target of Discrimination, Harassment, Retaliation, or Other Prohibited Conduct under the Policy is not required to report their own experience, though they are encouraged to do so.

The following sections describe the available reporting options for a Complainant or third party (including parents/guardians when appropriate):

a. Confidential Resources

To enable Complainants to access support and resources without filing a Formal Complaint, Bowie State University has designated specific employees as Confidential Resources. Those designated by Bowie State University as Confidential Resources are not required to report actual or suspected Discrimination, Harassment, Retaliation, or Other Prohibited Conduct in a way that identifies the Parties. They will, however,

⁵ Public awareness events such as “Take Back the Night” or other forums at which individuals disclose experiences with Sexual Harassment are not considered notice to Bowie State University for the purpose of triggering an individual investigation unless the individual initiates a complaint.

provide the Complainant with the Administrator's contact information and offer options and resources without any obligation to inform an outside agency or Bowie State University official unless a Complainant has requested the information be shared.

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with the following:

- Counselors and Staff in Counseling Services (when serving in their designated role)
- Medical Staff in the Henry Wise Wellness Center
- Sexual Assault Health Educator
- Director of International Student Services
- Director of the LGBTQ Resource Center
- Student Victim Advocate

Institutional counselors or the Employee Assistance Program are available to help free of charge and may be consulted on an emergency basis during normal business hours.

In addition, Complainants may speak with individuals unaffiliated with Bowie State University without concern that Policy will require them to disclose information to the institution without the Complainant's permission. Such individuals include:

- Licensed professional counselors and other medical providers
- Local rape crisis counselors
- Domestic Violence resources
- Local or state assistance agencies
- Clergy/Chaplains
- Attorneys

b. Anonymous Notice to Mandated Reporters

At the request of a Complainant, a Mandated Reporter may give the Administrator Notice without identifying the Complainant. The Mandated Reporter cannot remain anonymous themselves.

If a Complainant has requested that a Mandated Reporter maintain the Complainant's anonymity, the Mandated Reporter may do so unless it is reasonable to believe that a compelling threat to health or safety could exist. The Mandated Reporter can consult with the Administrator on that assessment without revealing personally identifiable information.

Anonymous Notice will be investigated by Bowie State University to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies can be provided. However, an anonymous Notice typically limits Bowie State University's ability to investigate, respond, and provide remedies, depending on what information is shared.

When a Complainant has made a request for anonymity, the Complainant's personally identifiable information may be withheld by a Mandated Reporter, but all other details must be shared with the Administrator. Mandated reporters may not be able to maintain requests for anonymity for Complainants who are minors, elderly, and/or disabled, depending on state reporting of abuse requirements. Consult with the Administrator in such situations.

C. Disability-Based Complaints

Complaints related to disability status and/or provision of accommodations are addressed using the procedures described in this document unless otherwise noted within alternate Bowie State University policies (i.e., the process to request education accommodations through Disability Student Services (DSS)).

For details relating to disability accommodations in Bowie State University's resolution process, see https://bowiestate.edu/about/administration-and-governance/legal-and-government-affairs/office-of-equity-compliance/americans-with-disabilities-act/eo_reasonable-accommodations-plan-and-procedures.pdf

D. Jurisdiction

The Policy applies to Bowie State University's Education Program and Activities, to conduct that takes place on property owned or controlled by Bowie State University, at Bowie State University-sponsored events, and in any building owned or controlled by a Bowie State University-recognized student organization.⁶

The Policy may also apply to the effects of off-campus misconduct that limit or deny a person's access to Bowie State University's Education Program or Activities. Bowie State University may also extend jurisdiction to off-campus and/or to online conduct when the conduct affects a substantial Bowie State University interest.

A substantial Bowie State University interest includes:

- 1) Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeated violations of any federal, state, or local law
- 2) Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any Student, Employee, or other individual
- 3) Any situation that significantly impinges upon the rights, property, or achievements of others, significantly breaches the peace, and/or causes social disorder
- 4) Any situation that substantially interferes with Bowie State University's educational interests or mission

⁶ Education Program and Activity includes Bowie State University's Employees' work environment.

For disciplinary action to be issued for Title IX Sexual Harassment under the Policy, the Respondent must be a Bowie State University Student or Employee at the time of the Formal Complaint. For allegations other than Title IX Sexual Harassment, Bowie State University may issue disciplinary action under the Policy if the Respondent was a Bowie State University Student or Employee at the time of the alleged misconduct. If the Respondent is unknown or is not a member of the Bowie State University community, the Administrator will offer to assist the Complainant in identifying appropriate institutional and local resources and support options and will implement appropriate supportive measures and/or remedial actions (e.g., trespassing a person from campus). Bowie State University can also assist in contacting local or institutional law enforcement if the individual would like to file a police report about criminal conduct.

All vendors serving Bowie State University through third-party contracts are subject to the policies and procedures of their employers.

When a party is participating in a dual enrollment program, Bowie State University will coordinate with the party's home institution to determine jurisdiction and coordinate providing supportive measures and responding to the Notice under the appropriate policy and procedures based on the allegations and identities of the Parties.

When the Respondent is enrolled in or employed by another institution, the Administrator can assist the Complainant in contacting the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies.

Similarly, the Administrator may be able to assist and support a Student or Employee Complainant who experiences Discrimination in an externship, study abroad program, or other environment external to Bowie State University where Sexual Harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse. If there are effects of that external conduct that impact a Complainant's education or employment environment, those effects can often be addressed remedially by the Administrator if brought to their attention.

E. Supportive Measures

Bowie State University will offer and implement appropriate and reasonable supportive measures to the Parties upon Notice of alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct. Supportive measures are non-disciplinary, non-punitive, individualized services offered as appropriate and as reasonably available. They are offered, without fee or charge to the Parties, to restore or preserve access to Bowie State University's Education Program or Activity, including measures designed to protect the safety of all Parties and/or the Bowie State University's educational environment and/or to deter Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

The Administrator promptly makes supportive measures available to the Parties upon receiving Notice or a Formal Complaint. At the time that supportive measures are offered, if a Formal Complaint has not been filed, Bowie State University will inform the Complainant, in writing, that they may file a Formal Complaint with Bowie State University either at that time or in the future. The Administrator will work with a party to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

Supportive measures may be available upon Notice, even if the reported behavior may be protected free expression, occurred outside of the Recipient's jurisdiction, or for any other reason is not subject to Bowie State University's grievance procedures. Supportive measures may be available to other Students or Employees who are not the Complainant, depending on the nature of the allegations and their impact.

Bowie State University will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair Bowie State University's ability to provide those supportive measures. Bowie State University will act to ensure as minimal an academic/occupational impact on the Parties as possible. Bowie State University will implement measures in a way that does not unreasonably burden another party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for Employees or Student-employees
- Safety planning
- Implementing contact limitations (e.g., no contact orders) between the Parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Administrator

Violations of no contact orders or other restrictions may be referred to appropriate Student or Employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing resolution process under the Policy.

F. Online Harassment and Misconduct

Bowie State University policies are written and interpreted broadly to include online and/or electronic manifestations of any of the prohibited behaviors below, when those behaviors occur in or have an effect on Bowie State University's Education Program or Activities, or when they involve the use of Bowie State University networks, technology, or equipment.

Although Bowie State University may not control websites, social media, and other venues through which harassing communications are made, when such communications are reported to Bowie State University, Bowie State University will engage in appropriate means to address and mitigate the effects.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites; sharing inappropriate content via social media; unwelcome sexual or Sex-based messaging; distributing, or threatening to distribute, nude or semi-nude photos or recordings; breaches of privacy; or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the Bowie State University community.

VI. PROHIBITED CONDUCT

Students and Employees are entitled to an education and employment environment that is free of Discrimination, Harassment, and Retaliation. The Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive, subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited Discrimination, Harassment, and Retaliation that are also prohibited under Bowie State University policy. When speech or conduct is protected by academic freedom or the First Amendment, it will not be considered a violation of Bowie State University policy, though supportive measures will be offered to those impacted, and will implement remedies addressing the larger community, as appropriate.

All offense definitions encompass actual and/or attempted offenses.

Any of the following offenses can be charged as or combined as pattern offenses, in which case the Notice of Investigation and Allegation (NOIA) will clearly indicate that both individual incidents and a pattern of conduct are being investigated. A pattern may be alleged when there is a potential substantial similarity between incidents in which the proof of one could make it more likely that the other(s) occurred, and vice versa. Patterns may exist based on target selection, behavior similarity, or other factors. Pattern-based evidence can offer corroboration of an allegation, and where a pattern is charged and found, it can be the basis to enhance sanctions accordingly.

Violation of any other Bowie State University policies may constitute Discrimination or Harassment when motivated by actual or perceived Protected Characteristic(s), and the result is a limitation or denial of education or employment access, benefits, or opportunities.

a. Discrimination

Discrimination is different treatment with respect to a person's employment or participation in an Education Program or Activity based, in whole or in part, upon the person's actual or perceived Protected Characteristic(s). Discrimination also includes allegations of a failure to provide reasonable accommodations as required by law or policy, such as for disability, religion, or creed.

Discrimination can take two primary forms:

1) Disparate Treatment Discrimination:

- Any intentional differential treatment of a person or persons that is based on a person's actual or perceived Protected Characteristic(s) and that:
 - Excludes a person from participation in;
 - Denies the person benefits of; or
 - Otherwise adversely affects a term or condition of a person's participation in a Recipient program or activity.

2) Disparate Impact Discrimination:

- Disparate impact occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on a protected group or person that:
 - Excludes a person from participation in;
 - Denies the person benefits of; or
 - Otherwise adversely affects a term or condition of a person's participation in a Recipient program or activity.

b. Discriminatory Harassment

- Unwelcome conduct
- based on Protected Characteristics(s)
- that, based on the totality of the circumstances,
- is sufficiently severe,
- pervasive, or
- persistent,
- that it interferes with or limits a person's ability to participate or benefit from the Recipient's services, activities, or privileges, and is
- subjectively and objectively offensive

c. Sexual Harassment

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Maryland regard Sexual Harassment, a specific form of Discriminatory Harassment, as an unlawful discriminatory practice.

Acts of Sexual Harassment may be committed by any person upon any other person, regardless of the Sex, sexual orientation, and/or gender identity of those involved.

Bowie State University has adopted the following definitions of Sexual Harassment in order to address the unique environment of an academic community. Two definitions are required by federal law. While they overlap, they are not identical, and they each apply as noted.

- 1) **Title VII/FHA Sexual Harassment** applies to situations where an Employee is subjected to workplace Sexual Harassment or where a situation involves a residential Complainant in Bowie State University-provided housing.
 - Unwelcome verbal, written, graphic, and/or physical conduct;
 - that is severe or pervasive and objectively offensive;
 - on the basis of Sex, that
 - unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.

Title IX Sexual Harassment, as an umbrella category, includes the offenses of Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking. This definition applies to all Formal Complaints that fall within Title IX jurisdiction as determined by the Administrator. Sexual Harassment includes:

Conduct on the basis of Sex, or that is sexual in nature, that satisfies one or more of the following:

- 1) **Quid Pro Quo:**
 - An Employee of Bowie State University,
 - conditions⁷ the provision of an aid, benefit, or service of Bowie State University,
 - on an individual's participation in unwelcome sexual conduct.

⁷ Implicitly or explicitly.

2) Sexual Harassment (Hostile Environment):

- Unwelcome conduct,
- determined by a Reasonable Person,
- to be so severe, and
- pervasive, and,
- objectively offensive,
- that it effectively denies a Complainant equal access to Bowie State University's program or activity.⁸

3) Sexual Assault:

a. Rape:

- Penetration, no matter how slight,
- of the vagina or anus of a person,
- with any body part or object, or
- oral penetration
 - of a sex organ of the Complainant, or
 - by the Respondent's sex organ,
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent because of their age or because of a temporary or permanent mental or physical incapacity.

b. Fondling:⁹

- The intentional touching of the clothed or unclothed genitals, buttocks, groin, breasts, or other body parts of the Complainant by the Respondent,
 - without the consent of the Complainant,
 - for the purpose of sexual degradation, sexual gratification, or sexual humiliation

⁸ Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent), though a Decision-maker may consider compelling evidence that rebuts an assertion of unwelcomeness. Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a Reasonable Person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

⁹ Contact with private body parts is considered to be done for the purpose of sexual degradation, sexual gratification, or sexual humiliation unless: (1) the contact can be proven inadvertent; (2) the contact is for a legitimate medical (or other privileged) purpose and thus is conduct for which consent should have been sought and obtained by the provider; (3) the contact involves a Respondent who is pre-sexual, based on maturity/age (thus their intent is not sexual); (4) the contact involves a Respondent who cannot developmentally understand sexual contact or that their contact is sexual; or (5) The contact is something like butt-slapping on a team and is both minimal and unlikely to have sexual motivation or purpose, as shown by the context of the act(s).

- Or, the intentional touching by the Complainant of the Respondent's clothed or unclothed genitals, buttocks, groin, breasts, or other body parts,
 - without the consent of the Complainant,
 - for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
 - c. **Incest:**
 - Sexual intercourse,
 - between persons who are related to each other,
 - within the degrees wherein marriage is prohibited by Maryland law.
 - d. **Statutory Rape:**
 - Sexual intercourse,
 - with a person who is under the statutory age of consent of 16 years old.
- 4) **Dating Violence:**
- Violence,¹⁰
 - committed by a Respondent,
 - who is in 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 the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
 - Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse

¹⁰ For purposes of the Policy, violence includes situations where the Respondent intentionally or recklessly causes the Complainant serious physical, emotional, or psychological harm.

- Intent is evidenced when a Reasonable Person would be more likely to act with the purpose of causing serious harm rather than for any other reason
- Recklessness is evidenced by a disregard of obvious risk to the safety of the Complainant
- Legitimate use of violence for self-defense is not chargeable under the Policy because the purpose is safety, not harm. It may also be used as a defense if it is not clear at the time of charging whether the use of violence was for self-defense or not. Self-defense is only to be considered if it is prompted by physical violence or the threat thereof.
- Consensual use of violence, such as in kink relationships, would also not meet this definition in most circumstances
- Threats to seriously harm the Complainant or people they care about may be chargeable under this definition if doing so causes serious emotional or psychological harm
- Threats to harm oneself, even if made to cause emotional or psychological harm, are not considered violence under this definition (but may be addressable under the Code of Student Conduct)

- Dating Violence does not include acts covered under the definition of Domestic Violence

5) **Domestic Violence:**¹¹

- Violence,¹²
- committed by a Respondent who is a current or former spouse or intimate partner of the Complainant,
- by a person with whom the Complainant shares a child in common, or
- by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Maryland or
- by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Maryland.

6) **Stalking:**

- A Respondent engaging in a course of conduct,
- on the basis of Sex,
- directed at the Complainant, that
 - would cause a Reasonable Person to fear for the person's safety, or the safety of others; or
 - Suffer substantial emotional distress.

For the purposes of this definition—

- Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling

a. Sexual Misconduct

1) **Sexual Exploitation:**

- Any person taking non-consensual or abusive sexual advantage of another, that does not constitute Sexual Harassment as defined above,

¹¹ To categorize an incident as Domestic Violence under the Policy, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

¹² As defined in the footnote for Dating Violence.

- for their own benefit or for the benefit of anyone other than the person being exploited.

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Distributing (e.g., Airdropping, Snapchatting, displaying on a device for others to see) Authentic or Synthetic Non-Consensual Intimate Imagery (NCII)^{13,14}
- Invasion of sexual privacy (e.g., doxxing)
- Knowingly making an unwelcome disclosure of (or threatening to disclose) an individual's sexual orientation, gender identity, or gender expression
- Taking pictures, video, or audio recording of another person in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity; or disseminating sexual pictures without the photographed person's consent)
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking
- Knowingly creating, possessing, or disseminating child sexual abuse images or recordings

¹³ Authentic Non-Consensual Intimate Imagery includes authentic (i.e., real) sexually explicit, nude, or intimate videos, photos, or audio recordings of an individual distributed without the consent of the individual depicted.

¹⁴ Synthetic Non-Consensual Intimate Imagery includes videos, photos, or audio representations of an individual that have been digitally manipulated (i.e., faked) to depict an individual in a sexually explicit, nude, or intimate manner or saying sexual or explicit words/statements and distributed without the consent of the individual depicted. Synthetic NCII depicts sexually related actions or behaviors that never happened, or places identifiable individuals in pornographic, nude, or sexual situations without their consent.

- Creating or disseminating synthetic media, including images, videos, or audio representations of individuals doing or saying sexually related things that never happened, or placing identifiable real people in fictitious pornographic or nude situations without their consent (i.e., Deepfakes)

2) Maryland State Sexual Harassment:

- Unwelcome sexual conduct when
 - Submission to such conduct is made either explicitly or implicitly a term or condition of the Complainant's employment, evaluation of academic work, or participation in Bowie State University's Educational Program or Activity; or
 - 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 the Complainant; or
 - Based on the totality of the circumstances, the conduct unreasonably creates a working environment that a reasonable person would perceive to be abusive or hostile.

b. Other Prohibited Conduct (when motivated by the Complainant's Protected Characteristic(s)/status)

1) Bullying:

- Repeated and/or severe aggressive behavior
- that is likely to intimidate or intentionally hurt, control, or physically or mentally diminish the Complainant,
- that is not speech or conduct that is otherwise protected by the First Amendment.

2) Endangerment:

- Threatening or causing physical harm;
- extreme verbal, emotional, or psychological abuse; or
- other conduct which threatens or endangers the health or safety of any person or damages their property.

3) Retaliation

- Bowie State University or any member of Bowie State University's community,
- taking or attempting to take materially adverse action,
- by intimidating, threatening, coercing, harassing, or discriminating against any individual,
- for the purpose of interfering with any right or privilege secured by law or Policy, or

- because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Policy and associated procedures.

The exercise of rights protected under the First Amendment does not constitute Retaliation. It is also not Retaliation for Bowie State University to pursue disciplinary action against those who make materially false statements in bad faith in the course of a resolution process under the Policy. However, the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

4) Failure to Comply/Process Interference

- Intentional failure to comply with the reasonable directives of the Administrator in the performance of their official duties, including with the terms of a no-contact order
- Intentional failure to comply with emergency removal or interim suspension terms
- Intentional failure to comply with sanctions
- Intentional failure to adhere to the terms of an Informal Resolution agreement
- Intentional failure to comply with mandated reporting duties as defined in the Policy
- Intentional interference with a resolution process, including, but not limited to:
 - Destroying or concealing evidence
 - Seeking or encouraging false testimony or providing false testimony or evidence
 - Intimidating or bribing a witness or party

5) Unauthorized Disclosure:¹⁵

- Distributing or otherwise publicizing materials related or produced during an investigation or Resolution Process except as required by law or as expressly permitted by Bowie State University; or
- Publicly disclosing a party's personally identifiable information without authorization or consent.

¹⁵ Nothing in this section restricts the ability of the Parties to obtain and present evidence, including by speaking to witnesses (as long as it does not constitute retaliation under this Policy), consult with their family members, confidential resources or Advisors; or otherwise prepare for or participate in the Resolution Process.

c. Sanction Ranges

The following sanction ranges apply to Prohibited Conduct under the Policy. Sanctions can be assigned outside of the specified ranges based on aggravating or mitigating circumstances, or the Respondent's cumulative disciplinary record.

- **Discrimination:** reprimand/warning through expulsion or termination
- **Discriminatory Harassment:** reprimand/warning through expulsion or termination
- **Title VII/FHA Sexual Harassment:** reprimand/warning through expulsion or termination
- **Quid Pro Quo Harassment:** reprimand/warning through expulsion or termination
- **Sexual Harassment (Hostile Environment):** reprimand/warning through expulsion or termination
- **Rape:** suspension through expulsion or termination
- **Fondling:** reprimand/warning through suspension (termination for Employees).
- **Incest:** reprimand/warning through restrictions/probation
- **Statutory Rape:** reprimand/warning through suspension (termination for employees)
- **Stalking:** restrictions/probation through expulsion or termination
- **Dating/Domestic Violence:** restrictions/probation through expulsion or termination
- **Sexual Exploitation:** reprimand/warning through expulsion or termination
- **Maryland State Sexual Harassment:** reprimand/warning through expulsion or termination
- **Bullying:** reprimand/warning through expulsion or termination
- **Endangerment:** reprimand/warning through expulsion or termination
- **Hazing:** reprimand/warning through expulsion or termination
- **Retaliation:** reprimand/warning through expulsion or termination
- **Unauthorized Disclosure:** reprimand/warning through expulsion or termination
- **Failure to Comply/Process Interference:** reprimand/warning through expulsion or termination

VII. CONSENT, FORCE AND INCAPACITATION

As used in the Policy, the following definitions and understandings apply:

A. Consent:

- knowing, and
- voluntary, and
- clear permission
- by word or action

- to engage in sexual activity.¹⁶

Individuals may perceive and experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual activity. Consent is evaluated from the perspective of what a Reasonable Person would conclude are mutually understandable words or actions. Reasonable reciprocation can be implied consent. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonably immediate time.

Silence or the absence of resistance alone should not be interpreted as consent. Although resistance is not required or necessary, it is a clear demonstration of non-consent.

Consent to some sexual contact (such as kissing or fondling) cannot be assumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected. If a sexual partner shares the clear expectation for the use of a condom, or to avoid internal ejaculation, and those expectations are not honored, the failure to use a condom, removing a condom, or internal ejaculation can be considered acts of Sexual Assault.

Proof of consent or non-consent is not a burden placed on any party involved in a Formal Complaint. Instead, the burden remains on Bowie State University to determine whether its Policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a Reasonable Person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar and previous patterns that may be evidenced.

¹⁶ The state definition of consent is “clear and voluntary agreement by an individual to engage in vaginal intercourse, a sexual act, or sexual contact,” which is applicable to criminal prosecutions for sex offenses in Maryland but may differ from the definition used by Bowie State University to address Policy violations.

Going beyond the boundaries of consent is prohibited. Thus, unless a sexual partner has consented to slapping, hitting, hair pulling, strangulation, or other physical roughness during otherwise consensual sexual activity, those acts may constitute Dating Violence or Sexual Assault.¹⁷

B. Force:

Force is the use of physical violence and/or physical imposition to gain sexual access. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced.

Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” which elicits the response, “Okay, don’t hit me. I’ll do what you want.”).

Coercion is unreasonable pressure for sexual activity. Coercive conduct, if sufficiently severe, can render a person’s consent ineffective because it is not voluntary. When someone makes clear that they do not want to engage in sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Coercion is evaluated based on the frequency, intensity, isolation, and duration of the pressure involved.

C. Incapacitation:

Incapacitation is a state where a person is incapable of giving consent. An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, and how” of their sexual interaction).

A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including as a result of alcohol or other drug consumption.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

Incapacitation is determined through consideration of all relevant indicators of a person’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

If the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated, the Respondent is not in violation of the Policy. “Should have

¹⁷ Consent in relationships must also be considered in context. When Parties consent to BDSM (bondage, discipline, sadism, masochism) or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual.

known” is an objective, Reasonable Person standard that assumes that a Reasonable Person is both sober and exercising sound judgment.

D. Consensual Relationships between Bowie State University Community Members

Faculty who have or can reasonably expect to have Educational or Supervisory Authority over a student are prohibited from dating or engaging in a romantic or sexual relationship with that student. In addition to the inherent power imbalance of such relationships, there is the potential for conflicts of interest, coercion, exploitation, and the perception of favoritism and advantage that can compromise the educational and professional development experiences of all students and the reputation and mission of the University.

Staff who have or can reasonably expect to have Supervisory Authority over a subordinate are prohibited from dating or engaging in a romantic or sexual relationship with that subordinate. In addition to the inherent power imbalance of such relationships, there is the potential for conflicts of interest, coercion, exploitation, and the perception of favoritism and advantage that can compromise the professional development experiences of the department and the reputation and mission of the University.

The University has a policy that explains its expectations and, in the limited instances in which such relationships are not prohibited, notice requirements regarding consensual relationships VII-2.15 Policy on Consensual Relationships. Where a complaint of a violation of the policy is filed and a power differential exists between two individuals in a relationship, a presumption of sexual harassment may follow.

VIII. GENERAL PROCEDURES

For a full description of Bowie State University’s procedures for investigating reports of discrimination, please review the separate Procedural document located on the webpage for the Office of Equity Compliance. The following provides a general overview of the reporting and investigation process.

A. Standard of Evidence

Bowie State University uses the preponderance of the evidence standard of evidence when determining whether a Policy violation occurred. This means that Bowie State University will decide whether it is more likely than not, based upon the available information at the time of the decision, that the Respondent violated the Policy.

B. Notice/Complaints of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct

A report provides Bowie State University Notice of an allegation or concern about Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct and provides an

opportunity for the Administrator to provide information, resources, and supportive measures. A Formal Complaint informs Bowie State University that the Complainant would like to initiate an investigation or other appropriate resolution procedures. A Complainant or individual may initially make a report and may decide later to make a Formal Complaint. An individual other than a Complainant may make a report of Discrimination or Harassment on behalf of another person or group; however, that individual does not become the Complainant. Reports or Formal Complaints of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct may be made using any of the following options:

- 1) File a report or Formal Complaint with, or give verbal Notice to, the Administrator or to any member of the Nondiscrimination Team. Such a report or Formal Complaint may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail, to the office of the Administrator or any other Nondiscrimination Team member listed in the Policy.
- 2) Report online at <https://bowiestate.edu/about/administration-and-governance/legal-and-government-affairs/office-of-equity-compliance/discrimination-in-the-workplace/eo-related-complaint-form.php> for matters that are not sexual harassment or sex-based discrimination. Report online at https://bowiestate-advocate.symplicity.com/titleix_report/index.php/pid066906
- 3) for sexual harassment or sex-based discrimination. Anonymous reports are accepted, but the report may give rise to a need to try to determine the Parties' identities if not provided. Anonymous reports may limit Bowie State University's ability to investigate, respond, and provide remedies, depending upon what information is shared. Measures intended to protect the community, redress, or mitigate harm may be enacted. It also may not be possible to provide supportive measures to unidentified Complainants who are the subject of anonymous reports.

As used in the Policy, the term "Formal Complaint" means a document or electronic submission (such as by electronic mail or through an online portal provided by Bowie State University for this purpose) that contains the Complainant's physical or digital signature or otherwise indicates that the Complainant is the person filing the complaint, and requests that the Bowie State University investigate the allegations. If Notice is submitted in a format that does not meet this standard, the Administrator will contact the Complainant to determine whether the Complainant is requesting that Bowie State University initiate an investigation or other appropriate resolution procedures.¹⁸

Reporting carries no obligation to file a Formal Complaint, and in most situations, Bowie State University is able to respect a Complainant's request not to initiate an investigation or other

¹⁸ As required by federal law, Bowie State University may not initiate a resolution process for allegations of Title IX Sexual Harassment without a Formal Complaint. For all other allegations of prohibited conduct under the Policy, a Formal Complaint is not required, and Bowie State University may initiate its resolution process upon Notice of the alleged misconduct. Notice can be substituted in place of references to a Formal Complaint for allegations other than Title IX Sexual Harassment throughout the Policy.

appropriate resolution procedures. However, there may be circumstances, such as pattern behavior, sexual harassment in the workplace, allegations of severe misconduct, or a compelling threat to health and/or safety, in which Bowie State University may need to initiate an investigation or other appropriate resolution procedures. If a Complainant does not wish to file a Formal Complaint, Bowie State University will maintain the privacy of information to the extent possible. The Complainant should not fear a loss of privacy by submitting a report that allows Bowie State University to discuss and/or provide supportive measures, in most circumstances.

C. Limits on Reporting

There is no time limitation on providing Notice/Formal Complaints to the Administrator. However, if the Respondent is no longer subject to Bowie State University's jurisdiction, and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be limited or impossible.

Acting on Notice/Formal Complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of Policy) is at the Administrator's discretion; they may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

Once a Resolution has been reached, a Complainant may not refile the same complaint.

D. False Allegations and Evidence

Deliberately false and/or malicious accusations under the Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a Policy violation determination. False allegations may be a form of Harassment and/or Retaliation or may fall within other Bowie State University policies.

Witnesses and Parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official conducting an investigation, Informal Resolution, or hearing can be subject to discipline under appropriate Bowie State University policies.

E. Confidentiality/Privacy

Bowie State University makes every effort to preserve the Parties' privacy. Bowie State University will not share the identity of any individual who has made a report of Discrimination, Harassment, Retaliation, or Other Prohibited Conduct; any Complainant; any individual who has been reported to be the perpetrator of Discrimination, Harassment, Retaliation, or Other Prohibited Conduct; any Respondent; or any witness, except as permitted by, or to fulfill the purposes, of applicable laws and regulations (e.g., Title IX), the Family Educational Rights and

Privacy Act (FERPA) and its implementing regulations, or as required by law; including any investigation or resolution proceeding arising under these policies and procedures.^{19,20}

Further, Parties and Advisors are expected to maintain the confidentiality of all information created by or shared with them by Bowie State University during any investigation and/or resolution process. Parties are entitled to share their own accounts and experiences, but are encouraged to consider the sensitivity of the matter if they do so, and should consult with their Advisors on any potential implications of doing so.

F. Emergency Removal/Interim Actions/Leaves

Bowie State University can act to remove a Student Respondent accused of Title IX Sexual Harassment from its Education Program or Activities, partially or entirely, on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any Student or other individual justifies removal. This risk analysis is performed by the Administrator and may be done in conjunction with the Behavioral Assessment Team using its standard objective violence risk assessment procedures. Students accused of other forms of Discrimination, Harassment, or Other Prohibited Conduct (not Sex-based) are subject to interim suspension, which can be imposed for safety reasons.

Employees are subject to existing procedures for interim actions and leaves.

G. Federal Timely Warning Obligations

Bowie State University must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the Bowie State University community.

Bowie State University will ensure that a Complainant's name and other identifying information are not disclosed, while still providing enough information for community members to make safety decisions considering the potential danger.

H. Amnesty

The Bowie State University community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report alleged misconduct to Bowie State University officials or participate in resolution processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

¹⁹ 20 U.S.C. 1232g.

²⁰ 34 C.F.R. § 99.

It is in the best interests of the Bowie State University community that Complainants choose to report misconduct to Bowie State University officials, that witnesses come forward to share what they know, and that all Parties be forthcoming during the process.

To encourage reporting and participation in the process, Bowie State University offers Parties and witnesses amnesty from minor policy violations, such as underage alcohol consumption or the use of illicit drugs, related to the incident. Granting amnesty is a discretionary decision made by Bowie State University, and amnesty does not apply to more serious allegations, such as physical abuse of another or illicit drug distribution.

a. Students

Bowie State University also maintains an amnesty policy for Students in addition to witnesses who offer help to others in need.

b. Employees

Sometimes, Employees are hesitant to report Discrimination, Harassment, Retaliation, or Other Prohibited Conduct they have experienced for fear that they may get in trouble themselves. Bowie State University may, at its discretion, offer Employee Complainants amnesty from such policy violations (typically, more minor policy violations) related to the incident.

I. Preservation of Evidence

The preservation of evidence is critical to potential criminal prosecution and to obtaining restraining/protective orders, and is particularly time sensitive. Bowie State University will inform the Complainant of the importance of preserving evidence by taking actions such as the following:

Sexual Assault

- Seek forensic medical assistance at the nearest hospital, ideally within 120 hours of the incident (sooner is better)
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth
- If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or secure evidence container (if provided by law enforcement)
- Seeking medical treatment can be essential even if it is not for the purpose of collecting forensic evidence

Stalking/Dating Violence/Domestic Violence/Sexual Harassment

- Evidence in the form of text and voice messages will be lost in most cases if a party or witness changes their phone number
 - Make a secondary recording of any voice messages and/or save the audio files to a cloud server
 - Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook)
- Save copies of e-mail and social media correspondence, including notifications related to account access alerts
- Take time-stamped photographs of any physical evidence, including notes, gifts, etc., in place when possible
- Save copies of any messages, to include those showing any request for no further contact
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name, if possible
- If changing devices, make sure to transfer any files needed to the new device

During the initial meeting between the Complainant and the Administrator, the importance of taking these actions will be discussed, if timely.

J. Federal Statistical Reporting Obligations

Certain institutional officials (those deemed to be Campus Security Authorities) have a duty to report the following for federal statistical reporting purposes (Clery Act):

- 1) All “primary crimes,” which include criminal homicide, Sexual Assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson
- 2) Hate crimes, which include any bias-motivated primary crime as well as any bias-motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property
- 3) Violence Against Women Act (VAWA-based crimes), which include Sexual Assault, Domestic Violence, Dating Violence, and Stalking²¹
- 4) Arrests and referrals for disciplinary action for weapons law violations, liquor law violations, and drug law violations

All personally identifiable information is kept private, but statistical information regarding the type of incident and its general location (on or off campus or in the surrounding area, but no addresses given) must be shared with the Public Safety for publication in the Annual Security Report and daily campus crime log. Campus Security Authorities include student affairs, student conduct staff, campus law enforcement/public safety/security, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for Student and campus

²¹ 42 U.S.C. sections 13701 through 14040.

activities.

K. Independence and Conflict of Interest

The Administrator manages the Nondiscrimination Team and acts with independence and authority, free from bias and conflicts of interest. The Administrator oversees all Resolutions under the Policy and associated procedures. The members of the Resolution Process Pool are vetted and trained to ensure they are not biased for or against any party in a specific Formal Complaint, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias, conflict of interest, misconduct, or Discrimination by the Administrator, contact the Director of the Office of Equity Compliance. To raise concerns regarding the Director of the Office of Equity Compliance, contact the General Counsel. Concerns of bias, misconduct, Discrimination, or a potential conflict of interest by any other Nondiscrimination Team member should be raised with the Administrator.

IX. REVISIONS OF THIS POLICY

The Policy and associated procedures supersede all previous policies addressing Discrimination, Harassment, sexual misconduct, and/or Retaliation, for incidents occurring on or after August 14, 2020. The Administrator regularly reviews and updates the Policy and procedures. Incidents occurring before August 14, 2020, will be addressed using the policy that was in place at the time of the incident, but the procedures used will be those in place at the time of the Formal Complaint. Bowie State University reserves the right to make changes to this document as necessary, and those changes are effective once they are posted online.

If laws or regulations change or court decisions alter policy or procedural requirements in a way that impacts this document, this document will be construed to comply with the most recent laws, regulations, or court holdings.

This document does not create legally enforceable protections beyond the protections of the background federal and state laws that frame such policies and codes, generally.

A change required by a court or government order could occur during an active investigation or resolution process. If that happens, Bowie State University reserves the right to adjust the Policy and Procedures accordingly and notify the Parties of any necessary mid-process changes. This could include entirely replacing the Policy or associated procedures, which could necessitate restarting an investigation or resolution process. Bowie State University will make every effort to minimize the impact on the Parties as much as possible if changes are unavoidable.

X. AMENDMENTS

Replaces:

VI – 1.00 – Policy on Affirmative Action and Equal Employment

VI – 1.40 – Policy on Sexual Harassment and Other Sexual Misconduct

Revised 12/12/2014, 8/28/2015, 6/20/2019, 8/12/2020, 8/25/2025

APPENDIX A: PROTECTED CHARACTERISTICS AND RELATED DEFINITIONS

This appendix includes definitions of the characteristics protected under this Policy, as well as associated terms. This Policy does not attempt to prohibit the conduct listed below, in and of itself. Being Antisemitic, Islamophobic, Racist, Ableist, etc., may be protected expression under the First Amendment. Bowie State University prohibits only conduct that rises to the level of Discrimination, Discriminatory Harassment, Retaliation, and the Other Prohibited Conduct as defined in this Policy.

- **Age.** [Forty years of age or older] for purposes of protection against Discrimination and Harassment under federal law and Policy. Maryland law does not restrict age to 40 or older.
- **Antisemitism.** Conduct that excludes, harms, persecutes, expresses hatred or animus toward, or is unequal, based on an individual's or group's actual or perceived Jewish ancestry or ethnicity/ethnic characteristics, national origin, or is based on support for Jews, Israel (conceived as a Jewish state/collectivity), or Zionism [(see the International Holocaust Remembrance Alliance (IHRA) definition and examples of Antisemitism in Appendix O, that inform this definition, which the federal government uses as the Title VI standard to assess Policy violations when Antisemitism rises to the level of Discrimination, Harassment, or Retaliation)].
- **Caste.** A person's actual or perceived descent-based or hereditary status, typically involving social stratification or classes.
- **Citizenship Status.** An individual's legal relationship with the United States is acquired through birth, naturalization, or another legal process.
- **Color.** The actual or perceived pigmentation, complexion, or shade/tone of a person's skin (i.e., lightness, darkness, or other color characteristic of a person's skin), regardless of that person's Race or Ethnicity.
- **Colorism.** Conduct that excludes, harms, persecutes, or expresses hatred or animus toward individuals or groups, or that is unequal, based on actual or perceived Color.
- **Creed.** A set of moral or ethical beliefs and the practices and observances associated with those beliefs. Although Creed includes traditional religious beliefs, it also incorporates belief systems that may not be expressed by an organized religious group.
- **Disability.** A physical, intellectual, or psychiatric impairment that substantially limits one or more major life activities, having a history or record of such an impairment, or being perceived by others as having such an impairment.
- **Domestic Violence Victim Status.** The actual or perceived experience of being a domestic violence victim; attending, participating in, preparing for, or requesting leave to attend to a criminal or civil proceeding related to domestic violence for which the

individual or family or household member is a victim; or requesting an academic or employment adjustment because of domestic violence.

- **Ethnicity/Ethnic Characteristics.** Belonging to a population, group, or subgroup of people based on shared culture/cultural background (e.g., language, food, music, dress, values, and beliefs), history, ancestry, or descent, or having the characteristics commonly attributed to such Ethnicity.
- **Family Responsibilities.** Providing care for family members, including children, parents, pregnant or nursing people, and those caring for aging or disabled family members.
- **Gender Expression.** Outward expression of gender, often through clothing, behavior, mannerisms, speech patterns, and activities.
- **Gender Identity.** An individual's internal sense of their gender.
- **Islamophobia.** Conduct that excludes, harms, persecutes, expresses hatred or animus toward, or is unequal, based on an individual's or group's actual or perceived Muslim or Islamic ancestry or Ethnicity/Ethnic Characteristics, National Origin, or is based on support for Muslims or Muslim-majority countries or nations.
- **Marital Status.** The state of being married or unmarried.
- **National Origin.** A person's actual or perceived place of origin, ancestry, Ethnicity/Ethnic Characteristic, language or accent, cultural heritage, surname or name associated with a nation, or association with people of a particular nation or origin, regardless of a person's citizenship or immigration status. For the purposes of this definition, National Origin also encompasses actual or perceived Shared Ancestry, Ethnic Characteristics, or citizenship or residency in a country with a dominant religion or distinct religious identity.
- **Pregnancy or Related Conditions.** Pregnancy, childbirth, false pregnancy, termination of pregnancy, lactation, medical conditions related thereto, or recovery therefrom.
- **Race.** A person's actual or perceived (by others) membership in a group characterized by shared physical, cultural, or ethnic traits. This includes traditional racial groups (e.g., White, Black, African American, Asian, American Indian, or Alaska Native) as well as those that may be defined by ancestry, ethnic identity, or perceived racial affiliation.
- **Racism.** Conduct that excludes, harms, persecutes, or expresses hatred or animus toward individuals or groups, or that is unequal, based on actual or perceived Race.
- **Sex.** Birth Sex (under Title IX). [Outside Title IX, Sex can include gender identity, gender expression, sexual orientation, sex characteristics, and sex stereotypes.
- **Shared Ancestry.** Actual or perceived ethnic, cultural, or ancestral background (e.g., lineage, familial origins, genetic inheritance, language, customs, societal norms, and heritage). Discrimination on the grounds of Shared Ancestry can include Discrimination based on actual or perceived religion (e.g., Jewish, Christian, Muslim, Sikh, Hindu,

Buddhist, Shinto, indigenous/religious group), when that Discrimination is interwoven with Shared Ancestry or Ethnicity/Ethnic Characteristics.