

UMASS LOWELL

Equal Opportunity; Nondiscrimination and Harassment
Plan and Case Processing Manual

Office of Equal Opportunity & Outreach

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Introduction

The University of Massachusetts Lowell (“UMass Lowell” or “University”) has carefully developed the major elements of this plan and case processing manual with the understanding that a successful plan requires more than knowledge of laws, regulations, and current government requirements. The Office of Equal Opportunity and Outreach (“EOO”) is charged with enacting and enforcing this plan and corresponding guidelines.

This Plan and Case Processing Manual (the “Plan”) demands vision to fully comprehend what challenges the University faces in preparing students for their post commencement lives. With this Plan, the University continues to take a step beyond and, both collectively and individually, commits itself to the valuing of human dignity, and to the appreciation of the necessity of providing all members of the University community an experience that equips them to relate to all persons and groups in the increasingly global and diverse world in which we all live and work.

Responsibility for Implementation

The final authority and ultimate responsibility for the implementation of this Plan and Process rests with the Chancellor of the University of Massachusetts Lowell. The Office of Equal Opportunity at UMass Lowell has been delegated with the authority and responsibility for the overall development, administration, and monitoring of all policies, procedures, and programs pertinent to the implementation of this plan. The Office of Equal Opportunity reports to the Vice Chancellor of Finance and Operations, who in turn reports to the Chancellor.

The Director of Equal Opportunity/Compliance serves as the UMass Lowell Title IX Coordinator, ADA/504 Coordinator, Equal Opportunity Officer, and Affirmative Action Officer. The Director delegates authority to various Employees and Offices across the University to assist in carrying out this Plan and monitoring compliance.

Purposes

The University of Massachusetts has established a policy of non-discrimination and harassment which governs all 5 campuses of the system. A primary purpose of this Plan is to inform the campuses of: (1) the universities’ prohibition of all forms of discrimination, discriminatory harassment, sexual violence, sexual and gender based harassment, domestic violence, dating violence, stalking and retaliation; (2) the universities’ efforts to prevent such behavior; and (3) the manner in which the universities will respond to such behaviors, including the prompt, impartial, fair, and thorough investigation and resolution of complaints.

The University of Massachusetts Lowell also seeks to responsibly recognize and, when possible, resolve the effects of past societal discrimination and the impact that discrimination has had. To those ends, UMass Lowell commits to an ongoing examination of all policies and procedures to ensure that they do not operate to the detriment of any person on and discriminatory basis. Finally, UMass Lowell commits to a pro-active affirmative action posture with respect to recruitment, selection and promotion of students and employees.

Commitment to Diversity and Inclusion

The University of Massachusetts Lowell is committed to Diversity, Equity, and Inclusion, as indicated on the University's website (<https://www.uml.edu/social-justice-inclusion/institutional-diversity/commitment.aspx>).

We are very proud that our community includes students and employees from various cultures, languages, colors, religions, national origins, abilities, genders, sexual orientations, gender expressions, and life and military-service histories. Respecting and valuing our differences is the foundation of our excellence as an institution of higher education.

We have made excellent progress toward meeting our diversity goals.

Our continued success rests on our commitment and dedication toward instilling our campus with values we are proud of and ensuring an environment free from discrimination of all forms. It is imperative that our students, faculty and staff feel appreciated, respected, connected, valued and engaged with the larger life of the campus and beyond.

We also encourage you to take some time to familiarize yourselves with the University of Massachusetts Board of Trustees policy statements, including the Non-Discrimination and Harassment Policy, and UMass Lowell's Equal Opportunity guidelines and procedures, which are available at on the EOO website.

UMass Lowell is subject to the provisions of Title IX, and the regulations promulgated thereunder (34 C.F.R. Part 106), which prohibit discrimination on the basis of sex in any education program or activity receiving federal financial assistance.

UMass Lowell also requires all employees to participate in annual training on Title IX as required by the 2024 implementing regulations, and requires new and transfer students to participate in training as required by Title IX and the CLERY Act.

If you have any questions about the university's Equal Opportunity guidelines and procedures or about the Title IX training, please contact the Office of Equal Opportunity and Outreach at 978-934-3565 or Equal_Opportunity@uml.edu.

Policy Awareness Procedures

At the commencement of each academic year, all policy statements, regarding equal opportunity, non-discrimination, diversity and affirmative action at UMass Lowell will be distributed, either electronically or in hard copy or in both formats, as follows.

- To every office at the University, including Human Resources, Student Affairs;
- To all students, either in the relevant Student Handbook, Student Conduct Code, Course Catalog, or by email;
- To all employees, either in a relevant publication or by e-mail;
- Posted to all relevant sections of the University's website;
- Copies will be made available to the campus community and to the public upon request; and
- Copies will also be made available in accessible formats upon request.

Periodic meetings, trainings, presentations, and workshops will be held with various segments of the campus community to assist their understanding of the University's commitment to equal opportunity, non-discrimination, diversity and affirmative action goals.

Copies of all policy statements regarding equal opportunity, non-discrimination, diversity and affirmative action will also be provided to students who enroll mid-year and to all new employees upon their hire.

SUBSTANTIVE CHANGES

Any substantive changes made to this Plan will be communicated to the University Community either electronically, in hard print, or both, using the methods identified in the preceding section.

POSTING

The University's Policy Statement on Non-Discrimination, Diversity and Affirmative Action will be posted in areas customarily used for public announcements and on the University's websites. Prospective employees and applicants for admission will be informed of this Policy Statement in all advertisements both on and off-campus.

RECRUITING

All employment recruiting sources used by the University will be informed of their commitment to equal opportunity, non-discrimination, diversity and affirmative action. Listings of current openings will be sent on a regular basis to appropriate sources for the recruitment and referral of applicants who are persons of color, women, veterans, persons with disabilities, and persons of diverse religions and national origins.

In addition, notices of position openings will be posted on campus and on the Human Resources sections of the University's individual recruitment website, so that all current employees are aware of opportunities for promotion or transfer.

CONTRACTORS AND VENDORS

The University will notify all contractors, sub-contractors, and vendors of the University's responsibility and commitments to equal opportunity, non-discrimination, diversity and affirmative action.

ADVERTISING

Selection for and participation in the University's employment is without regard to race, color, religion, national origin, age, disability, gender, sexual orientation, gender identity, gender expression, genetic information, marital or parental status, or veteran status. An Affirmative Action, Equal Opportunity and Non-Discrimination/Diversity statement will be placed on all appropriate University operational publications and advertisements.

COMMUNITY RELATIONS

The University will cooperate with local, state, and federal government agencies, and community groups, as well as national minority, multicultural, multiracial, disability, women's and veteran's organizations and other national groups that have equal employment opportunity objectives, for the purpose of developing significant access to equal opportunity for persons of color, women, veterans, persons with disabilities, and persons of diverse religions and national origins.

UMass System Policies, Standards, and Guidance

University of Massachusetts Non-Discrimination and Harassment Policy

Doc. T16-040
Passed by the BoT
9/21/16

UNIVERSITY OF MASSACHUSETTS NON-DISCRIMINATION AND HARASSMENT POLICY

PURPOSE

The University of Massachusetts complies with applicable state and federal laws on non-discrimination, harassment, and retaliation including Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1964, the Violence Against Women Act of 1994, and the Massachusetts anti-discrimination law. This policy states the University's commitment to assure compliance.

Note: A full copy of the University of Massachusetts Non-Discrimination and Harassment Policy may be found on the Board Policies website of the Office of the President, University of Massachusetts. (<https://www.umassp.edu/bot/policies>)

University of Massachusetts Principles of Employee Conduct

DOC. T96-136, as amended
Passed by the BoT
1 2/ 4/ 96

UNIVERSITY OF MASSACHUSETTS PRINCIPLES OF EMPLOYEE CONDUCT

Institutions of higher education are entrusted with great resources and commensurably great responsibilities. They must meet their mission of research, teaching, and service in ways that truly enrich the society that supports them and truly serve the students, parents, and alumni who in joining the university community become life-long members of the extended university learning family. College and university leaders play a key role in assuring that high standards of ethical practice attend to the delivery of services to their various constituents and to the custody and use by all their faculty, staff and students of the resources entrusted to them. The University of Massachusetts embraces the values expressed in these Principles of Employee Conduct and expects their observance by all its employees.

Note: A full copy of the University of Massachusetts Principles of Employee Conduct may be found on the Board Policies website of the Office of the President, University of Massachusetts. (<https://www.umassp.edu/bot/policies>)

UMass Lowell Nondiscrimination and Harassment Guidelines

Policy Statement

The University of Massachusetts Lowell (“UMass Lowell” or “University”) reaffirms its commitment to employment and pedagogical practices and a learning environment free of discrimination and harassment. At UMass Lowell, equal opportunity and safe working and learning environments are the foundation for a diverse, inclusive and highly effective community in which all members may thrive. These Guidelines incorporate standards of behavior that are consistent with the university's values.

The University will not be tolerant of conduct which violates rights guaranteed to all members of its community, including but not limited to, applicants, visitors, and vendors, including minors, by the law or the University's policies. Accordingly, the University prohibits unlawful discrimination and harassment based upon protected characteristics, and related retaliatory conduct, in accordance with state and federal nondiscrimination laws, including, but not limited to, Title IX of the Education Amendments of 1972, the Title IX regulations by the U.S. Department of Education (including the definition of sexual harassment as defined by the Title IX regulations), Title VI of the Civil Rights Act of 1964, Title VII of the Civil Rights Act of 1964, the Massachusetts anti-discrimination laws, and the University of Massachusetts Non Discrimination and Harassment Policy.

If the provisions of these Nondiscrimination Guidelines (the “Guidelines”) are violated, the University will take appropriate steps to end the inappropriate behavior and address its effects. If it is determined that inappropriate conduct has been committed by one of our community members, regardless of whether conduct constitutes a violation of these Guidelines, the University's administration or supervisors will take such action as is appropriate under the circumstances. Such action may range from counseling to separation from the university.

These Guidelines aim to support education, prevention and accountability and strive to create a workplace climate that is free of harassment.

Purpose

The purpose of these Guidelines is to:

- Promote UMass Lowell's commitment to integrity in fostering equity, inclusion, and safe learning and working environments; and promote equitable, fair, consistent, and transparent standards to prevent and address unlawful discrimination, harassment including sexual harassment, and retaliation.

- Provide an overview of the civil rights regulations to which UMass Lowell is subject.
- Define behaviors which are prohibited.
- Describe how to report a concern regarding a potential violation of these Guidelines.
- Describe responsibilities of supervisory employees (including faculty), to share a concern that these Guidelines may have been violated. For potential concerns involving sexual harassment, as the term is defined by the Title IX Regulations, all employees who are not considered Confidential Employees are required to report these concerns directly to the Title IX Coordinator.
- Delineate potential consequences for violations of these Guidelines.

Scope

These Guidelines apply to all employees, students, vendors, and visitors of UMass Lowell.

Definitions

The following selected terms are defined in an effort to facilitate a more thorough understanding of these Guidelines and Procedures. This list is not intended to be a complete list of all terms referenced in these Guidelines that might require interpretation or clarification. The Director of Equal Opportunity or designee shall make the final determination on the definition of any term found in these Guidelines.

Advisor of choice is an individual who accompanies and supports the complaining and the responding parties, who may provide support but may not speak on behalf of the person or otherwise participate in or contribute to a meeting, grievance proceeding, or hearing. Advisors may have additional responsibilities where the process is governed by the Sex Discrimination Grievance Procedures. Please see the Sex Discrimination Grievance Procedure, which defines the Advisor's role related to a formal Title IX Sexual Harassment complaint.

Complaint is defined as an oral or written request that can objectively be understood to be a request to investigate and prepare a decision regarding discrimination, discriminatory harassment, or retaliation. The University may initiate a complaint and the appropriate procedures to investigate a complaint, and/or to meet its affirmative obligations to redress discrimination, discriminatory harassment, or retaliation under Massachusetts General Laws. Note that comments made at "public awareness events" do not constitute complaints.

Specific to Title IX, a Complaint is an oral or written request that objectively be understood to be a request to investigate and prepare a decision regarding discrimination based on sex, including harassment. Sex-based discrimination

also includes discrimination based on sex-stereotypes, sex characteristics, pregnancy or related conditions sexual orientation, and gender identity.

Complainant is the party who is alleged to have been subjected to conduct that would constitute discrimination, sex based discrimination, sexual harassment, discriminatory harassment, and/or retaliation as defined within these Guidelines and/or Procedures.

For the purposes of Title IX, (a) an individual who is alleged to have been subjected to conduct that could constitute sex-discrimination, sexual harassment, and who was participating or attempting to participate in UMass Lowell's Education Program or Activity; or

(b)) a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex-based harassment under these Guidelines and/or Procedures and who was participating or attempting to participate in UMass Lowell's Education Program or Activity at the time of the alleged sex-based harassment.

Note: While the University may initiate a complaint, the University does not serve as the complainant in such matters.

Confidential Employee is an employee who, because of his/her position, may not reveal an individual's identity or other information without permission, even to the Title IX Coordinator(s). The following categories of employees are confidential employees:

- Licensed sexual assault counselors, psychologists, psychotherapists, social workers, clergy, health care personnel, and attorneys, and those persons working under the supervision of such individuals, when acting in their professional role providing services to a patient or client.
- University employees bound by statutory privilege obligations under Massachusetts law, such as religious practitioners.
- University employees who provide administrative, operational, and/or related support for a confidential employee in the performance of such services such as supporting staff for the roles listed above.
- Individual(s) on-campus designated as confidential by the Director of Equal Opportunity / Title IX Coordinator or designee.

Confidential Resource Provider, please see this EOO Complaint Procedure and the University's Sex Discrimination Grievance Procedure. Parties could access the services of the Confidential Resource Provider, even if a complaint has not been filed. At UMass Lowell, the Confidential Resource Provider is an employee or other individual designated by the university to provide information on (1) reporting options and the effects of each option; (2) counseling services available on and off campus; (3) medical and health services available on and off campus; (4) available supportive measures; (5) disciplinary process of the university; and (6) the legal process carried out through local law enforcement agencies. Confidential Resource Provider services are available to assist parties in a Sexual Misconduct or Sexual Harassment matter. The Confidential

Resource Provider is designated confidential by the University and per Title IX. Their services are confidential unless otherwise required by state or federal law. If requested by the reporting and/or Respondent of an alleged sexual harassment/sexual misconduct matter, the Confidential Resource Provider may coordinate with other members of the university's community, as needed, to arrange supportive measures. The Confidential Resource Provider shall notify the parties of their rights and the university's responsibilities regarding a protection order, no contact order, and any other lawful orders issued by the university or a civil, criminal, or tribal court. For additional information regarding supportive measures, individuals can contact the Case Manager and Confidential Resource Provider at 978934-6800, for Counseling Services, 220 Pawtucket Street, Suite 300, Lowell, MA 01854.

Consent means a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression. Consent to one act does not mean consent to another act. Consent may be withdrawn at any time so long as it is clearly communicated.

Education Program or Activity means all of the operations of a college, university, or other postsecondary institution, or a public system of higher education.

Equal Opportunity Complaint Procedure ("EO Complaint Procedure") is the procedure that shall be used for addressing allegations of discrimination, [discriminatory] harassment, and retaliation that do not fall under Title IX. This procedure shall only apply where the respondent is not a student. When the student serves as the Respondent the matter shall be referred to the Office of Student Conduct, and the Code of Conduct shall apply as the prevailing procedure.

At the request of the Office of Student Conduct, the Office of Equal Opportunity may conduct an investigation under the EO Complaint Procedure into allegations of discrimination, discriminatory harassment, or retaliation where the student is the respondent.

Gender Expression refers to the external characteristics and behaviors that relate to a perception of gender, including but not limited to dress, mannerisms, speech patterns, social interactions, and body characteristics.

Gender Identity refers to an individual's internal sense of gender, which may be male or female, man or woman, or not conforming to those binary genders. A person's gender identity may be different or the same as the person's sex assigned at birth.

Discriminatory Harassment is conduct against a person or persons based upon their legally protected class that adversely has the effect of:

1. unreasonably interfering with a person or person's employment, educational benefits, academic grades or opportunities, or participation in university programs or activities; or
2. unreasonably interfering with a person or person's work or academic performance; or
3. creating an intimidating, hostile, or offensive working or academic environment.

Party means Complainant or Respondent. **Parties** collectively refers to the Complainant and Respondent.

Peer Retaliation means retaliation by a student against another student.

Pregnancy or related conditions means

- A. Pregnancy, childbirth, termination of pregnancy, or lactation;
- B. Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
- C. Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

Preponderance of the Evidence is more likely than not. Preponderance is the standard used in both the Equal Opportunity Complaint Procedure and the Sexual Harassment Grievance Procedure for determining if an individual violated these Guidelines and/or the Policy.

Protected Class is groups of individuals afforded legal and university policy protection from discrimination on the basis of sex (including Sexual Misconduct; Sexual Harassment; and pregnancy, childbirth or related medical condition), race, color, age, religion or creed, national or ethnic origin or ancestry, disability status, protected veteran status, gender identity or gender expression, sexual orientation, genetic information, natural or protective hairstyle, participation in a civil rights report or complaint proceeding (for retaliation claims), or any other characteristic protected by law.

Relevant means related to the allegations of sex discrimination under investigation as part of the Sex Discrimination Grievance Procedure. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

Relevant also means related to the allegations of discrimination, discriminatory harassment and/or retaliation as it relates to the EO Complaint Procedure. Questions are relevant when they seek evidence that may aid in showing whether discrimination, discriminatory harassment, or retaliation occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged discrimination, discriminatory harassment or retaliation occurred.

Remedies means measures provided, as appropriate, to a Complainant or any other person UMass Lowell identified as having had their equal access to UMass Lowell's

Education Program or Activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to UMass Lowell's Education Program or Activity after UMass Lowell determines that sex discrimination occurred.

Respondent is the individual alleged to have violated these Guidelines and/or the Policy. Respondents are presumed not responsible up to and unless found to be responsible by a preponderance of the evidence.

Retaliation is the interference through intimidation, threats, coercion, or unlawful discrimination, with an individual's right or privilege secured under the law [Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1964, the Massachusetts anti-discrimination laws, or other laws] to report or make a complaint, testify, assist or participate or refuse to participate in any manner in an investigation or grievance proceeding, or hearing, or to intervene to prevent a violation of the University's policy or these Guidelines.

Sanctions means consequences imposed on a Respondent following a determination under one of the grievance procedures that the Respondent violated UMass Lowell Guidelines and/or UMass Nondiscrimination and Harassment Policy.

Sexual Harassment¹ a form of *sex discrimination* under Title IX is conduct on the basis of sex that satisfies one or more of the following:

1. *Quid pro quo harassment.* An employee, agent or other person authorized by UMass Lowell's Education Program or Activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
2. *Hostile Environment Harassment.* Unwelcome Sex based conduct that based on the totality of the circumstances, is subjectively and objectively offensive, and is so severe OR pervasive that it limits or denies a person's ability to participate in or benefit from UMass Lowell's education program or activity. Whether a hostile environment has been created is a fact specific inquiry that includes consideration of:
 - a. The degree to which the conduct affected the complainant's ability to access the education program or activity;
 - b. They type, frequency, and duration of the conduct;
 - c. The parties' ages, roles, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - d. The location and context of the conduct; and
 - e. Other sex-based harassment in the education program or activity.

¹ Concerns involving Sex Discrimination, Sexual Harassment will be reviewed pursuant to the UMass Lowell Sexual Discrimination Grievance Procedure. The Sexual Harassment definition and Sex Discrimination Grievance Procedure may apply when, for example, the reported conduct meets the jurisdictional requirements under Title IX. In other instances, the definition of Sexual Misconduct may apply.

3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), the CLERY Act. Per the Clery Act, the term Sexual Assault means an offense classified as a forcible or non forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
4. "Dating Violence" as defined in 34 U.S.C. 12291(a) (11), as defined in the Violence Against Women Act (VAWA) Reauthorization of 2022 and the VAWA Amendments to the Clery Act) means any violence committed by a person:
 - a. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - b. Where the existence of such a relationship shall be determined based on a consideration of the following factors: The length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.
5. "Domestic Violence" as defined in 34 U.S.C. 1229(a)(12). Domestic violence means any felony or misdemeanor crimes committed by a person who:
 - a. Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of Massachusetts, or a person similarly situated to a spouse of the victim;
 - b. Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - c. Shared a child in common with the victim; or
 - d. Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of Massachusetts; or
6. "Stalking" as defined in 34 U.S.C. 12291(a) (36), as amended. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - a. fear for the person's safety or the safety of others; or
 - b. suffer substantial emotional distress.

Sex Discrimination Grievance Procedure is the procedure for addressing sex discrimination, sexual harassment, and retaliation that falls under the purview of Title IX. This procedure shall be used regardless of the party's affiliation, e.g. student, faculty, staff, visitor, etc.

Sexual Misconduct is an incident of sexual violence, dating violence, domestic violence, gender based violence, violence based on sexual orientation or gender identity or expression, sexual assault, sexual harassment, or stalking, as these terms are defined by M.G.L. Chapter 6 §§ 168D and 168E, when such conduct is not defined as Sex Discrimination and/or Sexual Harassment under Title IX, above.

Student means a person who has gained admission.

Student Code of Conduct are the disciplinary procedures that apply to students and shall be used in student matters where the student is Respondent and the Complaint does meet Title IX jurisdiction.

Supportive Measures are generally non-punitive, non-disciplinary individualized services offered, as appropriate, to a Complainant or Respondent, regardless of a complaint, investigation or resolution, intended to provide support or protection. These services are defined further under the Sex Discrimination Grievance Procedure, and the Equal Opportunity Complaint Procedure.

Unlawful Discrimination is behavior that is directed at a specific person or persons that subjects them to treatment that adversely affects their employment, application for employment, education, admissions, university benefits, programs, or activities, because of their religion or religious belief, color, race, marital status, veteran or military status, age, sex (including sexual harassment), gender identity or expression, sexual orientation, national origin, ethnicity, disability, genetic information, pregnancy or related condition, natural or protective hairstyle, or any other legally protected class. National origin protections include nondiscrimination on the basis of language.²

Prohibited Conduct

These Guidelines prohibit all conditions and all actions or omissions, including acts of discrimination, discriminatory harassment, and retaliation, which deny or have the effect of denying any person their rights to equity on the basis of their membership or association with member(s) of any protected class. These Guidelines reaffirm the values of civility, pluralism and pre-eminence of individual human dignity as preconditions to the achievement of an academic community, which recognizes and utilizes the resources of all people.

The prohibited conduct contained in these Guidelines shall apply to and be enforced against all members of the University community, including, but not limited to: faculty, librarians, researchers, administrators, staff, students, vendors, contractors and all others having dealings with the institution.

Discrimination as defined in these Guidelines is prohibited. Examples of discrimination, all of which are prohibited by these Guidelines, include but are not limited to:

- Differences in terms, conditions and privileges of employment (including, but not limited to hiring, promotion, reassignment, termination, salary, salary increases, discipline, granting of tenure, selection for awards, etc.) on a prohibited basis.

² Individuals with limited English language proficiency are invited to contact EOO at (978) 93403565 to request assistance in accessing UMass Lowell's programs and activities.

- Disparity of treatment in educational programs and related support services on the basis of membership in a protected class.
- Differences in salaries or other benefits that are paid to one or more men or women if the differences are not based on a bona fide occupational qualification.
- Developing position descriptions or qualifications, which, without lawful justification, are so specific as to have a disparate exclusionary impact on a group of individuals because of their membership in a protected class.
- Limiting access to housing, or participation in athletic, social, cultural or other activities to students because of membership in a protected class not based on a bona fide requirement or distinction.
- Failing or refusing to hire or promote a person because of their age.
- Classifying a position or positions as unsuitable for persons of certain religions.
- Excluding members of a certain race or national origin from a category of positions or from a department or division.
- Restricting the number of veterans or qualified persons with disabilities in a category of positions or in a department or division.
- Using information on marital or parental status for employment decisions where the use of such information has a disparate impact on persons of one gender or sexual orientation.
- Advising students of similar interests and backgrounds differently because of their gender or gender identity.
- Forcing female students to sit in the back of the class on the stereotyped assumption that each of them has a lower aptitude for learning that particular subject than male students.
- Placing unreasonable expectations upon students of particular races or national origins based on stereotyped assumptions that members of those protected classes have a better aptitude for certain academic subjects than students not of those protected classes.

Discriminatory Harassment as defined in these Guidelines is prohibited. Examples of discriminatory harassment all of which are prohibited by these Guidelines, include but are not limited to:

- Physically harassing another individual or group because of that person's or persons' membership in a protected class by assaulting, touching, patting, pinching, grabbing, staring, leering at them, making lewd gestures, invading their personal space, blocking their normal movement, or other physical interference.
- Encouraging others to physically or verbally abuse an individual (or group of individuals) because of that person or persons' membership in a protected class.
- Threatening to harm an individual or group because of that person or persons' membership in a protected class.
- Directing epithets, slurs, derogatory comments, unwelcome jokes or stories at an individual or group because of that person or persons' membership in a protected class.

- Intentional and repeated misgendering and/or misuse of one's preferred pronouns.
- Displaying hostile, derogatory and/or intimidating symbols/objects, such as posters, cartoons, bulletins, drawings, photographs, magazines, written articles or stories, screen savers, or electronic communications, to an individual or group because of that person or persons' membership in a protected class.

Retaliation as defined in these Guidelines is prohibited. Examples of retaliation all of which are prohibited by these Guidelines, include but are not limited to:

- Terminating an employee for stating an intention to file a complaint of discrimination or for assisting another employee in filing a discrimination complaint.
- Refusing to hire an employee because the employee pursued an age discrimination charge against a former employer.
- Denying a promotion to an employee for complaining about alleged sexual orientation harassment.
- Refusing tenure to a faculty member for filing a complaint of sexual harassment pursuant to the Complaint Investigation and Resolution Procedures.
- Issuing an unjustified negative evaluation to an employee for testifying in a legal proceeding concerning a complaint of discrimination or harassment.
- Assigning a student an unearned poor grade for requesting a reasonable academic accommodation based on religion.
- Assigning a student an unearned failing grade for cooperating with an internal investigation of alleged discriminatory practices or a complaint of discrimination or harassment.
- Refusing to admit a student for requesting a reasonable accommodation based on disability in the admission process.

Sexual Harassment a form of Sex Discrimination under Title IX as defined in these Guidelines is prohibited.

Sexual Misconduct as defined under these Guidelines is prohibited.

Members of the academic community should not assume that any of the forms of speech described above are protected by the principles of academic freedom or the First Amendment to the United States Constitution.

Conduct that is Not Prohibited

UMass Lowell is committed to protecting and maintaining and encouraging both freedom of expression and full academic freedom of inquiry, teaching, service, and research. Nothing in these Guidelines shall be construed to penalize a member of the University community for expressing an opinion, theory, or idea in the process of responsible teaching and learning. Accordingly, any form of speech or conduct that is

protected by the principles of academic freedom or the First Amendment to the United States Constitution is not subject to these Guidelines.

Duty to Cooperate

Every University employee (including but not limited to: faculty member, researcher, librarian, administrator, staff member, graduate and/or student employee) has a duty to cooperate fully and unconditionally in an investigation conducted pursuant to the Equal Opportunity Complaint Procedures, and/or Sex Discrimination Grievance Procedure, subject to the provisions of any relevant collective bargaining agreements. This duty includes, among other things, speaking with the EO Officer and/or Title IX Coordinator, Administrative Investigator, reviewing or appellate body, and voluntarily providing all documentation that relates to the claim being investigated. The failure and/or refusal of any employee, other than an employee subject to criminal charges or who invokes a Fifth Amendment privilege, to cooperate in an investigation may result in a separate disciplinary action up to and including termination.

Reporting and Referral Requirements

Duty to Report Discrimination, Discriminatory Harassment or Retaliation

1. Any Employee with a supervisory or management responsibility, or who has administrative leadership for the institution, and is not a Confidential Employee, is required to report incidents of Discrimination, Discriminatory Harassment, and Retaliation to the Equal Opportunity Officer. Reports may be submitted via the online reporting tool on the UMass Lowell Equal Opportunity website, via email at equal_opportunity@uml.edu, or by calling (978) 934-3707.
2. All other employees are encouraged to report such information to the Office of Equal Opportunity, and/or refer the individual to the Office of Equal Opportunity.

Reporting and Referral Requirements under Title IX

1. All Employees who are NOT considered Confidential Employees as defined in these Guidelines are required to report incidents of Sexual Harassment a form of Sex Discrimination under Title IX, as defined in these Guidelines, to the Title IX Coordinator. Reports may be submitted via the online reporting tool on the UMass Lowell Equal Opportunity website, via email at equal_opportunity@uml.edu, or by calling (978) 934-3707. In addition, all Employees must provide the contact information for the Title IX Coordinator to the reporting individual.

2. Confidential Employees are not required to report incidents to the Title IX Coordinator. However, Confidential Employees must provide contact information for the Title IX Coordinator to the reporting individual.
 - a. Contact Information is: Office of Equal Opportunity, (978) 934-3707, Equal_Opportunity@uml.edu

Employee Role	Disclosure From	Notify TIXC	Provide TIXC Contact Info
Confidential Employees	<ul style="list-style-type: none"> • Student • Employee 	NO	Yes
Employees with the authority to institute corrective measures	<ul style="list-style-type: none"> • Student • Employee 	YES	YES
Employees with responsibility for administrative leadership, teaching, and advising	<ul style="list-style-type: none"> • Student • Employee 	YES	YES
All other employees who are not confidential employees	<ul style="list-style-type: none"> • Student • Employee 	Yes to both	

Referral Requirements for students disclosing pregnancy and/or pregnancy related conditions to an employee.

1. All employees of the University, Confidential and/or Not Confidential, have an obligation to provide the following information to any student who discloses to them that they are pregnant and/or have a pregnancy related condition.
 - a. That pregnancy and pregnancy related conditions are covered under Title IX, and that the student has the right to be free from discrimination;
 - b. That the student has the right to reasonable modifications (accommodations) under Title IX; And
 - c. the name and contact information for the Title IX Coordinator.

The Office of Equal Opportunity has a brochure that is available for employees to provide to students.

Making A Report

Complainants have the right to not make a report to anyone. A number of reporting options are available and the University strongly encourages seeking support from medical, counseling, and other support services.

Complaints involving Discrimination, Discriminatory Harassment, or Retaliation (not Title IX)

Any person may report discrimination, discriminatory harassment, or retaliation, whether or not the person reporting is the person alleged to be the recipient or subject of conduct that could constitute discrimination, discriminatory harassment or retaliation. Reports may be made in person, by mail, telephone, or by electronic mail, using the contact information listed for the Equal Opportunity Officer, electronic form, or by any other means that results in the EO Officer receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the reporting options available at the time of the report. Reports may also be made anonymously; in such case, the person making the report shall not disclose their name or other identifying information, such as an ID number, and shall submit a written report using any of the previously identified written reporting means in a manner that would not reveal the identity of the reporter. The University may also provide specific anonymous reporting options such as a hot line, tip line, or online web form. A University's ability to respond to an anonymous report may be limited by the level of information about the incident and/or individuals involved. Reports do not constitute a complaint under this Policy unless the report meets the definition as defined in these Guidelines.

Reports may be made by contacting the Office of Equal Opportunity

- Online Reporting Form located on the EOO website, or directly at: https://cm.maxient.com/reportingform.php?UMassLowell&layout_id=35
- Equal_Opportunity@uml.edu
- (978) 934-3565

Complaints/ Reports to Title IX Coordinator / EOO (Title IX)

Every University is required to designate at least one employee to coordinate its efforts to comply with its responsibilities under Title IX, who is referred to as the "Title IX Coordinator"

Any person may report sex discrimination, including sexual harassment, whether or not the person reporting is the person alleged to be the recipient of or subject of conduct that could constitute sex discrimination or sexual harassment. Reports may be made in person, by mail, telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, electronic form, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the reporting options available at the time of the report. Reports may also be made anonymously; in such case, the person making the report shall not disclose their name or other identifying information, such as an ID number, and shall submit a written report using any of the previously identified written reporting means in a manner that would not reveal the identity of the reporter. The University may also provide specific anonymous reporting options such as a hot line, tip line, or online web form. A University's ability to respond to an anonymous report may be limited about the level of information about the incident and/or individuals involved. Reports do not constitute a complaint under this Policy unless the report meets the definition as defined in these Guidelines.

The Title IX Coordinator or designee will assist Complainants in notifying law enforcement, if requested by the Complainant.

The Title IX Coordinator, or designee is responsible for coordinating the effective implementation of supportive measures and is responsible for receiving and responding to requests for disability accommodations related to supportive measures and participation in the grievance process. The Title IX Coordinator may collaborate with other appropriate offices on campus to provide necessary accommodations under this policy.

The Title IX Coordinator for UMass Lowell is:

Dr. William Cummings
Office of Equal Opportunity & Outreach
William_Cummings@uml.edu
(978) 934-3707

Reports may be made by contacting the Office of Equal Opportunity

- Online Reporting Form located on the EOO website, or directly at:
https://cm.maxient.com/reportingform.php?UMassLowell&layout_id=35
- Equal_Opportunity@uml.edu
- (978) 934-3565

Non-Confidential Reports

Reports made to any University Employee who is not considered a Confidential Employee, Confidential as defined in these Guidelines, is considered a non-confidential report. All who are not confidential are required to report sex discrimination and/or sexual harassment, as defined in these Guidelines, to the Title IX Coordinator.

Reports of discrimination, discriminatory harassment, or retaliation (not Title IX) made to any supervisor, manager, and/or individual with administrative leadership are not confidential as such employees are required to report to the Equal Opportunity Officer.

Law Enforcement

Complainants may file a criminal complaint with University Police, the local police department where the incident occurred, and/or other state and federal law enforcement agencies. Complainants can make both a criminal report and a report to the University and do not have to choose one or the other. The Universities encourage victims (or survivors) of crimes to report incidents to the police so that the police can take appropriate measures to help victims and prevent future crimes. In addition to the Title IX Coordinator, University Police will help in filing a report with local law enforcement, should the Complainant request assistance.

Complainants are never required, however, to report an incident University Police or local law enforcement. If a Complainant elects not to make a criminal report, the Universities will respect that decision; however, the Universities may have an obligation under the Clery Act to inform University Police of an alleged crime but will not disclose the Complainant's name.

If a Complainant chooses to make a report to University Police, an investigation will be conducted and, if the Complainant so requests, they will receive assistance in filing criminal charges against the Respondent. University Police can also assist a Complainant in the process of obtaining protective restraining orders and abuse prevention orders for sexual harassment, sexual assault, dating violence, domestic violence, and stalking.

University Police have specially trained officers to respond to complaints of sexual assault and dating/domestic violence. Whenever possible, University Police will make every effort to offer female Complainants/victims an opportunity to have a female officer present during all interviews.

Reports to law enforcement and/or criminal complaints do not necessarily constitute a complaint to the University under these Guidelines unless they meet the definition of a Complaint, as defined in these Guidelines.

Confidential Reports

Persons who have experienced prohibited forms of discrimination, harassment, retaliation, sexual harassment, and/or sex discrimination under these Guidelines may share information with confidentially designated employees ("Confidential Employees") who cannot reveal identifying information to any third party unless one or more of the following conditions is present:

- The individual has provided written consent to disclose information;
- There is a concern about imminent harm to self or others;
- The information concerns the neglect or abuse of someone who is a minor, elderly, or disabled; or
- An employee who has been charged with providing non-identifiable information for purposes of the Clery Act.

Confidential Employees are defined within these Guidelines.

Employees may also report such misconduct in strict confidence through the Employee Assistance Program.

Please bear in mind, however, that if one requests certain supportive measures from the University (e.g., extension for academic work or changing classes, residence halls

or work locations), the Dean of Students and/or other University officials as necessary may be contacted only for the purpose of providing the requested measures. In such cases, one's privacy will be maintained to the extent that respecting confidentiality will not impair the University's ability to provide the requested measures. One may also confidentially report sexual harassment, sexual assault, domestic violence, dating violence, stalking, and/or retaliation as well as other forms of sexual violence and gender-based harassment to community support resources, which are not required to share information with the University.

Make No Report

Complainants have the right to make no report and to not disclose the information to anyone. While a Complainant has this right, the University still encourages Complainants to seek support services that they might need.

Resources

The safety, health and well-being of the campus community are of paramount importance to the University. Any person who experiences any form of sexual assault, sexual harassment, domestic violence, dating violence, stalking, or retaliation, or similar harmful behaviors regardless of whether they are expressly prohibited by these Guidelines, is strongly urged to speak with someone to get the support they need, no matter when or where the incident occurred. For information on the location, phone numbers, hours and services provided for the campus and community resources listed below, please contact the Title IX Coordinator or Deputy Title IX Coordinator, the EO Officer, Human Resources, Student Affairs or Student Conduct, Residence Life, Health Services, the Counseling Center and/or University Police. The information is also listed on each University's website.

Immediate Needs

Assuring One's Safety

If an incident occurs, the University encourages one to report the incident and seek both police and medical assistance. Seeking police or medical assistance does not obligate one to make a complaint or take any further action, but the decision to seek medical help and gather evidence allows one to preserve the full range of available options. The University will assist any community member to get to a safe place, provide transportation for medical help and, if requested, contact law enforcement. For help at any time, contact University Police or, during regular University business hours, contact the Title IX Coordinator.

Preserving Evidence

Any person who has experienced sexual violence is encouraged to take steps to preserve evidence of the incident, as doing so may be necessary to prove that a crime occurred, or to obtain a protection order from the court. After an incident occurs, one should try to refrain from bathing, showering, brushing teeth, drinking, eating, douching or changing clothes until the evidence can be collected. If one changes clothes, one should place each garment in a separate paper (not plastic) bag. If the incident involves any written or electronic communications (e.g., pictures/videos, texts, social media posts, etc.), care should be taken to preserve copies and not delete the original communication.

Confidential Medical Attention

Medical attention is strongly encouraged to treat any possible injuries, including internal injuries, or infections. Please note that there are some medical actions that are more effective if taken within a few days after an offense, such as preventative treatment for pregnancy and sexually transmitted infections, evidence collection, and toxicology testing, if there are signs that drugs or alcohol facilitated the offense. One may generally discuss the incident with licensed medical personnel confidentially.

Confidential Medical Resources on Campus

Students may access services of Student Health Services on a confidential basis. Employees may seek confidential counseling and referral service from the Employee Assistance Program (“EAP”).

Community Medical Resources

Sexual Assault Nurse Examiners (SANEs) are specially trained, certified professionals skilled in performing quality forensic medical-legal exams. One may find more information about SANE services and where to obtain them here:

<https://www.mass.gov/ma-sexual-assault-nurse-examiner-sane-program>.

Confidential Counseling and Support

Generally, one may discuss the incident with a licensed mental health counselor or a counselor recognized by a religious order or denomination on a confidential basis. These counselors are good options if one wishes to discuss one’s situation with someone who can keep information about an incident as confidential as possible while assisting in determining next steps, such as obtaining further counseling, seeking medical attention, preserving evidence, and/or reporting to University or law enforcement authorities then or at a later time.

Confidential Counseling and Support Resources on Campus

Students may access Counseling Services on a confidential basis. Employees may seek the confidential services of the EAP (<https://www.uml.edu/hr/employee-benefits/benefited-employees/employee-assistance-program.aspx>). All community members may access the confidential services of religious/pastoral counselors on campus, if any.

Community Counseling and Support Services

National and State Organizations

- The National Stalking Resource Center: <https://victimsofcrime.org/stalking-resourcecenter/>
- Stalking, Prevention, Awareness, and Resource Center (SPARC): <https://www.stalkingawareness.org/>
- National Sexual Assault Hotline: 800-656-4673 (24 hour) <https://www.rainn.org/aboutnational-sexual-assault-telephone-hotline>
- RAINN [Rape Abuse & Incest National Network]: 800-656-4673 (Hotline) www.rainn.org (On-Line Live Chat)
- Safelink MA Hotline: 877.785.2020 (24/7)
- MA Spanish Language Rape Crisis Center Hotline (Llamanos): 800-223-5001(Hotline)
- National Domestic Violence Hotline: 800-799-7233 (24 hour)
- Healing Abuse Working for Change (HAWC): 800.547.1649 (24/7)
- Victim Rights Law Center: 115 Broad Street, 3rd Floor Boston, MA 02110 Phone: 617-3996720 (legal services for victims of sexual assault) <https://www.victimrights.org/>
- Crisis Text Line for People of Color: Text STEVE to 741741
- The Trevor Project (LGBTQ Suicide Hotline): 866-488-7386
- Trans Lifeline: 877-565-8860
- Our Deaf Survivors Center: VP 978-451-7225, Text 978-473-2678
- MaleSurvivor: <https://malesurvivor.org>
- National Suicide Prevention Lifeline: 800-273-8255 (Hotline)

Massachusetts Office for Victim Assistance

MOVA upholds and advances the rights of crime victims and witnesses by providing outreach and education, policy advocacy, policy and program development, legislative advocacy, grants management, and service referrals.

Sexual Assault and Rape Services

MOVA supports free services throughout Massachusetts to help victims and survivors of sexual assault and rape. These services provide a range of options to support an individual's specific needs, including:

- 24/7 hotline counseling, information, and referral;
- will go with victims to hospitals and/or police stations 24/7;
- will go with a victim to court;
- provide one-to-one counseling and support group counseling; and
- provide primary prevention education, professional training and outreach.

<https://www.mass.gov/sexual-assault-and-rape-services>

Greater Boston Area

- Rape Crisis Center, Cambridge (BARCC): 800-841-8371 (24-hour hotline) 617-492-6434 TTY <https://barcc.org/>

Northeastern Massachusetts

- YWCA North Shore Rape Crisis Center, Lynn/Lawrence/Haverhill: 877-509-YWCA (9922), Spanish: 800-223-5001
- Center for Hope and Healing, Lowell: 800-542-5212 Hotline, 978-452-8723 TTY

Central Massachusetts

- Pathways for Change, Inc., Worcester: 800-870-5905 Hotline, 888-877-7130
- Pathways for Change, Inc., Fitchburg: 800-870-5905
- Wayside Trauma Intervention Services, Milford: 800-511-5070 Hotline, 508-478-4205 TTY
- Voices Against Violence, Framingham: 800-593-1125 Support line, 508-626-8686 TTY

Southeastern Massachusetts

- A Safe Place, Nantucket: 508-228-2111 Hotline, 508-228-7095 TTY
- Cape Cod Shelter & Domestic Violence Services (508) 564-7233
- Independence House, Hyannis: (508) 771-6702 or Hotline 800-439-6507
- Independence House, Falmouth: (508) 548-0533 or Hotline 800-439-6507
- Martha's Vineyard Community Services, Oak Bluffs: (508) 693-0032 Hotline or (774) 549-9659 TTY
- The Women's Center, Greater New Bedford: Hotline (508)999-6636 or (508) 996-1177 TTY

- The Women’s Center, Fall River: Hotline (508) 996-3343 or (508) 996-1177 TTY
- New Hope, Attleboro: 800-323-4673 Hotline/TTY
- The Women’s Center, Fall River: 508-672-1222 Hotline, 508-999-6636; TTY 508-9961177
- A New Day, Brockton: 508-588-8255 Hotline, 508-588-8255 or toll free at 888-2937273

Western Massachusetts

- Elizabeth Freeman Center, Pittsfield: 866-401-2425 Hotline, 413-499-2425 TTY
Center for Women and Community, Amherst: 413-545-0800 Hotline, 413-577-0940 TTY
- NELCWIT, Greenfield: 413-772-0806 Hotline; 413-772-0815 TTY
- YWCA of Western Mass, Springfield: 800-796-8711 (24/7) Hotline and TTY; 800-2235001 Spanish
- YWCA of Western Mass, Westfield: 800-796-8711 (24/7) Hotline and TTY

Domestic Violence Services

MOVA supports free services throughout Massachusetts to help victims and survivors of domestic violence. These services provide a range of options to support an individual’s specific needs.

<https://www.mass.gov/domestic-violence-services>

Campus Security Authorities (“CSA”)

Campus Security Authorities (CSAs) are individuals who by virtue of their University responsibilities, and under the Clery Act, are designated to receive and report criminal incidents to University Police so that they may be included and published in the University’s Annual Security and Fire Safety Report (“Clery Report”). All Employees who are designated as CSAs for the purposes of the Clery Act must immediately provide University Police with non-identifying statistical information regarding all reported incidents of sexual assault, dating violence, domestic violence, and stalking, occurring within Clery geography. For a list of CSAs, please contact the Office of Equal Opportunity.

False Complaints / False Reporting

The initiation of a knowingly false report of discrimination, discriminatory harassment, sexual harassment, domestic violence, dating violence, stalking, or retaliation is a serious offense prohibited by the Guidelines. A report made in good faith, however, is not considered false merely because the evidence does not ultimately support the

allegation of prohibited conduct. If an investigation reveals that a Complainant knowingly filed a false report, the University shall take appropriate actions and issue sanctions pursuant to other applicable University policies, including any applicable collective bargaining agreement. The imposition of such sanctions does not constitute retaliation under this Policy.

Training Requirements

UMass Lowell recognizes the importance of prevention, education and training. UMass Lowell will continue to offer educational and training programs to its community, to prevent incidents from happening, and to train staff to appropriately respond to Complaints when they arise.

All Employees

UMass Lowell shall make every effort to provide training and education to the campus community as it relates to equal opportunity, discrimination, [discriminatory] harassment, retaliation, sex discrimination, and sexual harassment. As required by Title IX, the 2024 rules, specifically § 106.8, Final Rule and the Preamble, Final Rule, the University requires that All Employees must be trained upon hiring, change in role, and annually on:

- Recipient obligation to address sex discrimination;
- Scope of conduct that constitutes sex discrimination; and
- Applicable notification requirements.

The University will track completion of training and enforce training requirements consistent with applicable collective bargaining agreements.

All New and Transfer Students

All new and transfer students shall be required to complete appropriate University training on Sexual Harassment Prevention and Title IX. On-going trainings will be provided and may be required at the discretion of the University.

Employees Involved in the Title IX ‘Sex Discrimination Grievance Procedures’

All employees involved in the resolution of Title IX ‘Sex Discrimination Grievance Procedures’ will receive and/or participate in training on an annual basis that minimally covers the following:

- Definition of Sexual Harassment as defined in 34 C.F.R. § 106.30(a);
- Scope of the institution’s education program or activity;
- How to conduct an investigation and grievance process including hearings, appeals, and informal resolution process, as applicable; and
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.
- Both decision-makers and investigators must be trained on issues of relevance, including how to apply the “rape shield” protections provided to complainants. 34 C.F.R. § 106.45(b)(7)(iii). Additionally, decision-makers must receive training on any technology that will be used at a live hearing. 34 C.F.R. § 106.45(b)(1)(iii).
- As required by the Clery act: Issues related to dating violence, domestic violence, sexual assault, and stalking; and
- How to investigate and conduct hearing process that protects the safety of victims and promotes accountability.

Mandatory Reporting Involving Minors and Vulnerable Adult Populations

Persons under 18 (“minors”) may be students or may be engaged in activities sponsored by the Universities or by third parties utilizing University facilities. Where an employee has reasonable cause to believe that a minor is suffering from abuse, sexual abuse or neglect, including the sexual misconduct prohibited by this Policy, the employee and/or the University may be obligated to comply with the mandatory child abuse reporting requirements established at Mass. G.L. c. 119, §§ 51A-E. In such cases, the employee must immediately report the matter to University Police/Public Safety, who, in consultation with other officials, shall contact the Department of Children and Families (“DCF”) and/or outside law enforcement. An employee may also directly contact law enforcement or DCF in cases of suspected abuse or neglect. Massachusetts law also imposes mandatory reporting requirements for certain occupations where abuse or neglect of individuals with disabilities or who are over age 60 is suspected. For more information, please contact the Title IX Coordinator or University Police/Public Safety.

Records Retention and Confidentiality Requirements

All records, including but not limited to notes, investigation reports, hearing summaries, etc., maintained by the Office of Equal Opportunity are generally considered private and/or confidential and not subject to Public Records Requests. Generally, records are protected under applicable Personnel laws, the Family Educational Records and Privacy Act (“FERPA”), or other prevailing privacy laws. Records are generally kept for seven

(7) years from the final resolution of a matter, as is required by law or state guidelines, whichever is prevailing.

As it relates to Title IX the University complies with § 106.44(j) expanding the privacy provisions in § 106.45 providing that personally identifiable information (“PII”) obtained during the course of complying with Title IX regulations can only be disclosed under five (5) circumstances.

1. with the “prior written consent from a person with the legal right to consent to disclosure”;
2. to a parent, guardian, or legal representative who has a right to receive the disclosure;
3. to carry out the purposes of the regulations;
4. “[a]s required by Federal law, Federal regulations, or the terms and conditions of a Federal award”; or
5. if not in conflict with Title IX, when required by state or local law, or allowed by the Family Educational Rights and Privacy Act (FERPA). (FERPA is a federal law that protects the privacy of student education records and applies to all schools that receive funds under an applicable program of the U.S. Department of Education.)

Questions regarding records retention and/or the release of records should be submitted in writing to the Office of Equal Opportunity at equal_opportunity@uml.edu.

Amnesty

Students may be hesitant to report sexual harassment, sexual assault, domestic or dating violence, stalking, or retaliation out of concern that they, or witnesses, might be charged with violations of the University’s drug/alcohol policies or other student conduct policy violations. While the University does not condone such behavior, they place a priority on the need to address sexual harassment and other conduct prohibited by these Guidelines.

Accordingly, the University shall not pursue discipline against a student who, in good faith, reports, witnesses, or participates in an investigation of sexual harassment, sexual assault, domestic or dating violence, stalking, or retaliation, unless such violation was egregious. An egregious violation shall include, but not be limited to, taking an action that places the health and safety of another person at serious and imminent risk.

Complaint Investigation and Resolution Procedures

As noted previously, Individuals who believe they have been or are subjected to Discrimination, Discriminatory Harassment, Sexual Misconduct, Retaliation, are

encouraged to file a concern with the Office of Equal Opportunity & Outreach, or if concerns involve students as Respondents, they may also file with the Office of Student Conduct.

Individuals who believe they are subjected to Sexual Harassment as that term is defined in these Guidelines and in Title IX, may file a verbal or written complaint directly with the University's Title IX Coordinator, by either contacting the Office of Equal Opportunity or Student Conduct.

Note: See Reporting Options located within these Guidelines for how to report.

Initial Review and Intake

Upon receipt of a report, a staff member of the Office of Equal Opportunity & Outreach, and/or Student Conduct shall attempt to meet with the reporting party to discuss the concerns and seek any clarification that is needed.

The Office of Equal Opportunity & Outreach and/or Student Conduct will arrange for an intake meeting with the Complainant, as defined in these Guidelines, who may or may not be the reporting party. The purpose of an intake meeting is to: (1) review the report, (2) gather additional information and clarification, (3) assess the information provided, (4) provide resources and support services to the Complainant, (5) review rights and resolution options, and (6) answer any questions that a complainant might have.

The administrator conducting the intake shall consult with the Title IX Coordinator and/or Equal Opportunity Officer, or designee, as applicable to determine if the complaint warrants further investigation under the Equal Opportunity Complaint Procedure or Sex Discrimination Grievance Procedure, or refer the matter (if appropriate) to Student Conduct, or Human Resources and appropriate manager for review.

Criteria for Investigation

The criteria for determining if the report/complaint meets threshold for Investigation under the guidelines shall be as follows:

1. The conduct as reported, if true, would potentially constitute a violation of the UMass Lowell Nondiscrimination Guidelines and/or University of Massachusetts Non-Discrimination and Harassment Policy;
2. The conduct as reported, if true, would potentially violate federal laws, state laws, local ordinances, and/or University policies or Guidelines concerning discrimination, discriminatory harassment, retaliation, and/or Title IX related Policies/Guidelines;;
3. There is sufficient information for one to reasonably believe that there may be additional information that could lead to 1 or 2 in the preceding section;

4. The University has received an external complaint from a governmental agency concerning a violation of these Guidelines; and/or,
5. The Office of Equal Opportunity & Outreach has been directed by the President's Office, Chancellor, or designee to conduct an investigation into a matter.

If a report/complaint does not meet the threshold for investigation, the report/complaint and all relevant documentation may still be referred to Student Conduct and/or Human Resources for their review as it relates to other policies and procedures. While a report/concern may not meet the threshold for investigation, an informal resolution may still be offered to resolve the report/complaint.

Investigation Procedure Selection or Referral

Following initial review of the complaint, the Office of Equal Opportunity and outreach under the direction of the Director of Equal Opportunity or designee shall determine the appropriate procedures for investigation, or if appropriate, shall offer an informal resolution to the Parties. Parties may also request an informal resolution option at any time.

Complaints of discrimination, discriminatory harassment, or retaliation, that are not covered under Title IX, which involve non-student respondents, shall be addressed through the Equal Opportunity Complaint Procedures, or Informal Resolution Process.

Complaints of discrimination, discriminatory harassment, or retaliation, that are not covered under Title IX, which involve student respondents, shall be addressed through the Student Code of Conduct, or Informal Resolution Process. At the request of the Office of Student Conduct, matters involving student respondents may be referred to the Office of Equal Opportunity for investigation under the Equal Opportunity Complaint Procedure.

Complaints of Sex Discrimination, and/or Sexual Harassment, covered under Title IX, shall be addressed through the Sex Discrimination Grievance Procedure.

When a complaint is filed under Title IX, but it is dismissed because it does not meet the definitions, or does not meet jurisdiction requirements under Title IX, it may be referred to the Equal Opportunity Complaint Procedure, or Student Code of Conduct. A dismissal in such matters does not immune a Respondent from disciplinary action.

If a report/complaint does not meet the threshold for investigation either under the Equal Opportunity Complaint Procedure, or the Sex Discrimination Grievance Procedure, the report/complaint and all relevant documentation may still be referred to Student Conduct and/or Human Resources for their review as it relates to other policies and procedures. While a report/concern may not meet the threshold for investigation, an informal resolution may still be offered to resolve the report/complaint. The Complainant may

also be referred to the appropriate administrator to resolve their concerns. The Complainant retains the discretion to follow through on such referrals.

See Appendix as it relates to the Informal Resolution, Equal Opportunity Complaint Procedure, and/or Sex Discrimination Grievance Procedure.

University's Obligations

The University has obligations under Federal and State laws as it relates to non-discrimination, non-harassment, and non-retaliation laws.

Under Massachusetts General Laws ("M.G.L.") the University has an affirmative obligation to redress complaints of discrimination, discriminatory harassment, and retaliation. As such, while a Complainant may not wish to pursue an investigation, the University may still have affirmative obligations to investigate and resolve the matter. Therefore, the University may initiate a complaint, but in such cases does not serve as the complainant.

Under Title IX, the Title IX Coordinator must (not exclusive):

- Oversee all complaints of sex discrimination;
- Identify and address any patterns or systemic problems that arise during review of such complaints;
- Respond promptly and effectively when they have knowledge of conduct that may constitute sex discrimination in its program, and must take steps to prevent recurrence of discrimination and remedy its effects;
- Communicate all policies and procedures;
- Monitor and address barriers to reporting an instances of sex discrimination.

Generally, the Title IX Coordinator will not move forward with an investigation under Title IX when the Complainant has requested confidentiality, unless specific criteria is met. Refer to the Sex Discrimination Grievance Procedure.

Supportive Measures

Supportive Measures are non-punitive, non-disciplinary measures available to Complainants, Respondents, and/or other parties as applicable. These are individualized supportive and/or protective measures available to either party. Supportive measures are further defined within the applicable procedures. Any party seeking and/or concerned about a Supportive Measure is encouraged to contact the Office of Equal Opportunity & Outreach.

Emergency Removals of Respondents

Emergency Removals are the removal of a respondent from campus, and customarily include prohibiting the individual from coming to campus. Emergency removals are only conducted in accordance with the Sex Discrimination Grievance Procedure, Equal Opportunity Complaint Procedure, Student Code of Conduct, and/or as specified within other specific policies, guidelines, or procedures. Individuals with concerns relating to an emergency removal are encouraged to contact the Office of Equal Opportunity and Outreach (Employees), and/or Dean of Student Affairs (students).

Administrative Leaves of Employees

Paid administrative leave (retaining pay and benefits), is generally considered by the University as a supportive or interim measure, and not an emergency removal. Questions concerning paid administrative leave, should be directed to the Office of Human Resources.

The University may place an employee on paid administrative leave during the pendency of a grievance procedure, under these Guidelines and subject to applicable collective bargaining agreements, when it reasonably concludes that the employee: (1) poses a threat to health or safety, (2) poses a threat to University property or equipment, (3) is disruptive or interferes with an investigation under this Policy or the normal operations of the University, (4) is charged with a serious violation of state or federal law, or (5) as provided for in other policies and/or collective bargaining agreements.

The University shall comply with applicable policies and collective bargaining agreements as it relates to notification requirements, meetings, and/or appeals (if applicable). An individual on paid administrative leave may be restricted from coming to campus, participating in University activities, or conducting official University business, without the written permission of the University, subject to applicable policies and collective bargaining agreements. An employee failing to comply with paid administrative leave terms may result in further action or discipline, consistent with applicable collective bargaining agreements or policies.

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Americans with Disabilities Act Guidelines (Covered Individuals with Disabilities)

Policy Statement

The University of Massachusetts Lowell (“UMass Lowell” or “University”) is firmly committed to providing full access and equal employment and educational opportunities to the extent possible for applicants, qualified employees, and students with disabilities. UMass Lowell takes affirmative action to admit, employ and advance qualified individuals with disabilities at all levels. The University further ensures that all personnel actions, including recruitment, hiring, promotion, and training, are administered without regard to disability. Students with disabilities are invited to register with the Office of Disability Services, which provides accommodations to students. UMass Lowell’s contractors are also prohibited from discriminating against individuals on the basis of disability and are required to take affirmative action to employ and advance in employment qualified persons with disabilities.

Employees and applicants with disabilities are encouraged to disclose that status for the purpose of the University’s affirmative action planning. Employees with disabilities that impact their ability to perform the essential function of their jobs may request reasonable accommodations. Applicants for employment may also request accommodations during the application and interview processes.

Such information will not be used against employees, applicants, or students in any way. Also, if anyone decides not to provide such information, this decision will not be used against them. Disability or medical information as well as information regarding accommodations will not be used in a manner inconsistent with the regulations and laws below, and will be kept confidential, except as necessary as follows: (1) supervisors and administrators may be informed regarding necessary accommodations; and (2) first aid personnel may be informed if required to provide emergency treatment.

Unlawful discrimination and harassment are prohibited against employees and applicants based on disability. Retaliation on the basis of disability is prohibited.

UMass Lowell’s obligations regarding persons with disabilities arise under Sections 503 and 504 of the Rehabilitation Act of 1973 (as amended in 1974), the Americans with Disabilities Act of 1990 (as Amended in 2008), 41 CFR 60-741, and the Massachusetts anti-discrimination law, MGL 151B.

UMass Lowell employees and employment applicants to UMass Lowell have the right to be free from discrimination due to pregnancy or a condition related to pregnancy. Employees may request a reasonable accommodation based on pregnancy or a pregnancy-related condition, without being subject to adverse action.

If you have questions or need information about lactation rooms, please contact EOO.

These Guidelines are in accord with the University of Massachusetts Non Discrimination and Harassment Policy, T16-040 and serves as the basis for the best possible education and the most effective workplace.

Purpose

The purpose of these Guidelines is to:

- establish standards for behavior and policies whereby persons with disabilities may have equitable access to UMass Lowell's programs and services.
- provide an overview of the civil rights and affirmative action regulations for persons with disabilities to which UMass Lowell is subject.
- define behaviors which are prohibited. describe responsibilities of faculty and supervisory employees regarding reporting a concern that these Guidelines have been violated.
- delineate potential consequences for violations of these Guidelines.

Scope

These Guidelines apply to all employees, students, vendors, and visitors of UMass Lowell. For further detail regarding how these Guidelines applies to students, please see the Student Conduct Code.

Definitions

Discriminatory Harassment is conduct by a person or persons against another person or persons based upon their legally protected class that adversely has the effect of: (i) unreasonably interfering with a person or person's employment, educational benefits, academic grades or opportunities, or participation in University programs or activities; or (ii) unreasonably interfering with a person or person's work or academic performance; or (iii) creating an intimidating, hostile, or offensive working or academic environment. In addition, retaliation by the University or by any employee against anyone who raises concerns about discrimination is equally prohibited.

Persons with Disabilities: A disabled individual is defined under the law as any person who (1) has a physical or mental impairment or medical condition which substantially limits one or more of such person's major life activities, (2) has a record of such impairment, or (3) is regarded as having such impairment. Under the American with Disabilities Act (ADA) it is also unlawful to discriminate against an individual, whether disabled or not, because of a relationship or association with an individual with a known disability. In both working and learning environments, it is critical that faculty,

administrators, and supervisors do not assume that any students, staff, or colleagues are persons with disabilities.

Reasonable accommodations are modifications or adjustments that allows an employee or job applicant to perform the essential functions of the job, without undue hardship to the employer. This includes accommodations for Persons with Disabilities, and accommodations for employees to perform the essential functions of the job while pregnant or experiencing a pregnancy-related condition

Retaliation is the interference through intimidation, including threats, coercion, or unlawful discrimination, with an individual's right or privilege secured under the law [Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1964, the Massachusetts anti-discrimination laws, or other laws] or interfering with an individual's right to make a complaint, testify, assist, or participate in any manner in an investigation, proceeding or hearing, or to intervene to prevent a violation of UMass Lowell Guidelines or policy.

Unlawful discrimination is behavior that is directed at a specific person or persons that subjects them to treatment that adversely affects their employment, application for employment, education, admissions, University benefits, programs, or activities, because of their religion or religious belief, color, race, marital status, veteran or military status, age, sex (including sexual harassment), gender identity or expression, sexual orientation, national origin, ethnicity, disability, genetic information, or any other legally protected class. Gender protections also include sexual violence, pregnancy and related conditions. National origin protections include equal access to individuals with limited English proficiency.

Procedures

To help UMass Lowell measure the effectiveness of our outreach and hiring of individuals with disabilities, and in compliance with 41 CFR 60-741, we ask employees and applicants for employment to inform us if they have or ever had a disability. Providing this information is voluntary. Employees and applicants will not be asked to specify the nature of the impairment(s) unless they wish to request an accommodation. We are also required to ask our employees to voluntarily update their information every five years.

UMass Lowell employees, applicants and visitors who require a reasonable accommodation or workplace supports or proper placement due to a disability must contact:

University of Massachusetts Lowell
Equal Opportunity & Outreach
978-934-3566
Equal_Opportunity@uml.edu

Students who wish to request an accommodation should contact Office of Disability Services, at the Wellness Center on the 3rd floor of University Crossing, Disability@uml.edu, 978-934-4574. See uml.edu/student-services/disability/ for more information.

Administrators, faculty and staff who direct the work of others in supervisory roles shall report a possible violation of these Guidelines, that is, a possible occurrence of unlawful discrimination, harassment, or retaliation to Equal Opportunity & Outreach. They are required to report any incidents that a reasonable person might consider a potential violation. As a performance factor, UMass Lowell officials are charged with the responsibility to support this and other equal opportunity policies and the University's Affirmative Action Plan. They are expected to be actively engaged in developing and achieving designated objectives and goals.

Employees are encouraged to monitor their work environment for the presence of any forms of unlawful discrimination, harassment, or retaliation. A performance factor for all employees is compliance with these Guidelines and fostering inclusion with colleagues.

Individuals may file a concern or complaint of discrimination if they believe they are subjected to unlawful discrimination, harassment, or retaliation. They are strongly encouraged to complete the form at the end of the Equal Opportunity Concerns / Complaint Procedure before they meet with the EOO staff. The EOO staff is available in person or by telephone at 978-934-3565, will assist in resolving concerns or complaints. These matters will be responded to as expeditiously as possible to facilitate resolution. If the provisions of these Guidelines are violated, the University will take appropriate steps to halt the inappropriate behavior and address its effects. A finding of a violation of these Guidelines will also result in corrective action, such as appropriate discipline up to and including termination. Regardless of whether conduct constitutes a violation of Guidelines, these Guidelines do not limit UMass Lowell's authority to discipline or take remedial action for workplace conduct that it deems inappropriate or unprofessional.

Additional information, including contact information to report a complaint of discrimination with an external agency, is available at uml.edu/equal.

Responsibilities

UMass Lowell annually reviews, monitors and improves these Guidelines for employees with disabilities, as well as the student support and student life policies for students with disabilities. The University takes appropriate measures to implement the policies and Guidelines. The Director of Equal Opportunity and Outreach is responsible for implementation of these Guidelines and of the affirmative action program for persons with disabilities.

Attachments

Additional information is available at <https://www.uml.edu/hr/equal/accommodations/>

UMass Lowell's Affirmative Action Plan is available for inspection upon request.
Advance requests/appointments are required.

Approved May 2018

Guidelines for Veterans

Guidelines on Equal Opportunity for Veterans

The University of Massachusetts Lowell (UMass Lowell) takes affirmative action to employ and advance in employment qualified disabled veterans, recently separated veterans, active duty wartime or campaign badge veterans, and Armed Forces service medal veterans. Pursuant to the Vietnam Era Veterans' Readjustment Assistance Act, amended (VEVRAA), veterans are encouraged to voluntarily self-identify, both as applicants and after offered employment, so that UMass Lowell may measure its outreach and recruitment success against a national benchmark.

UMass Lowell recruits, hires, trains and promotes persons in all job categories and will administer all personnel actions in such a way that veterans are not denied employment opportunities as a result of their veteran status. This protection includes those employees who have applied to or are required to perform uniformed military service. The University maintains an Affirmative Action Plan which includes regularly posting positions with the appropriate local employment service offices. This affirmative action program is subject to an internal audit and reporting system. UMass Lowell's contractors are also prohibited from discrimination against qualified protected veterans, and are required to take affirmative action to employ and advance in employment qualified protected veterans.

Qualifying veterans including Reserve and National Guard members may return to work at UMass Lowell after concluding their military service with appropriate healthcare and pension benefits. Veterans are eligible for certain pension buy-back provisions for their active service. Qualifying veterans who work for over three years at the University may be eligible for additional employment protections. Reserve and National Guard members may be granted limited leaves from employment for training. Also, Reserve and National Guard members who actively served after September 11, 2001 may be entitled to compensation provisions.

Employees and applicants are provided with a standardized form by which they may voluntarily self-identify veteran status. Applicants and employees are invited, at the point of application and any time afterward, to voluntarily specify their veteran status, and, if recently separated, the date of discharge, by emailing HRDataTeam@uml.edu. A decision to not self-identify this information will not subject applicants or employees to any adverse action. This information will not be used in a manner inconsistent with the regulations and laws below and will be kept confidential, except as necessary for disabled veterans as follows: (1) supervisors and administrators may be informed regarding necessary accommodations and (2) first-aid personnel may be informed, to the extent appropriate, if the condition might require emergency treatment.

Disabled veteran employees are encouraged to provide input to the UMass Lowell regarding any requests for accommodation and proper placement.

Discrimination is prohibited against employees and applicants based on protected veteran status or reserve status. Also, retaliation on the basis of protected veteran status is prohibited. Retaliation is the interference through intimidation, including threats, coercion, or unlawful discrimination, with an individual's right or privilege secured under the laws below or interfering with an individual's right to make a complaint, testify, assist, or participate in any manner in an investigation, proceeding or hearing, or to intervene to prevent a violation of these guidelines. Additional information is available at www.uml.edu/HR/Equal/EqualOpportunity/Veterans.aspx.

Faculty and staff who have questions or concerns regarding this policy should contact:

Equal Opportunity & Outreach
University of Massachusetts Lowell
978-934-3565
Equal_Opportunity@uml.edu

These provisions are in compliance with 41 CFR 60-300; Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended by the Jobs for Veterans Act of 2002, 38 U.S.C. 4212 (VEVRAA); Uniformed Services Employment and Reemployment Rights Act, 38 CFR 43 (USERRA); MGL ch. 32, s. 4 (h); MGL ch. 33 s. 59-59A; MGL ch. 149, s. 52A; MGL ch. 151B s. 4; and MA Session Laws Acts of 2005, Ch. 77.

The Director of Equal Opportunity and Outreach is responsible for implementation of the affirmative action program. The UMass Lowell Affirmative Action Plan is available for inspection from 9 a.m. to 4 p.m. weekdays in Equal Opportunity and Outreach.

Approved September 2016

Consensual (Amorous) Relationships

Consensual Amorous Relationships Guidelines

The University of Massachusetts Lowell (UMass Lowell/University) promotes a professional, friendly, supportive work and learning atmosphere for its employees and students and furthers an environment where all work/academic decisions are made professionally and fairly. Therefore, the integrity of interaction among faculty, staff and students must not be compromised.

Consensual amorous, dating, or sexual relationships (amorous relationships) have inherent risks when they occur between a faculty member, supervisor, or other member of the University community and any employee or student when a professional responsibility exists between them. An employee with professional responsibility over another with whom he/she has an amorous relationship should be aware that the relationship may subject him/her and UMass Lowell to legal liability. Consequently, such professional responsibility may not exist between two individuals who are in or who plan to enter into an amorous relationship.

Professional responsibility is defined for the purposes of these guidelines as performing functions including but not limited to teaching, counseling, grading, advising, evaluating, hiring, supervising, and making decisions or recommendations that confer benefits such as promotions, financial aid, bonuses, or other awards or compensation, or that may impact upon other academic or employment opportunities. It also includes evaluating prospective applicants for employment or admission.

Such relationships may compromise or be perceived as compromising the fairness and impartiality of a supervisor's/faculty member's conduct toward the subordinate or to others in subordinate positions. Further, there is potential impact on the work environment and potential damage to the supervisory individual's own credibility and standing, within the department and within the University as a whole.

Given the power imbalance between the two individuals, the relationship may in fact be far less voluntary for the subordinate than it appears to the supervisory individual. Additionally, circumstances may change, and conduct that was previously welcomed by the subordinate party may in fact become unwanted and unwelcome. Initial consent of both parties to the relationship may not prevent later charges of sexual harassment by the subordinate. Legally, the supervisory individual and the organization could be challenged if a consensual amorous relationship results in allegations of hostile work environment by the subordinate, or by any others in the department who feel they themselves have been treated unfairly as a result of the relationship.

Any employee of UMass Lowell who is in, or who plans to enter an amorous relationship with another employee or student member of the University, or an applicant for

employment or admission, when a professional responsibility exists between them, must report the relationship with his/her administrative superior and HR/EOO. Similarly, any member of the University in an amorous relationship with another member, upon notification or assignment of any duty or role that creates a professional responsibility over the other, must immediately report the relationship to his/her supervisor and to HR/EOO. At the discretion of HR/EOO and management, changes to duties or roles will be made to remove the professional responsibility, in order to eliminate the existing or potential conflict of interest.

As a potential penalty for either failing to report an amorous relationship in compliance with this guideline, or allowing an amorous relationship to become one where one party to a relationship is sexually harassing another, the University reserves to itself the right to decide that it will not pay for representation of that individual in the event a legal claim is asserted against the University and/or that individual.

Faculty and staff who have questions or concerns regarding this policy should contact:

Equal Opportunity & Outreach
University of Massachusetts Lowell
978-934-3560
Equal_Opportunity@uml.edu

Rev. 02/2015

Statement for the Usage of Restroom Facilities

The University of Massachusetts Lowell strives to be a model campus community where all students, faculty and staff feel appreciated, respected, connected, valued and engaged with the larger life of the campus and beyond. In creating a diverse and inclusive environment for all, the University provides safe, accessible, and convenient restroom and locker room facilities. Members of the UMass Lowell community and campus guests may use the restrooms and locker room facilities that correspond to their sex or gender identity, or restrooms and locker room facilities designated as gender-neutral.

Rev. 09/22/16

Pregnancy Accommodations under Title IX, PWFA, PUMP ACT (Nursing Mothers), and M.G.L.

UMass Lowell is committed to creating and maintaining a community where all individuals enjoy freedom from discrimination, including discrimination on the basis of sex, as mandated by Title IX of the Education Amendments of 1972. Sex discrimination, which can include discrimination based on pregnancy, pregnancy related conditions, such as but not limited to lactation, marital status, or parental status, is prohibited and illegal in admissions, educational programs and activities, hiring, leave policies, employment policies, and health insurance coverage. UMass Lowell hereby establishes Guidelines and procedures for ensuring the protection and equal treatment of pregnant persons, individuals with pregnancy-related conditions, and new parents.

Several laws and regulations apply to pregnancy depending on the individual's status, student or employee.

Scope

These Guidelines apply to all aspects of UMass Lowell's program, including admissions, educational programs and activities, hiring, leave policies, employment policies, and health insurance coverage.

Definitions

- A. "Medical necessity" is a determination made by a health care provider of a student's or employee's choosing.
- B. "Pregnancy and pregnancy-related conditions" include (but are not limited to) pregnancy, childbirth, false pregnancy, termination of pregnancy, conditions arising in connection with pregnancy, and recovery from any of these conditions, in accordance with federal law.
- C. "Pregnant student/Birth-parent" refers to the student who is or was pregnant. Although the pronoun "she" and "her" are used herein, these Guidelines and pregnancy-related protections apply to all pregnant persons regardless of gender identity or expression.

Enforcement of Guidelines

The Office of Equal Opportunity & Outreach, in conjunction with other offices as applicable, works to ensure equal access for students and/or employees under Title IX, the Pregnant Worker's Fairness Act, and/or other prevailing federal and/or state laws and/or regulations. General questions about these Guidelines should be directed to the

Office of Equal Opportunity & Outreach at (978) 934-3565 or Equal_Opportunity@uml.edu.

Students

Pregnancy and Pregnancy related conditions are generally covered by Title IX and prevailing other federal and state regulations. Pregnancy by itself is generally not considered a disability under the Americans with Disabilities Act (ADA).

Pregnant students, and/or students with pregnancy related conditions may request reasonable accommodations through the Title IX Coordinator, Office of Equal Opportunity, and/or Associate Dean of Student Affairs, Deputy Title IX Coordinator, or their designees. The implementing official will engage with the requesting student in the interactive process to determine reasonable accommodations.

- UMass Lowell] and its faculty, staff, and other employees shall not require a student to limit her studies due to pregnancy or pregnancy-related conditions.
- The benefits and services provided to students affected by pregnancy shall be no less than those provided to students with temporary medical conditions.
- Students with pregnancy-related disabilities, like any other student with a disability, are entitled to reasonable accommodation so they will not be disadvantaged in their courses of study or research, and may seek assistance from the Title IX Coordinator, or designee.

Employee Obligation for Referral

Employees are obligated under the 2024 Title IX obligations to inform students disclosing pregnancy and/or pregnancy related conditions of the following information:

- Right to be free from Sex Discrimination; that Pregnancy and Pregnancy Related Conditions are covered under Title IX;
- Right to seek reasonable modifications (accommodations) under Title IX;
- Contact information for the Title IX Coordinator.

The Office of Equal Opportunity & Outreach has a brochure with the information above, available upon request and/or its website, which employees may provide. For additional information contact the Office of Equal Opportunity & Outreach.

Employees

Employees who are Pregnant and/or experiencing Pregnancy Related Conditions are covered under Title IX, The Pregnant Workers Fairness Act, the PUMP Act (where applicable), and applicable Massachusetts General Laws. Pregnancy and Pregnancy

related conditions are generally not considered a disability under the American's with Disabilities Act (ADA).

Pregnant employees, and/or employees with pregnancy related conditions may request reasonable accommodations through the Office of Equal Opportunity. The implementing official will engage with the requesting employee in the interactive process to determine reasonable accommodations.

Reporting Discrimination, Discriminatory Harassment, or Retaliation

Students and/or employees that believe they have been discriminated, harassed, and/or retaliated against, and/or generally had their rights violated as a result of their Pregnancy or Pregnancy Related Condition, should report such complaints to the Office of Equal Opportunity and Outreach at (978) 934-3565 or Equal_Opportunity@uml.edu.

In addition to reporting to the Office of Equal Opportunity individuals may file a complaint with the Office for Civil Rights in the U.S. Department of Education.

Office for Civil Rights, Massachusetts Office
33 Arch Street, 9th Floor
Boston, MA 02119-1424
Telephone: 617.289.0111
Facsimile: 617.289.0150
TDD # (877) 521.2172
Email: OCR.Boston@ed.gov

Appendix: Equal Opportunity Complaint Procedure

Introduction and Scope

The University of Massachusetts Lowell (“UMass Lowell” or “University”) is committed to fostering a safe, welcoming, and inclusive working and learning environment. At its most basic level, such a climate provides that no member of the university community, nor visitors such as vendors or contractors, be subject to discrimination. The University has issued the UMass Lowell Nondiscrimination Guidelines, (“Guidelines”) which are in accordance with University of Massachusetts policies, and state and federal laws. This Equal Opportunity Concerns/Complaint Procedure, (“EO Complaint Procedure”) describes the process the University uses, in accordance with the Nondiscrimination Guidelines, to review concerns or complaints of Unlawful Discrimination, Discriminatory Harassment (Harassment based on any Protected Class), or Retaliation for participation in processes covered by this EO Complaint Procedure, (“Protected Class” and “Retaliation” are defined below). This includes Sexual Misconduct (see definitions below).

In April of 2024, the U.S. Department of Education published new regulations in Part 106 of title 34 of the Code of Federal Regulations, which define Sex Discrimination and Sexual Harassment, a form of Sex Discrimination. Please review the Sex Discrimination Grievance Procedure to learn about the definition of Sexual Harassment, reporting requirements, and review process for matters involving Sex Discrimination, including Sexual Harassment.³

This EO Complaint Procedure does not govern the process for Sex Discrimination as defined in the April 2024 US Department of Education new regulations. This Procedure governs the process for Sexual Misconduct, as defined below. If the concern or complaint involves both Sexual Misconduct and Sexual Discrimination as defined in Title IX based on the same incident, the Title IX Coordinator at their sole discretion may determine that the Sex Discrimination Grievance Procedure will be followed to review the concerns. If during an Equal Opportunity review, other concerns are reported or arise regarding potential violations of other University’s policies, protocols, or laws not covered by the Nondiscrimination Guidelines, those matters will be referred to appropriate University administrators for their review and determination of next steps.

These EO Complaint Procedures shall be conducted in accordance with applicable collective bargaining agreements of the University, UMass Lowell Guidelines, and University of Massachusetts Policies.

Administrators, faculty, and staff are expected to report possible discriminatory, hostile environment or other inappropriate behavior that could potentially be a violation of the

³ The University’s procedures relating to unwelcome sex discrimination/sexual harassment and sexual misconduct are emailed annually to all members of the UMass Lowell community.

University's Nondiscrimination Guidelines, to the Office of Equal Opportunity and Outreach ("EOO").⁴

Contents

- I. Definitions
- II. Contact Information to report a concern or complaint, or for support services
- III. Reporting Guidelines for UMass Lowell Administrators, Faculty, and Supervisors,
- IV. Rights and Expectations for the Parties and Witnesses
- V. Supportive Measures
- VI. Informal Dispute Resolution Efforts
- VII. Filing an Equal Opportunity Complaint
- VIII. Complaint Investigation and Resolution Procedures
- IX. Records Retention

I. Definitions

The following selected terms are defined in an effort to facilitate a more thorough understanding of these Guidelines and Procedures. This list is not intended to be a complete list of all terms referenced in these Guidelines that might require interpretation or clarification. The Director of Equal Opportunity or designee shall make the final determination on the definition of any term found in these Guidelines.

Advisor of choice is an individual who accompanies and supports the complaining and the responding parties, who may provide support but may not speak on behalf of the person or otherwise participate in or contribute to a meeting, grievance proceeding, or hearing. Advisors may have additional responsibilities where the process is governed by the Sex Discrimination Grievance Procedures. Please see the Sex Discrimination Grievance Procedure, which defines the Advisor's role related to a formal Title IX Sexual Harassment complaint.

Complaint is defined as an oral or written request that can objectively be understood to be a request to investigate and prepare a decision regarding discrimination, discriminatory harassment, or retaliation. The University may initiate a complaint and the appropriate procedures to investigate a complaint, and/or to meet its affirmative obligations to redress discrimination, discriminatory harassment, or retaliation under Massachusetts General Laws. Note that comments made at "public awareness events" do not constitute complaints.

Specific to Title IX, a Complaint is an oral or written request that objectively be understood to be a request to investigate and prepare a decision regarding

⁴ Generally, concerns or complaints regarding student violations are addressed according to the Student Code of Conduct.

discrimination based on sex, including harassment. Sex-based discrimination also includes discrimination based on sex-stereotypes, sex characteristics, pregnancy or related conditions sexual orientation, and gender identity.

Complainant is the party who is alleged to have been subjected to conduct that would constitute discrimination, sex based discrimination, sexual harassment, discriminatory harassment, and/or retaliation as defined within these Guidelines and/or Procedures.

For the purposes of Title IX, (a) an individual who is alleged to have been subjected to conduct that could constitute sex-discrimination, sexual harassment, and who was participating or attempting to participate in UMass Lowell's Education Program or Activity; or

(b)) a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex-based harassment under these Guidelines and/or Procedures and who was participating or attempting to participate in UMass Lowell's Education Program or Activity at the time of the alleged sex-based harassment.

Note: While the University may initiate a complaint, the University does not serve as the complainant in such matters.

Confidential Employee is an employee who, because of his/her position, may not reveal an individual's identity or other information without permission, even to the Title IX Coordinator(s). The following categories of employees are confidential employees:

- Licensed sexual assault counselors, psychologists, psychotherapists, social workers, clergy, health care personnel, and attorneys, and those persons working under the supervision of such individuals, when acting in their professional role providing services to a patient or client.
- University employees bound by statutory privilege obligations under Massachusetts law, such as religious practitioners.
- University employees who provide administrative, operational, and/or related support for a confidential employee in the performance of such services such as supporting staff for the roles listed above.
- Individual(s) on-campus designated as confidential by the Director of Equal Opportunity / Title IX Coordinator or designee.

Confidential Resource Provider, please see this EOO Complaint Procedure and the University's Sex Discrimination Grievance Procedure. Parties could access the services of the Confidential Resource Provider, even if a complaint has not been filed. At UMass Lowell, the Confidential Resource Provider is an employee or other individual designated by the university to provide information on (1) reporting options and the effects of each option; (2) counseling services available on and off campus; (3) medical and health services available on and off campus; (4) available supportive measures; (5) disciplinary process of the university; and (6) the legal process carried out through local law enforcement agencies. Confidential Resource Provider services are available to

assist parties in a Sexual Misconduct or Sexual Harassment matter. The Confidential Resource Provider is designated confidential by the University and per Title IX. Their services are confidential unless otherwise required by state or federal law. If requested by the reporting and/or Respondent of an alleged sexual harassment/sexual misconduct matter, the Confidential Resource Provider may coordinate with other members of the university's community, as needed, to arrange supportive measures. The Confidential Resource Provider shall notify the parties of their rights and the university's responsibilities regarding a protection order, no contact order, and any other lawful orders issued by the university or a civil, criminal, or tribal court. For additional information regarding supportive measures, individuals can contact the Case Manager and Confidential Resource Provider at 978934-6800, for Counseling Services, 220 Pawtucket Street, Suite 300, Lowell, MA 01854.

Consent means a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression. Consent to one act does not mean consent to another act. Consent may be withdrawn at any time so long as it is clearly communicated.

Education Program or Activity means all of the operations of a college, university, or other postsecondary institution, or a public system of higher education.

Equal Opportunity Complaint Procedure ("EO Complaint Procedure") is the procedure that shall be used for addressing allegations of discrimination, [discriminatory] harassment, and retaliation that do not fall under Title IX. This procedure shall only apply where the respondent is not a student. When the student serves as the Respondent the matter shall be referred to the Office of Student Conduct, and the Code of Conduct shall apply as the prevailing procedure.

At the request of the Office of Student Conduct, the Office of Equal Opportunity may conduct an investigation under the EO Complaint Procedure into allegations of discrimination, discriminatory harassment, or retaliation where the student is the respondent.

Gender Expression refers to the external characteristics and behaviors that relate to a perception of gender, including but not limited to dress, mannerisms, speech patterns, social interactions, and body characteristics.

Gender Identity refers to an individual's internal sense of gender, which may be male or female, man or woman, or not conforming to those binary genders. A person's gender identity may be different or the same as the person's sex assigned at birth.

Discriminatory Harassment is conduct against a person or persons based upon their legally protected class that adversely has the effect of:

1. unreasonably interfering with a person or person's employment, educational benefits, academic grades or opportunities, or participation in university programs or activities; or
2. unreasonably interfering with a person or person's work or academic performance; or
3. creating an intimidating, hostile, or offensive working or academic environment.

Party means *Complainant or Respondent*. **Parties** collectively refers to the Complainant and Respondent.

Peer Retaliation means retaliation by a student against another student.

Pregnancy or related conditions means

- A. Pregnancy, childbirth, termination of pregnancy, or lactation;
- B. Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
- C. Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

Preponderance of the Evidence is more likely than not. Preponderance is the standard used in both the Equal Opportunity Complaint Procedure and the Sexual Harassment Grievance Procedure for determining if an individual violated these Guidelines and/or the Policy.

Protected Class is groups of individuals afforded legal and university policy protection from discrimination on the basis of sex (including Sexual Misconduct; Sexual Harassment; and pregnancy, childbirth or related medical condition), race, color, age, religion or creed, national or ethnic origin or ancestry, disability status, protected veteran status, gender identity or gender expression, sexual orientation, genetic information, natural or protective hairstyle, participation in a civil rights report or complaint proceeding (for retaliation claims), or any other characteristic protected by law.

Relevant means related to the allegations of sex discrimination under investigation as part of the Sex Discrimination Grievance Procedure. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

Relevant also means related to the allegations of discrimination, discriminatory harassment and/or retaliation as it relates to the EO Complaint Procedure. Questions are relevant when they seek evidence that may aid in showing whether discrimination, discriminatory harassment, or retaliation occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged discrimination, discriminatory harassment or retaliation occurred.

Remedies means measures provided, as appropriate, to a Complainant or any other person UMass Lowell identified as having had their equal access to UMass Lowell's Education Program or Activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to UMass Lowell's Education Program or Activity after UMass Lowell determines that sex discrimination occurred.

Respondent is the individual alleged to have violated these Guidelines and/or the Policy. Respondents are presumed not responsible up to and unless found to be responsible by a preponderance of the evidence.

Retaliation is the interference through intimidation, threats, coercion, or unlawful discrimination, with an individual's right or privilege secured under the law [Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1964, the Massachusetts anti-discrimination laws, or other laws] to report or make a complaint, testify, assist or participate or refuse to participate in any manner in an investigation or grievance proceeding, or hearing, or to intervene to prevent a violation of the University's policy or these Guidelines.

Sanctions means consequences imposed on a Respondent following a determination under one of the grievance procedures that the Respondent violated UMass Lowell Guidelines and/or UMass Nondiscrimination and Harassment Policy.

Sexual Harassment⁵ a form of *sex discrimination* under Title IX is conduct on the basis of sex that satisfies one or more of the following:

1. *Quid pro quo harassment*. An employee, agent or other person authorized by UMass Lowell's Education Program or Activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
2. *Hostile Environment Harassment*. Unwelcome Sex based conduct that based on the totality of the circumstances, is subjectively and objectively offensive, and is so severe OR pervasive that it limits or denies a person's ability to participate in or benefit from UMass Lowell's education program or activity. Whether a hostile environment has been created is a fact specific inquiry that includes consideration of:
 - a. The degree to which the conduct affected the complainant's ability to access the education program or activity;
 - b. They type, frequency, and duration of the conduct;
 - c. The parties' ages, roles, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - d. The location and context of the conduct; and

⁵ Concerns involving Sex Discrimination, Sexual Harassment will be reviewed pursuant to the UMass Lowell Sexual Discrimination Grievance Procedure. The Sexual Harassment definition and Sex Discrimination Grievance Procedure may apply when, for example, the reported conduct meets the jurisdictional requirements under Title IX. In other instances, the definition of Sexual Misconduct may apply.

- e. Other sex-based harassment in the education program or activity.
3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), the CLERY Act. Per the Clery Act, the term Sexual Assault means an offense classified as a forcible or non forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
 4. "Dating Violence" as defined in 34 U.S.C. 12291(a) (11), as defined in the Violence Against Women Act (VAWA) Reauthorization of 2022 and the VAWA Amendments to the Clery Act) means any violence committed by a person:
 - a. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - b. Where the existence of such a relationship shall be determined based on a consideration of the following factors: The length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.
 5. "Domestic Violence" as defined in 34 U.S.C. 1229(a)(12). Domestic violence means any felony or misdemeanor crimes committed by a person who:
 - a. Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of Massachusetts, or a person similarly situated to a spouse of the victim;
 - b. Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - c. Shared a child in common with the victim; or
 - d. Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of Massachusetts; or
 6. "Stalking" as defined in 34 U.S.C. 12291(a) (36), as amended. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - a. fear for the person's safety or the safety of others; or
 - b. suffer substantial emotional distress.

Sex Discrimination Grievance Procedure is the procedure for addressing sex discrimination, sexual harassment, and retaliation that falls under the purview of Title IX. This procedure shall be used regardless of the party's affiliation, e.g. student, faculty, staff, visitor, etc.

Sexual Misconduct is an incident of sexual violence, dating violence, domestic violence, gender based violence, violence based on sexual orientation or gender identity or expression, sexual assault, sexual harassment, or stalking, as these terms are defined by M.G.L. Chapter 6 §§ 168D and 168E, when such conduct is not defined as Sex Discrimination and/or Sexual Harassment under Title IX, above.

Student means a person who has gained admission.

Student Code of Conduct are the disciplinary procedures that apply to students and shall be used in student matters where the student is respondent and the Complaint does meet Title IX jurisdiction.

Supportive Measures are generally non-punitive, non-disciplinary individualized services offered, as appropriate, to a Complainant or Respondent, regardless of a complaint, investigation or resolution, intended to provide support or protection. These services are defined further under the Sex Discrimination Grievance Procedure, and the Equal Opportunity Complaint Procedure.

Unlawful Discrimination is behavior that is directed at a specific person or persons that subjects them to treatment that adversely affects their employment, application for employment, education, admissions, university benefits, programs, or activities, because of their religion or religious belief, color, race, marital status, veteran or military status, age, sex (including sexual harassment), gender identity or expression, sexual orientation, national origin, ethnicity, disability, genetic information, pregnancy or related condition, natural or protective hairstyle, or any other legally protected class. National origin protections include nondiscrimination on the basis of language.⁶

II. Contact Information to report a concern or complaint, or for support services

A concern or complaint about Unlawful Discrimination, including but not limited to, Sexual Misconduct, Discriminatory Harassment, or Retaliation for any matter covered by this EO Complaint Procedure may be reported by contacting Equal Opportunity and Outreach at 978-934-3565. If the Respondent is a student, these concerns should be reported to Student Conduct, 978-934-2100, University Crossing, 220 Pawtucket Street, Suite #200, Lowell MA 01854-5142. Individuals can also file a complaint online at <https://www.uml.edu/hr/equal/>.

Individuals who wish to file an anonymous complaint may do so by filing the online Report a Concern form online at: <https://www.uml.edu/HR/Equal/report.aspx> while not including any identifying information such as their name or contact information.

- University of Massachusetts Lowell Title IX Coordinator:
Dr. William Cummings, Director of Equal Opportunity & Outreach and Compliance
Phone: 978-934-3565
Email: William_Cummings@uml.edu

⁶ Individuals with limited English language proficiency are invited to contact EOO at (978) 93403565 to request assistance in accessing UMass Lowell's programs and activities.

Individuals with disabilities or limited English proficiency may contact the Office of Equal Opportunity and Outreach at (978) 934-3565 if they need an accommodation or language services to access the complaint process.

Section VI below describes the process for filing a complaint. This involves filing the Report a Concern form online at: <https://www.uml.edu/HR/Equal/report.aspx> and providing identifying information such as name and contact information. Individuals must also meet with Equal Opportunity and Outreach, or with Student Conduct if the Respondent is a student.

Filing an equal opportunity complaint does not in any way waive or deprive an individual of the right to report an incident to campus, local, or state law enforcement or an external federal or state agency. Please see contact information below. Also, no individual who files a complaint or reports an incident of unlawful discrimination with UMass Lowell shall be required to also report it to law enforcement or any outside agency, unless they choose to do so.

UMass Lowell Police Department
University Crossing, Suite 170
220 Pawtucket Street
Lowell, MA 01854
Emergencies: 978-934-4911,
Non-Emergencies: 978-934-2398 or
Police@uml.edu
<https://www.uml.edu/Police>

City of Lowell Police Department
50 Arcand Drive
Lowell, MA 01852
Emergencies: 911,
Non-Emergencies: (978) 937-3200
www.lowellma.gov/221/Police-Department

The United States Department of Education
Office for Civil Rights Boston Area Office
8th Floor
5 Post Office Square Boston, MA 02109-3921
Voice phone: (617) 289-0111
Facsimile: (617) 289-0150

The United States Equal Employment Opportunity Commission
Boston Area Office
JFK Federal Building
15 New Sudbury Street, Room 475
Boston, MA 02203-0506
Voice phone: (800) 669-4000,

TTY: (800) 669-6820

The Massachusetts Commission Against Discrimination
One Ashburton Place, Suite 601
Boston, MA 02108
Voice phone: (617) 994-6000,
TTY: (617) 994-6196

Department of Energy programs: Any individual with a concern of unwelcome sexual behavior in connection with any program or activity receiving assistance from the Department of Energy may submit a complaint in writing to Field Civil Rights Officers located in the Department of Energy's field offices or to the Director, Office of Civil Rights and Diversity, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

For information regarding the counseling, health, safety, and other support services available on and off campus please see www.uml.edu/Prevent/Resources. For academic support please contact Student Affairs at (978) 934-2100 or student_affairs@uml.edu.

For emergency assistance and/or medical treatment, the following are local options. Preserving evidence in sexual assault matters is critical and should be done promptly even if the person has not decided they want to file charges. Evidence is preserved for 15 years. You may obtain support from any of these providers without filing a concern or complaint. None will require you to do so.

UMass Lowell Police Department
University Crossing, Suite 170
220 Pawtucket Street
Lowell, MA 01854
Emergencies: 978-934-4911,
Non-Emergencies: 978-934-2398 or
Police@uml.edu
<https://www.uml.edu/Police>

City of Lowell Police Department
50 Arcand Drive
Lowell, MA 01852
Emergencies: 911,
Non-Emergencies: (978) 937-3200
www.lowellma.gov/221/Police-Department

Lowell General Hospital (Main Campus)
SANE Certified Site 6
295 Varnum Avenue
Lowell, MA 01854

(978) 937-6000
www.lowellgeneral.org

Lowell General Hospital (Saints Campus Emergency Room)
SANE Certified Site
1 Hospital Drive
Lowell, MA 01852
(978) 937-6000
www.lowellgeneral.org

Additional information and assistance may be available from the following sources: Employees may contact the Employee Assistance Program; Students may contact the UMass Lowell Counseling Center, their Residence Life Staff, Coach, or Academic Advisor.

III. Reporting Guidelines for UMass Lowell Administrators, Faculty, and Supervisors

All UMass Lowell administrators⁷, all supervisors and managers have the responsibility to report all possible incidents of potential violations of the UMass Lowell's Nondiscrimination Guidelines including Unlawful Discrimination, Sexual Misconduct, Discriminatory Harassment, and/or Retaliation for participation in processes covered by this EO Complaint Procedure, to Equal Opportunity and Outreach (EOO).⁸ They must do so regardless of whether an individual wishes to file a complaint alleging a violation, and even if the concerned person requests confidentiality or anonymity, or requests that no action be taken. See the EOO contact information at the beginning of Section II.

EOO and Director for EOO will maintain the privacy of the concern to the extent possible while complying with the University's duty to investigate, consistent with state and federal law. The University will gather information in order to determine the scope of the concern and resolve the situation. While parties may request confidentiality, the University has a responsibility to provide a safe and nondiscriminatory environment for all members of the Campus Community. Confidentiality, therefore, cannot be guaranteed.

For this reason, only Confidential Resource Providers or others with a legal privilege to keep confidentiality such as counselors and healthcare providers, are exempt from reporting possible or known violations to the University or the Title IX Coordinator. Individuals required to report under the Guidelines cannot promise confidentiality to the individual from whom they learned the details of a possible violation. Individuals that are not confidential are expected to report possible as well as known incidents to Equal

⁷ Administrators include members of the University's Executive and Senior Cabinets.

⁸ For Sexual Harassment, Sex Discrimination matters falling under Title IX, all employees who are not confidential have an obligation to report the matter to the Title IX Coordinator. Refer to the Guidelines or Sex Discrimination Grievance Procedure for further information.

Opportunity and Outreach. Additionally, the supervisors and managers must take reasonable proactive steps to become aware of potential incidents.

Whether or not a university employee or student has mandatory reporting obligations, all members of the University community are encouraged to practice bystander intervention, which includes interrupting potential violations of the UMass Lowell Nondiscrimination Guidelines when safe. In addition, all members of the university community are strongly encouraged to report any potential violations of these Guidelines.

IV. Rights and Expectations for the Parties and Witnesses

Rights

Reasonable Accommodations Any party, witness, or other participant who wishes to file a complaint or who is involved in any process related to this procedure may request reasonable accommodations based on a medical reason under the Americans with Disabilities Act, by contacting the ADA/Section 504 Coordinator, Office of Equal Opportunity and Diversity & Inclusion, 978-934-3565, equal_opportunity@uml.edu.

Advisors: The Complainant, the Responding Person, and witnesses are welcome to have an Advisor during their meetings with the Office of Equal Opportunity and Outreach. The Advisor may only act in an advisory capacity for the person and may not speak on behalf of the person or otherwise participate during any interviews, meetings, or hearings. During meetings, the person will have the opportunity to take a break and to confer with the Advisor.

Confidential Resource Providers: For Sexual Misconduct matters, Complainants and Respondents both have the right to confidential discussions with a Confidential Resource Provider to receive assistance and information, whether they choose to file a complaint.

Language Assistance: Any party, witness, or other participant with limited English proficiency may request language services at no cost to them.

Scheduling: Both the Complainant and the Responding Person will be provided with reasonable flexibility for scheduling meetings, while recognizing the need for as prompt a review as possible.

Supportive Measures: The university may choose to provide supportive measures at any point after learning of any equal opportunity concerns including those involving potential Sexual Harassment/Sexual Misconduct. Supportive measures may not be punitive in nature. The Director for Equal Opportunity & Outreach, Diversity & Inclusion

at her discretion will determine whether supportive measures should be implemented. Please see Section V for more information.

Discipline for Related Violations: A student complainant or witness who participates in an investigation of an incident of sexual misconduct shall not be subject to a disciplinary sanction for a violation of the Student Code of Conduct related to that incident unless the University determines that the Complainant or witness's participation in the matter was not in good faith or that the violation of the Student Code of Conduct was egregious. An egregious violation includes, but is not limited to, conduct that places the health and safety of person(s) at risk.

Retaliation Protections: Retaliation against any person including the Complainant, Responding Person, witnesses or any other individual, based on their participation in an equal opportunity and /or civil rights-related report, complaint, informal resolution process, or investigation, is prohibited by the UMass Lowell Nondiscrimination Guidelines, the University of Massachusetts Non-Discrimination and Harassment Policy, and state and federal laws. UMass Lowell will take steps to prevent retaliation, and take strong responsive action if it occurs. A concern of retaliation should be immediately reported to Equal Opportunity and Outreach, or for concerns about students, to Student Conduct, which will promptly investigate it. This includes concerns of retaliatory actions taken by the University and its officials. Examples of behavior that may be perceived as retaliatory include but are not limited to attempts to learn of or to influence accounts made during the review, and unwarranted disciplinary actions.

Ascertaining Your Rights: Parties and witnesses may discuss the equal opportunity review to ascertain their rights regarding the matter. To protect the privacy of these individuals and the integrity of the process to the extent possible, the University only shares information obtained during the review on a need-to-know basis.

The right to file a criminal report about crime and the right to external civil or criminal processes are described in Section II. The right to privacy is described in Section III. The right to a neutral and unbiased review and the description of information provided to the parties and witnesses are described in Section VIII.

Expectations

The Complainant, Responding Person and witnesses are obligated to not retaliate; to update the Investigator(s) if their contact information changes; to be truthful in presenting their own account; to provide supporting documentation or other evidence in support of their account within the timeframe provided by the Investigator; to notify the reviewer(s) if someone has attempted to improperly learn of or change their account with the purpose of disrupting the outcome of the review; and to notify the reviewer(s) if they believe they have faced retaliation as a result of their participation in the review.

Providing Information Known to be False: Knowingly providing false information regarding discrimination, discriminatory harassment, sexual misconduct, or retaliation, is

prohibited. Providing false information or unduly influencing witnesses is also prohibited. UMass Lowell reserves the right to discipline an individual who brings a false complaint of discrimination or provides false information. No complaint will be considered "false" solely because it cannot be corroborated.

V. Supportive Measures

The university may choose to provide supportive measures at any point after learning of any Equal Opportunity or Sexual Misconduct concern. The provision by the university of supportive measures is separate from the University's review of the concerns and does not mean that the University has determined that any violation of the Guidelines has occurred. Supportive measures are not disciplinary actions or sanctions. The University may provide supportive measures even if a written complaint is not filed, and even if a concern did not occur on campus or related to the University's programs or activities. Such supportive measures may include changes to work locations, living and dining arrangements or locations, course schedules, assignments or tests, and extracurricular activities; temporary leave; transportation; reassignment to another supervisor or position; "no contact" directives issued by the University; assistance from the University's Police Department to obtain a court issued protective order and/or to receive assistance notifying law enforcement of an alleged incident of sexual misconduct; or other measures. If you obtained a court issued protective order, please notify, and send a copy of the order to the UMass Lowell Police Department.⁹

Generally, supportive measures are meant to be short-term and may continue throughout the grievance process up to and including appeal. Once in place, they will be reviewed to determine whether they should continue. If so, the Director of Equal Opportunity and Outreach will work with appropriate University resources to provide continued assistance to the parties.

Supportive measures will be kept confidential to the extent possible. However, some employees may need to learn of the supportive measures in order to coordinate or provide them.

Some supportive measures require the cooperation of the other party, for example, "no contact" orders. When supportive measures are imposed which restrict or deny access, the individual receiving the measures will be given in writing a description of the restriction. If a person does not follow the directives of the Director of Equal Opportunity & Outreach, and/or the supportive measures, this may lead to disciplinary action.

⁹ Please review the University's Nondiscrimination Guidelines and Sex Discrimination Grievance Procedure as it to more information about supportive measures, or specifically information related to supportive measures concerning matters involving sex discrimination or Sexual Harassment as defined by the Title IX regulations.

Emergency Removal

UMass Lowell may determine that the presence or participation of a party is creating an immediate threat to anyone's physical health or safety. If so, the University may remove the party from university grounds and/or from participation in a university programs or activities. The University will provide the party with the type of emergency removal and the reasons for it. If the party being removed on an emergency basis believes that the reasons are not valid, or disagrees with the type of removal, they may appeal to the Director of Equal Opportunity and Outreach, or designee, for their consideration. The determination shall be final.

VI. Informal Dispute Resolution Efforts

Parties involved in an EOO matter may request, in writing, to participate in informal resolution. EOO will determine whether informal resolution is appropriate and safe and whether it may be pursued. Both parties must agree to engage in the informal resolution process. Informal resolution is generally not available in cases in which an employee is alleged to have engaged in sexual misconduct affecting a student.

Any resolution of a complaint through the informal resolution process will address the concerns of the complainant and the responsibility of the University to address alleged violations of its policy, while also respecting the due process rights of the Respondent.

If either party has reason to believe that the informal resolution agreement has not been followed, they should notify Equal Opportunity and Outreach in writing within 30 days of the alleged violation. EOO will review the concern and determine next steps. Generally, failing to abide by an agreement will be referred for disciplinary action under applicable University Policies. The Director of Equal Opportunity and Outreach, or designee, at its discretion may reopen the original complaint for investigation.

Before a resolution is reached, the process will change to the formal process described in sections VII and VIII below if:

- either party decides to move to the formal process, at any time;
- EOO determines that the formal process should be followed, at any time; or
- an informal resolution has not been reached within 30 days, except for good cause.

Note: An Informal Resolution Option remains available to the Parties (Complainant and Respondent, if approved by the University) up until a Notice of Outcome / Closure Letter has been issued.

VII. Filing an Equal Opportunity Complaint

A Complainant is encouraged to file a complaint as soon as possible. A complaint must be reported to Equal Opportunity and Outreach within three hundred (300) calendar days of the Complainant's first knowledge of the alleged discriminatory act. If a discriminatory act is older than the three hundred (300) calendar days but part of a pattern and act that occurred within the three hundred (300) calendar days, it may be incorporated as part of the Complaint. The Director of Equal Opportunity or designee shall determine if a complaint falls within the timeframe, and/or if the timeframe should be extended for good cause.

The following is the process to file a complaint on the basis of Discrimination, Discriminatory Harassment, Retaliation or Sexual Misconduct (non Title IX incidents, refer to definitions above). The process for reporting is also outlined in the Nondiscrimination Guidelines.

1. An individual initiates the complaint process by submitting a written or oral report to Equal Opportunity and Outreach, or, for complaints about a student, to Student Conduct. Contact information is provided below. The complaint may be submitted by email, in person, by mail, or by using the online Report a Concern Form. The complaint may be filed orally or in writing, and should include all known information relevant to the alleged violation, including the Complainant's name, student status or employee title, and contact information; the name of the person(s) alleged to have violated the policy, their student or employee status if known; the date(s), time(s), and location(s) of the alleged occurrence(s); the names and contact information for any witnesses of the alleged occurrence(s); a detailed description of the occurrence(s); a list of relevant supportive documentation; and a statement indicating whether the concern has already been reported to anyone else, and if so, to whom. Individuals with disabilities or limited English proficiency may contact the Office of Equal Opportunity and Outreach at (978) 934-3565 if they need an accommodation or language services to during the complaint process.
 - a. Oral Complaints will be documented by the appropriate administrator, and information shared back with the reporting party for accuracy.
2. Meet with Equal Opportunity & Outreach, or, if the Respondent is a student, the Office of Student Conduct.

Equal Opportunity and Outreach
(978) 934-3565
Equal_Opportunity@uml.edu
Online Report Form available via website

Student Conduct

(978) 934-2100

studentconduct@uml.edu

Online Report Form available via website

The Complainant must provide the supportive documentation as quickly as possible to the Investigator(s). It must be provided before the Investigator makes a determination.

If the report is made by someone who was not involved, the University will inform the party against whom the violation allegedly occurred and ask whether they wish to file a complaint. The University may review the concerns if it decides doing so is in the best interest of the UMass Lowell community.

The Complainant may indicate any sanction or remedy sought, if relevant. The University, not the person bringing the concern/complaint, determines sanctions and remedies.

As stated earlier in this Procedure, confidentiality cannot be guaranteed. Privacy will be kept to the extent possible while complying with the requirements of state and federal law.

VIII. Complaint Investigation and Resolution Procedures

Initial Analysis

As noted within the University's Nondiscrimination Guidelines, an initial analysis of the Complaint will be conducted. If it is determined that an investigation is warranted a trained Investigator will be assigned to conduct the investigation.

Notice of Investigation and Allegations

Prior to the commencement of the Investigation, parties to the complaint, the Complainant and the Respondent will be provided with a Notice of Investigation and Allegations ("NOIA"). This notice at a minimum shall include:

- Names of the Involved Parties (Complainant and Respondent);
- Information pertaining to the Complaint and a copy of the Complaint or notice that a copy of the complaint shall be provided upon request;
- Specific allegations and violations of Guidelines;
- Alleged Dates and Locations of the Incidents (if known)
- Notice that the Rights for both Parties;
- Notice of available Supportive Measures and how to seek them;
- Notice that Retaliation is Prohibited;
- Notice regarding False Statements and/or False Information
- Notice Regarding Privacy; and

- Option for Informal Resolution.

The Office of Equal Opportunity and Outreach, at its discretion, may inform Human Resources, and/or the Respondent's Vice Chancellor and/or designee that an Investigation is being opened.

Investigation

Trained Investigators¹⁰ conduct a neutral and unbiased review process for each complaint, giving consideration to the accounts and documentation provided by both the Complainant and the Respondent. They presume that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the process.¹¹ Investigators first consider the reported facts and may conduct preliminary interviews to determine whether the allegations, if true, could constitute a violation of the Nondiscrimination Guidelines. If it is possible that there was a violation, the procedure will proceed as follows. If it is determined that there was not a violation of the Guidelines, the Investigator will determine whether appropriate steps are warranted as detailed in the Guidelines *Complaint and Investigation Resolution Procedures*.

If an Investigation is suspended and/or terminated, both parties shall be notified in writing and the reason why the Investigation was suspended. Parties may submit a request for reconsideration to the Director of Equal Opportunity, or designee.

The Complainant and Respondent are each required to meet with the Investigator(s), separately. The Parties have the right to be accompanied by an Advisor of their choice. The parties will be given the opportunity to respond to the allegation(s), to provide names and contact information of witnesses, and to provide documentation in support of their accounts.

The investigation may include, among other things, interviewing the complainant, the respondent, and any witnesses; reviewing law enforcement investigation documents if applicable; reviewing relevant student or employment files (preserving confidentiality wherever necessary); and gathering and examining other relevant documents, social media, and evidence.¹²

¹⁰ The university's Title IX Coordinator, Deputy Coordinators, Investigators, and other employees involved in the disciplinary process participate annually in training related to Sexual Harassment, Sexual Misconduct, gender-based discrimination and harassment, and Title IX training. UMass Lowell police officers also receive appropriate training. Investigators receive trauma-informed investigation training. Such training serves to help protect the safety and rights of students and employees and to promote accountability. In addition, new employees and new students are expected to complete training in the prevention of and response to unwelcome sexual behavior, within 45 days of beginning to work, study, or live at the university.

¹¹ If the assigned Investigator has a conflict of interest, a different investigator will be assigned. If a party has a concern that the Director for Equal Opportunity and Outreach, has a conflict of interest, they may share that concern with the Vice Chancellor for Finance and Operations.

¹² Prior sexual activity and character witness accounts shall not be provided to the other party.

For Sexual Harassment and Sexual Misconduct matters, the parties may suggest relevant questions for the Investigator to ask the other party and witnesses. There may be restrictions on evidence considered by the Investigator, such as, for example, evidence related to prior sexual activity, and character witnesses. All relevant documentation is kept as part of the Equal Opportunity and Outreach investigative file.

During the review by Equal Opportunity and Outreach, both parties will be provided with periodic status updates. A copy of the UMass Lowell Nondiscrimination Guidelines, this Equal Opportunity Complaint Procedure, a list of support resources, and a listing of rights will be provided to both parties and to witnesses. Equal Opportunity and Outreach will provide this information prior to its first meeting with each of these individuals.

The Investigator will prepare an Investigation Report, which shall include, but is not limited to the following information:

- Summary of the Complaint
- Specific Violations Alleged
- Relevant Policies, Guidelines, and Procedures
- Notation to Relevant Definitions
- Procedural History and Timeline
- Summary of Relevant Statements and Evidence
- Credibility Assessment
- Undisputed Facts
- Disputed Facts and Analysis
- Findings

The Investigator shall apply a Preponderance of the Evidence standard as it relates to any determinations of policy violations.

Evidentiary Review

Upon the Investigator finalizing their investigation, the Investigator shall provide both parties (the Respondent and the Complainant) the opportunity to review the evidence. This will include the DRAFT Investigation Report, and if requested additional information such as interview notes and information provided by parties or witnesses, excluding information such as character witnesses and/or information deemed to be not relevant and therefore not considered. Parties are not required to participate in an evidentiary review, review the evidence, but are encouraged to do so.

The Parties will be provided with seven (7) calendar days to review the evidence and to provide a written response to the Investigator. Parties may request an extension with good cause, which shall be granted by the Investigator.

Parties, the Complainant and Respondent, may submit any additional evidence, questions, and/or response to the Investigator.

The Investigator shall review the any response from the Parties and determine if additional investigation is needed. If the Investigator determines that no additional investigation is needed, they shall finalize the Investigation Report, and notify the Parties of such.

If additional Investigation is needed, the investigator shall conduct the additional investigation, and a new evidentiary review shall be provided.

Administrative Review

The Administrative Reviewer, who may be the Investigator, will review the finalized Investigation Report, any submitted information from the Complainant and/or Respondent, and any documentation and/or evidence generated from the investigation.

The Administrative Reviewer may question either party, the Complainant and/or Respondent separately as it relates to assessment of credibility.

The Administrative Reviewer will determine if there was a violation of policy and/or the Guidelines using the Preponderance Standard and issue a final determination within seven (7) days in the form of a Notice of Outcome contemporaneously to the Complainant and Respondent. [See Notice of Outcome]

Notice of Outcome

The Administrative Reviewer shall issue a written determination in the form of a Notice of Outcome contemporaneously within seven (7) days to both the Complainant and Respondent.

The Notice of Outcome, at a minimum will include the following:

- Summary of the Complaint
- Findings of Fact
 - Resolution of Disputed Facts
- Assessment of Credibility
- Findings of violations of Policy and/or Guidelines using the Preponderance Standard
- Referral to Appropriate Sanctioning body if finding of Policy Violation and/or referral of other Policy Violations
 - Students shall be referred to Student Conduct
 - Employees shall be referred to Human Resources
- Appeals Procedures and How to Appeal
- Investigation Findings and Conclusions

Sanctions

In the event that a Respondent is found responsible for violation of the Guidelines, the matter shall be referred to Human Resources (for employees), or Student Affairs (for Students), to impose disciplinary and/or remedial action in accordance with applicable policies and/or collective bargaining agreements. Human Resources shall engage the employee's supervisor as is appropriate in the disciplinary process. The Office of Equal Opportunity shall share information from the Investigation as is needed to carry out the process.

Referral

Matters referred to the Office of Equal Opportunity & Outreach, and/or investigated by the Office of Equal Opportunity may be referred to the Office of Human Resources, appropriate Vice Chancellor (or designee), and/or Student Conduct for review. That is even if the Office of Equal Opportunity concludes that a violation of the Guidelines did not occur, the Office may still refer such matters to the appropriate administrative office for review under other policies. The Office of Equal Opportunity & Outreach shall abide by prevailing privacy and confidentiality laws, and at its sole discretion may redact and/or restrict the sharing of information that may conflict with applicable privacy and/or confidentiality laws.

Appendix: Sex Discrimination Grievance Procedure

[Title IX Sex Discrimination [Sexual Harassment] Complaint Resolution Procedure]

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I. Introduction and Scope

The University of Massachusetts Lowell (“UMass Lowell” or the “University”) is firmly committed to ensuring that all applicants for admission or employment, employees, students, and persons who are authorized to conduct business with and/or perform other services on behalf of the university are not subject to Sex Discrimination.

UMass Lowell prohibits Sex Discrimination, in accordance with the UMass Lowell Nondiscrimination Guidelines (“Nondiscrimination Guidelines”) and Title IX. In April 2024, the U.S. Department of Education published new regulations in Part 106 of Title 34 of the Code of Federal Regulations, which define Sexual Harassment under Title IX.

This Grievance Procedure applies to complaints of Sex Discrimination including Sexual Harassment, as that term is defined in the 2024 Title IX regulations and the University’s Nondiscrimination Guidelines. That definition is listed below. It also applies to complaints of Retaliation for participation in Sexual Harassment complaints. This Procedure provides for the prompt and equitable resolution of such complaints in compliance with the Title IX regulations, Massachusetts law, and the Nondiscrimination Guidelines. UMass Lowell also prohibits other forms of sexual misconduct, discrimination and discriminatory harassment as defined in the Nondiscrimination Guidelines and other applicable policies and as required by federal and state law. Procedures for addressing such forms of discrimination and discriminatory harassment

may be found in the Student Code of Conduct for concerns regarding student violations, and UMass Lowell's Equal Opportunity Complaint Procedure for all other such concerns.¹³

These Procedures shall be conducted in accordance with applicable collective bargaining agreements of the University, UMass Lowell Guidelines, and University of Massachusetts Policies.

Questions about this Grievance Procedure, the Nondiscrimination Guidelines, and other related UMass Lowell policies and procedures may be referred to UMass Lowell's Title IX Coordinator, or to the Office of Equal Opportunity and Outreach. See the contact information in Section II of this document.

For additional information and a list of support resources on campus and off campus, please see the UMass Lowell Nondiscrimination Guidelines, or uml.edu/prevent.

II. Effective Date

This Procedure applies to incidents that occur on or after August 1, 2024. Any incidents reported under this Procedure that occurred on or before July 31, 2024, will be processed through the institution's Sexual Harassment Grievance Procedure that was effective August 1, 2020.

III. Jurisdiction

This grievance procedure applies to allegations of Sex Discrimination encompassing Sexual Harassment as defined in the Nondiscrimination Guidelines and listed above, when the allegations of Sexual Harassment occur in the locations as follows.

- This procedure applies to all sex discrimination, including sexual harassment, occurring under UMass Lowell's education program or activity in the United States.
- Conduct that occurs under UMass Lowell's Education Program or Activity also includes but is not limited to conduct that occurs in a building owned or controlled by a student organization that is officially recognized by UMass Lowell, or conduct that is subject to UMass Lowell's disciplinary authority.
- UMass Lowell has an obligation to address a sex-based hostile environment under its Education Program or Activity, even when some conduct alleged to be

¹³ The University's procedures relating to unwelcome sexual harassment and sexual misconduct are emailed annually to all members of the UMass Lowell community.

contributing to the hostile environment occurred outside the recipient's Education Program or Activity or outside the United States.

- In the limited circumstances in which Title IX permits different treatment or separation on the basis of sex, UMass Lowell must not carry out such different treatment or separation in a manner that discriminates on the basis of sex by subjecting a person to more than de minimis harm, except as permitted by law.

Conduct that occurs outside the jurisdictional requirements noted above, may be dismissed under this procedure, and referred to the appropriate procedure (e.g. Student Code of Conduct and/or EO Complaint Procedure, and/or other policies/procedures) for review.

IV. Definitions

The following selected terms are defined in an effort to facilitate a more thorough understanding of these Guidelines and Procedures. This list is not intended to be a complete list of all terms referenced in these Guidelines that might require interpretation or clarification. The Director of Equal Opportunity or designee shall make the final determination on the definition of any term found in these Guidelines.

Advisor of choice is an individual who accompanies and supports the complaining and the responding parties, who may provide support but may not speak on behalf of the person or otherwise participate in or contribute to a meeting, grievance proceeding, or hearing. Advisors may have additional responsibilities where the process is governed by the Sex Discrimination Grievance Procedures. Please see the Sex Discrimination Grievance Procedure, which defines the Advisor's role related to a formal Title IX Sexual Harassment complaint.

Complaint is defined as an oral or written request that can objectively be understood to be a request to investigate and prepare a decision regarding discrimination, discriminatory harassment, or retaliation. The University may initiate a complaint and the appropriate procedures to investigate a complaint, and/or to meet its affirmative obligations to redress discrimination, discriminatory harassment, or retaliation under Massachusetts General Laws. Note that comments made at "public awareness events" do not constitute complaints.

Specific to Title IX, a Complaint is an oral or written request that objectively be understood to be a request to investigate and prepare a decision regarding discrimination based on sex, including harassment. Sex-based discrimination also includes discrimination based on sex-stereotypes, sex characteristics, pregnancy or related conditions sexual orientation, and gender identity.

Complainant is the party who is alleged to have been subjected to conduct that would constitute discrimination, sex based discrimination, sexual harassment, discriminatory harassment, and/or retaliation as defined within these Guidelines and/or Procedures.

For the purposes of Title IX, (a) an individual who is alleged to have been subjected to conduct that could constitute sex-discrimination, sexual harassment, and who was participating or attempting to participate in UMass Lowell's Education Program or Activity; or

(b)) a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex-based harassment under these Guidelines and/or Procedures and who was participating or attempting to participate in UMass Lowell's Education Program or Activity at the time of the alleged sex-based harassment.

Note: While the University may initiate a complaint, the University does not serve as the complainant in such matters.

Confidential Employee is an employee who, because of his/her position, may not reveal an individual's identity or other information without permission, even to the Title IX Coordinator(s). The following categories of employees are confidential employees:

- Licensed sexual assault counselors, psychologists, psychotherapists, social workers, clergy, health care personnel, and attorneys, and those persons working under the supervision of such individuals, when acting in their professional role providing services to a patient or client.
- University employees bound by statutory privilege obligations under Massachusetts law, such as religious practitioners.
- University employees who provide administrative, operational, and/or related support for a confidential employee in the performance of such services such as supporting staff for the roles listed above.
- Individual(s) on-campus designated as confidential by the Director of Equal Opportunity / Title IX Coordinator or designee.

Confidential Resource Provider, please see this EOO Complaint Procedure and the University's Sex Discrimination Grievance Procedure. Parties could access the services of the Confidential Resource Provider, even if a complaint has not been filed. At UMass Lowell, the Confidential Resource Provider is an employee or other individual designated by the university to provide information on (1) reporting options and the effects of each option; (2) counseling services available on and off campus; (3) medical and health services available on and off campus; (4) available supportive measures; (5) disciplinary process of the university; and (6) the legal process carried out through local law enforcement agencies. Confidential Resource Provider services are available to assist parties in a Sexual Misconduct or Sexual Harassment matter. The Confidential Resource Provider is designated confidential by the University and per Title IX. Their services are confidential unless otherwise required by state or federal law. If requested by the reporting and/or Respondent of an alleged sexual harassment/sexual misconduct

matter, the Confidential Resource Provider may coordinate with other members of the university's community, as needed, to arrange supportive measures. The Confidential Resource Provider shall notify the parties of their rights and the university's responsibilities regarding a protection order, no contact order, and any other lawful orders issued by the university or a civil, criminal, or tribal court. For additional information regarding supportive measures, individuals can contact the Case Manager and Confidential Resource Provider at 978934-6800, for Counseling Services, 220 Pawtucket Street, Suite 300, Lowell, MA 01854.

Consent means a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression. Consent to one act does not mean consent to another act. Consent may be withdrawn at any time so long as it is clearly communicated.

Education Program or Activity means all of the operations of a college, university, or other postsecondary institution, or a public system of higher education.

Equal Opportunity Complaint Procedure ("EO Complaint Procedure") is the procedure that shall be used for addressing allegations of discrimination, [discriminatory] harassment, and retaliation that do not fall under Title IX. This procedure shall only apply where the respondent is not a student. When the student serves as the Respondent the matter shall be referred to the Office of Student Conduct, and the Code of Conduct shall apply as the prevailing procedure.

At the request of the Office of Student Conduct, the Office of Equal Opportunity may conduct an investigation under the EO Complaint Procedure into allegations of discrimination, discriminatory harassment, or retaliation where the student is the respondent.

Gender Expression refers to the external characteristics and behaviors that relate to a perception of gender, including but not limited to dress, mannerisms, speech patterns, social interactions, and body characteristics.

Gender Identity refers to an individual's internal sense of gender, which may be male or female, man or woman, or not conforming to those binary genders. A person's gender identity may be different or the same as the person's sex assigned at birth.

Discriminatory Harassment is conduct against a person or persons based upon their legally protected class that adversely has the effect of:

1. unreasonably interfering with a person or person's employment, educational benefits, academic grades or opportunities, or participation in university programs or activities; or

2. unreasonably interfering with a person or person's work or academic performance; or
3. creating an intimidating, hostile, or offensive working or academic environment.

Party means Complainant or Respondent. **Parties** collectively refers to the Complainant and Respondent.

Peer Retaliation means retaliation by a student against another student.

Pregnancy or related conditions means

- A. Pregnancy, childbirth, termination of pregnancy, or lactation;
- B. Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
- C. Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

Preponderance of the Evidence is more likely than not. Preponderance is the standard used in both the Equal Opportunity Complaint Procedure and the Sexual Harassment Grievance Procedure for determining if an individual violated these Guidelines and/or the Policy.

Protected Class is groups of individuals afforded legal and university policy protection from discrimination on the basis of sex (including Sexual Misconduct; Sexual Harassment; and pregnancy, childbirth or related medical condition), race, color, age, religion or creed, national or ethnic origin or ancestry, disability status, protected veteran status, gender identity or gender expression, sexual orientation, genetic information, natural or protective hairstyle, participation in a civil rights report or complaint proceeding (for retaliation claims), or any other characteristic protected by law.

Relevant means related to the allegations of sex discrimination under investigation as part of the Sex Discrimination Grievance Procedure. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

Relevant also means related to the allegations of discrimination, discriminatory harassment and/or retaliation as it relates to the EO Complaint Procedure. Questions are relevant when they seek evidence that may aid in showing whether discrimination, discriminatory harassment, or retaliation occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged discrimination, discriminatory harassment or retaliation occurred.

Remedies means measures provided, as appropriate, to a Complainant or any other person UMass Lowell identified as having had their equal access to UMass Lowell's Education Program or Activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to UMass Lowell's Education Program or Activity after UMass Lowell determines that sex discrimination occurred.

Respondent is the individual alleged to have violated these Guidelines and/or the Policy. Respondents are presumed not responsible up to and unless found to be responsible by a preponderance of the evidence.

Retaliation is the interference through intimidation, threats, coercion, or unlawful discrimination, with an individual's right or privilege secured under the law [Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1964, the Massachusetts anti-discrimination laws, or other laws] to report or make a complaint, testify, assist or participate or refuse to participate in any manner in an investigation or grievance proceeding, or hearing, or to intervene to prevent a violation of the University's policy or these Guidelines.

Sanctions means consequences imposed on a Respondent following a determination under one of the grievance procedures that the Respondent violated UMass Lowell Guidelines and/or UMass Nondiscrimination and Harassment Policy.

Sexual Harassment¹⁴ a form of *sex discrimination* under Title IX is conduct on the basis of sex that satisfies one or more of the following:

7. *Quid pro quo harassment*. An employee, agent or other person authorized by UMass Lowell's Education Program or Activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
8. *Hostile Environment Harassment*. Unwelcome Sex based conduct that based on the totality of the circumstances, is subjectively and objectively offensive, and is so severe OR pervasive that it limits or denies a person's ability to participate in or benefit from UMass Lowell's education program or activity. Whether a hostile environment has been created is a fact specific inquiry that includes consideration of:
 - a. The degree to which the conduct affected the complainant's ability to access the education program or activity;
 - b. They type, frequency, and duration of the conduct;
 - c. The parties' ages, roles, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - d. The location and context of the conduct; and
 - e. Other sex-based harassment in the education program or activity.
9. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), the CLERY Act. Per the Clery Act, the term Sexual Assault means an offense classified as a forcible

¹⁴ Concerns involving Sex Discrimination, Sexual Harassment will be reviewed pursuant to the UMass Lowell Sexual Discrimination Grievance Procedure. The Sexual Harassment definition and Sex Discrimination Grievance Procedure may apply when, for example, the reported conduct meets the jurisdictional requirements under Title IX. In other instances, the definition of Sexual Misconduct may apply.

or non forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

10. "Dating Violence" as defined in 34 U.S.C. 12291(a) (11), as defined in the Violence Against Women Act (VAWA) Reauthorization of 2022 and the VAWA Amendments to the Clery Act) means any violence committed by a person:
 - a. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - b. Where the existence of such a relationship shall be determined based on a consideration of the following factors: The length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.

11. "Domestic Violence" as defined in 34 U.S.C. 1229(a)(12). Domestic violence means any felony or misdemeanor crimes committed by a person who:
 - a. Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of Massachusetts, or a person similarly situated to a spouse of the victim;
 - b. Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - c. Shared a child in common with the victim; or
 - d. Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of Massachusetts; or

12. "Stalking" as defined in 34 U.S.C. 12291(a) (36), as amended. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - a. fear for the person's safety or the safety of others; or
 - b. suffer substantial emotional distress.

Sexual Discrimination Grievance Procedure is the procedure for addressing sex discrimination, sexual harassment, and retaliation that falls under the purview of Title IX. This procedure shall be used regardless of the party's affiliation, e.g. student, faculty, staff, visitor, etc.

Sexual Misconduct is an incident of sexual violence, dating violence, domestic violence, gender based violence, violence based on sexual orientation or gender identity or expression, sexual assault, sexual harassment, or stalking, as these terms are defined by M.G.L. Chapter 6 §§ 168D and 168E, when such conduct is not defined as Sex Discrimination and/or Sexual Harassment under Title IX, above.

Student means a person who has gained admission.

Student Code of Conduct are the disciplinary procedures that apply to students and shall be used in student matters where the student is respondent and the Complaint does meet Title IX jurisdiction.

Supportive Measures are generally non-punitive, non-disciplinary individualized services offered, as appropriate, to a Complainant or Respondent, regardless of a complaint, investigation or resolution, intended to provide support or protection. These services are defined further under the Sex Discrimination Grievance Procedure, and the Equal Opportunity Complaint Procedure.

Unlawful Discrimination is behavior that is directed at a specific person or persons that subjects them to treatment that adversely affects their employment, application for employment, education, admissions, university benefits, programs, or activities, because of their religion or religious belief, color, race, marital status, veteran or military status, age, sex (including sexual harassment), gender identity or expression, sexual orientation, national origin, ethnicity, disability, genetic information, pregnancy or related condition, natural or protective hairstyle, or any other legally protected class. National origin protections include nondiscrimination on the basis of language.¹⁵

V. Basic Requirements of UMass Lowell Sex Discrimination Grievance Procedure

1. *Equitable Treatment*: UMass Lowell will treat Complainants and Respondents equitably.
2. *Conflicts and Bias*: UMass Lowell requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. A decisionmaker may be the same person as the Title IX Coordinator or investigator.
3. *Presumption*: UMass Lowell presumes that the Respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its Grievance Procedure.
4. *Reasonably Prompt Timeframes*: UMass Lowell has established timeframes for the major stages of the grievance procedures:
 - a. Complaints will be reasonably evaluated within seven (7) days, barring extenuating circumstances.
 - i. The Complainant will be notified of a decision to investigate or dismiss following this review.

¹⁵ Individuals with limited English language proficiency are invited to contact EOO at (978) 93403565 to request assistance in accessing UMass Lowell's programs and activities.

- ii. If a decision to dismiss has been made, the Complainant may appeal the decision to dismiss within seven (7) days, barring extenuating circumstances.
 - b. Investigations will be completed within forty five (45) days whenever practicable. Investigations may be extended for good cause and/or extenuating circumstances. In such cases, the Investigator will promptly notify the parties as to the extension and provide a reasonable timeframe for conclusion of the investigation.
 - c. First Evidentiary Review: Parties will be provided with seven (7) days to review all evidence and provide a response to the Investigator.
 - i. Any substantive changes to the Investigation Report following the evidentiary review shall result in a second evidentiary review.
 - 1. Substantive changes refers to additional investigation and/or new information incorporated into the evidentiary review.
 - d. Hearings: Hearings will be held within fifteen (15) days, but no sooner than five (5) days following issuance of the final investigation report, barring extenuating circumstances.
 - e. Decisions will be issued within seven (7) days following a hearing, barring extenuating circumstances.
 - f. Appeals, Parties will have seven (7) days to file an appeal to a final determination.
 - g. Appeals will be reviewed and a decision rendered within fourteen (14) days, barring extenuating circumstances.
 - h. *Extensions:* UMass Lowell has also established the following process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the Parties that includes the reason for the delay:
 - i. Parties wishing to request an extension, must notify the Investigator and/or Title IX Coordinator as soon as reasonably practicable, and provide the reason for the extension, and a reasonable timeframe for continuance. The Investigator will review the decision and communicate any extensions or denials in writing to the Party(/ies).
 - ii. Investigators and/or Administrators may extend the process as deemed appropriate, after consulting with the Title IX Coordinator, and will notify the Parties of any extension and a reasonable timeframe for continuance.
5. *Privacy:* UMass Lowell will take reasonable steps to protect the privacy of the Parties and witnesses during its grievance procedure. These steps will not restrict the ability of the Parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedure. The Parties and UMass Lowell cannot engage in retaliation, including against witnesses.

6. *Objectivity*: UMass Lowell will objectively evaluate all evidence that is relevant and not otherwise impermissible including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.
7. *Impermissible Evidence*: The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by UMass Lowell to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:
 - i. Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
 - ii. A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or witness, unless UMass Lowell obtains that Party's or witness's voluntary, written consent for use in its grievance procedures; and
 - iii. Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

VI. Disability Accommodations

Generally

This Sex Discrimination Grievance Procedure does not alter any institutional obligations under federal and state disability laws, including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any

point before or during the Title IX Grievance Procedure that do not fundamentally alter the Procedure. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

Supportive Measures

If the Complainant or Respondent discloses a disability, the Title IX Coordinator may consult, as appropriate, with the Office of [Student] Disability Services to provide support to students with disabilities to determine how to comply with Section 504 of the Rehabilitation Act of 1973 in the implementation of any supportive measures.

VII. Reporting Sex Discrimination to the Institution

Complaints

The following people have a right to make a **Complaint of sex discrimination**, including Complaints of sex-based harassment, requesting that UMass Lowell investigate and make a determination about alleged discrimination under Title IX:

- A “Complainant,” which includes: a student or employee of UMass Lowell who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
- A person other than a student or employee of UMass Lowell who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in UMass Lowell’s Education Program or Activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant; or
- UMass Lowell’s Title IX Coordinator.

With respect to **Complaints of sex discrimination other than sex-based harassment**, in addition to the people listed above, the following persons have a right to make a Complaint:

- Any student or employee of UMass Lowell, or
- Any person other than a student or employee who was participating or attempting to participate in UMass Lowell’s Education Program or Activity at the time of the alleged sex discrimination.

Types of Complaints that may be addressed under these Sex Discrimination Grievance Procedures include, but are not limited to, sex discrimination other than sex-based harassment, such as:

- Complaints of retaliation;
- Complaints of sex discrimination that do not involve sex-based harassment;
- Complaints regarding failure to make reasonable modifications to policies, practices or procedures as necessary to ensure equal access and prevent sex discrimination on the basis of parental, family or marital status, including pregnancy or related conditions; or
- Complaints that UMass Lowell's policies or procedures discriminate on the basis of sex.

Complaints may be submitted in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Contact Information for the Title IX Coordinator at UMass Lowell

Dr. William Cummings
 Director of Equal Opportunity and Title IX Coordinator
 (978) 934-3565
William_Cummings@uml.edu
 Or Equal_Opportunity@uml.edu

Confidential Reports

The following officials at UMass Lowell will provide privacy, but not confidentiality, upon receiving a report of conduct prohibited by Title IX:

- Title IX Coordinator or designee(s);
- Officials with Authority to institute corrective measures under Title IX; and
- All employees not considered confidential by UMass Lowell.

The following officials at UMass Lowell may provide confidentiality:

- Licensed sexual assault counselors, psychologists, psychotherapists, social workers, clergy, health care personnel, and attorneys, and those persons working under the supervision of such individuals, when acting in their professional role providing services to a patient or client.
- University employees bound by statutory privilege obligations under Massachusetts law, such as religious practitioners.
- University employees provide administrative, operational, and/or related support for a confidential employee in the performance of such services such as supporting staff for the roles listed above.
- Individual(s) on-campus designated as confidential by the Director of Equal Opportunity / Title IX Coordinator or designee.

Public Awareness Events

When UMass Lowell's Title IX Coordinator is notified of information about conduct that reasonably may constitute sex-based harassment under Title IX or this policy that was provided by a person during a public event to raise awareness about sex-based harassment that was held on UMass Lowell 's campus or through an online platform sponsored by UMass Lowell, the University is not obligated to act in response to the information, unless it indicates an imminent and serious threat to the health or safety of a Complainant, any students, employees, or other persons.

However, in all cases UMass Lowell must use this information to inform its efforts to prevent sex-based harassment, including by providing tailored training to address alleged sex-based harassment in a particular part of its Education Program or Activity or at a specific location when information indicates there may be multiple incidents of sex-based harassment.

Nothing in Title IX or this policy obligates UMass Lowell to require its Title IX Coordinator or any other employee to attend such public awareness events.

External Reporting Options

Filing an equal opportunity complaint does not in any way waive or deprive an individual of the right to report an incident to campus, local, or state law enforcement or an external federal or state agency. Please see contact information below. Also, no individual who files a complaint or reports an incident of unlawful discrimination with UMass Lowell shall be required to also report it to law enforcement or any outside agency, unless they choose to do so.

UMass Lowell Police Department
University Crossing, Suite 170
220 Pawtucket Street
Lowell, MA 01854
Emergencies: 978-934-4911,
Non-Emergencies: 978-934-2398 or
Police@uml.edu
<https://www.uml.edu/Police>

City of Lowell Police Department
50 Arcand Drive
Lowell, MA 01852
Emergencies: 911,
Non-Emergencies: (978) 937-3200
www.lowellma.gov/221/Police-Department

The United States Department of Education
Office for Civil Rights Boston Area Office
8th Floor
5 Post Office Square Boston, MA 02109-3921
Voice phone: (617) 289-0111
Facsimile: (617) 289-0150

The United States Equal Employment Opportunity Commission
Boston Area Office
JFK Federal Building
15 New Sudbury Street, Room 475
Boston, MA 02203-0506
Voice phone: (800) 669-4000,
TTY: (800) 669-6820

The Massachusetts Commission Against Discrimination
One Ashburton Place, Suite 601
Boston, MA 02108
Voice phone: (617) 994-6000,
TTY: (617) 994-6196

Department of Energy programs: Any individual with a concern of unwelcome sexual behavior in connection with any program or activity receiving assistance from the Department of Energy may submit a complaint in writing to Field Civil Rights Officers located in the Department of Energy's field offices or to the Director, Office of Civil Rights and Diversity, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

For information regarding the counseling, health, safety, and other support services available on and off campus please see www.uml.edu/Prevent/Resources. For academic support please contact Student Affairs at (978) 934-2100 or student_affairs@uml.edu.

For emergency assistance and/or medical treatment, the following are local options. Preserving evidence in sexual assault matters is critical and should be done promptly even if the person has not decided they want to file charges. Evidence is preserved for 15 years. You may obtain support from any of these providers without filing a concern or complaint. None will require you to do so.

UMass Lowell Police Department
University Crossing, Suite 170
220 Pawtucket Street
Lowell, MA 01854
Emergencies: 978-934-4911,
Non-Emergencies: 978-934-2398 or

Police@uml.edu
<https://www.uml.edu/Police>

City of Lowell Police Department
50 Arcand Drive
Lowell, MA 01852
Emergencies: 911,
Non-Emergencies: (978) 937-3200
www.lowellma.gov/221/Police-Department

Lowell General Hospital (Main Campus)
SANE Certified Site 6
295 Varnum Avenue
Lowell, MA 01854
(978) 937-6000
www.lowellgeneral.org

Lowell General Hospital (Saints Campus Emergency Room)
SANE Certified Site
1 Hospital Drive
Lowell, MA 01852
(978) 937-6000
www.lowellgeneral.org

Additional information and assistance may be available from the following sources: Employees may contact the Employee Assistance Program; Students may contact the UMass Lowell Counseling Center, their Residence Life Staff, Coach, or Academic Advisor.

VIII. Supportive and Interim Measures

Providing Supportive Measures

Complainants who report allegations of sex-based harassment have the right to receive supportive measures from UMass Lowell regardless of whether they file a Complaint. Supportive measures are non-disciplinary and non-punitive. Supportive measures may vary depending upon what is reasonably available at UMass Lowell.

As appropriate, supportive measures may include but not be limited to:

- Counseling services;
- Extensions of deadlines or other course-related adjustments;
- Modifications of work or class schedules;
- Campus escort services, as available;

- Restrictions on contact applied to one or more Parties (no contact orders)
- changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative;
- Leaves of absence;
- Increased security and monitoring of certain areas of the campus; or
- Training and education programs related to sex-based harassment.

Supportive measures must not unreasonably burden either Party and must be designed to protect the safety of the Parties or UMass Lowell's educational environment, or to provide support during UMass Lowell's Sex Discrimination Grievance Procedure or during informal resolution under these procedures.

UMass Lowell may modify or terminate supportive measures at the conclusion of the grievance procedure or at the conclusion of the informal resolution process, or may continue them beyond that point within UMass Lowell's discretion.

UMass Lowell will not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one Party of supportive measures provided to another Party, unless necessary to provide the supportive measure or restore or preserve a Party's access to UMass Lowell Education Program or Activity, or there is an exception that applies, such as:

- UMass Lowell has obtained prior written consent from a person with the legal right to consent to the disclosure;
- When the information is disclosed to an appropriate third Party with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
- To carry out the purpose of the Sex Discrimination Grievance Procedure when it is necessary to address conduct that reasonably may constitute sex-based harassment under Title IX in UMass Lowell's Education Program or Activity;
- As required by Federal law, federal regulations, or the terms and conditions of a federal award; or
- To the extent such disclosures are not otherwise in conflict with Title IX, when required by State or local law or when permitted under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g, or its implementing regulations, 34 CFR Part 99).

Process for Review of Supportive Measures

UMass Lowell provides for a Complainant or Respondent to seek modification or reversal of UMass Lowell's decision to provide, deny, modify or terminate a supportive measure.

This review will be done by an impartial employee of UMass Lowell, who did not make the challenged decision on the original supportive measure request. The impartial

employee of UMass Lowell who makes this determination will have the authority to modify or reverse the decision if that impartial employee determines that the decision to provide, deny, modify or terminate the supportive measure was inconsistent with the procedure as outlined above for providing supportive measures in accordance with the Title IX regulations.

Parties are only allowed to challenge their own individual supportive measures. Challenges by one Party will not be heard to supportive measures afforded to the opposite Party, unless that supportive measure directly impacts the Party making such challenge (i.e., two-way no contact orders).

Emergency Removal

UMass Lowell retains the authority to remove a Respondent from UMass Lowell's Education Program or Activity on an emergency basis, where UMass Lowell (1) undertakes an individualized safety and risk analysis, and (2) determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of sex-based harassment justifies removal.

UMass Lowell will provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal. Students may appeal the decision to the Dean of Student Affairs or designee, who will meet with the student within a reasonable timeframe and hear the student as to why the emergency removal should not be imposed, and/or modified. The decision of the Dean of Student Affairs or designee is final. Employees may appeal the decision to the Title IX Coordinator, or in cases where a conflict arises, the Associate Vice Chancellor of Human Resources or designee.

Administrative Leave

UMass Lowell retains the authority to place a non-student employee Respondent on administrative leave during the Title IX Grievance Procedure, consistent with applicable collective bargaining agreements, and/or non-unit policies.

Note on student employees: when a Complainant or Respondent is both a student and an employee of UMass Lowell, UMass Lowell must make a fact-specific inquiry to determine whether these procedures apply to that student employee. If the Complainant or Respondent's primary relationship with UMass Lowell is to receive an education and whether the alleged sex-based harassment occurred while the Party was performing employment-related work. The decision as to standing will be made by the Title IX Coordinator or designee and is final.

IX. Title IX Grievance Procedure for Filing a Complaint

Filing of a Complaint

Who can make a complaint?

1. A Complainant, which includes: a student or employee of UMass Lowell who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or a person other than a student or employee of UMass Lowell who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in UMass Lowell's Education Program or Activity;
2. A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant; or
3. The Title IX Coordinator.

Title IX Coordinator initiated Complaints: In the absence of a Complaint or the withdrawal of any or all of the allegations in a Complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator must determine whether to initiate a Complaint of sex-based harassment. This determination is fact-specific, and the Title IX Coordinator must consider:

- The Complainant's request not to proceed with the initiation of a Complaint;
- The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- The risk that additional acts of sex-based harassment would occur if a Complaint were not initiated;
- The severity of the alleged sex-based harassment, including whether the sex-based harassment, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the sex-based harassment and prevent its recurrence;
- The age and relationship of the Parties, including whether the Respondent is an employee of the recipient;
- The scope of the alleged sex-based harassment, including information suggesting a pattern, ongoing sex-based harassment, or sex-based harassment alleged to have impacted multiple individuals;
- The availability of evidence to assist a decisionmaker in determining whether sex-based harassment occurred; and
- Whether UMass Lowell could end the alleged sex-based harassment and prevent its recurrence without initiating these grievance procedures.

If after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents as an imminent and serious threat to the health or

safety of the Complainant or other person, or that the conduct as alleged prevents UMass Lowell from ensuring equal access on the basis of sex to its Education Program or Activity, the Title IX Coordinator may initiate a Complaint.

If the Title IX Coordinator does initiate the Complaint after making this determination, the Title IX Coordinator must notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing supportive measures as listed within these Procedures.

Format of Complaint

As defined in these Sex Discrimination Grievance Procedures, a Complaint can be an oral or written request to UMass Lowell that objectively can be understood as a request for UMass Lowell to investigate and make a determination about alleged sex discrimination at the institution.

Who can I report a Complaint to?

Complaints may be made directly to the Title IX Coordinator via the Office of Equal Opportunity and Outreach. [See previous contact information for the Title IX Coordinator. Office of Equal Opportunity & Outreach. (978) 934-3565 or equal_opportunity@uml.edu]

Any employee of UMass Lowell not considered confidential has an obligation to report Sex Discrimination, including sexual harassment, to the Title IX Coordinator.

Confidential employees are not required to report Sex Discrimination, but must refer and provide contact information for the Title IX Coordinator to the party reporting the information.

Consolidation of Complaints

UMass Lowell may consolidate Complaints of sex discrimination against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against another Party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one Complainant or more than one Respondent is involved, references below to a Party, Complainant, or Respondent include the plural, as applicable.

Allegations falling under Two Policies

If the alleged conduct, if true, includes conduct that would constitute covered sexual harassment and conduct that would not constitute covered sexual harassment, the Sex

Discrimination Grievance Procedure will be applied in the investigation and resolution of all allegations.

Notice of Investigation and Allegations (“NOIA”)

Upon initiation of UMass Lowell’s Title IX grievance procedure, UMass Lowell will notify the Parties of the following:

- UMass Lowell’s Title IX grievance procedure and any informal resolution process;
- Sufficient information available at the time to allow the Parties to respond to the allegations, including the identities of the Parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
- That Retaliation is prohibited; and
- The Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence.

If, in the course of an investigation, UMass Lowell decides to investigate additional allegations of sex discrimination by the Respondent toward the Complainant that are not included in the notice provided or that are included in a Complaint that is consolidated, UMass Lowell will notify the Parties of the additional allegations.

Investigation

UMass Lowell will provide for adequate, reliable, and impartial investigation of Complaints. The burden is on UMass Lowell not on the Parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

UMass Lowell will provide an equal opportunity for the Parties to present fact witnesses and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible. UMass Lowell will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

UMass Lowell will provide each Party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:

UMass Lowell will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence.

The Title IX Coordinator and/or an investigator designated by the Title IX Coordinator will create an Investigative Report that fairly summarizes relevant evidence and will provide that Report to the Parties at least five (5) calendar days prior to the hearing in an electronic format for each Party's review and written response.

The Investigative Report is not intended to catalog all evidence obtained by the investigator, but only to provide a fair summary of the relevant evidence.

Only relevant evidence (including both inculpatory and exculpatory – i.e., tending to prove and disprove the allegations - relevant evidence) will be referenced in the Investigative Report.

The investigator may redact irrelevant information from the Investigative Report when that information is contained in documents or evidence that is/are otherwise relevant.

UMass Lowell will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and

UMass Lowell will take reasonable steps to prevent and address the Parties' unauthorized disclosure of information and evidence obtained solely through the Sex Discrimination Grievance Procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the Complaint of sex discrimination are authorized. [Refer to Evidentiary Review under these Procedures]

*Impermissible Evidence*¹⁶

The following types of evidence, and questions seeking that evidence, are impermissible (*i.e.*, will not be accessed or considered, except by UMass Lowell to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or witness, unless UMass Lowell obtains that Party's or witness's voluntary, written consent for use in its grievance procedure; and
- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered

¹⁶ 34 C.F.R. § 106.45(b)(7).

to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex discrimination or preclude determination that sex discrimination occurred.

Questioning Parties and Witnesses to Aid in Evaluating Allegations and Assessing Credibility

When a party or witness's credibility is in dispute, and such dispute is relevant to evaluating one or more allegations of sex discrimination, the investigator and/or decisionmaker must have an opportunity to question any party or witness whose credibility is in dispute in a live format. [Refer to Resolution Process under these Procedures]

The investigator/decisionmaker will question Parties and witnesses to adequately assess a Party's or witness's credibility to the extent credibility is both in dispute and Relevant to evaluating one or more allegations of sex discrimination. This will occur during individual meetings with a Party or witness.

Evidentiary Review

At the conclusion of the Investigation, the Investigator will make available a DRAFT of the Investigation Report, and all relevant evidence gathered during the investigation.

Parties, the complainant and respondent, will be granted seven (7) days to review all of the evidence and provide written response to the Investigator. Parties may also submit relevant questions they have for the other party to the Investigator.

Following the seven (7) day evidentiary review or the parties submitted responses to the Investigator, whichever comes sooner, the Investigator shall review the information submitted, and determine if additional investigation is warranted. If additional investigation is warranted, the Investigator shall conduct the investigation and prepare another evidentiary review.

If the Investigator determines that no further investigation is warranted, the Investigator will finalize the Investigation Report and append the written responses and/or questions submitted by the parties to the Investigation report. The Investigator will refer the matter for resolution.

Resolution Processes

Following the conclusion of the Evidentiary Review, the Investigator will finalize the Investigation Report, and notify the parties as to the Investigation Report, granting the parties the ability to review the Investigation Report.

Complaints NOT involving students (complainant and/or respondent), or complaints not involving sexual harassment will be resolved through an administrative review process.

Complaints involving students (complainant and/or respondent) and sexual harassment, will be resolved through a live hearing.

Administrative Review (Complaints Not Involving Students, Student Status, and/or complaints not involving Sexual Harassment)

Where the Complainant and/or Respondent is not a student, or if a student, the conduct was determined by the Title IX Coordinator to be conducted in a non-student status capacity (e.g. student employment context), an administrative review process will occur.

The Administrative Reviewer, who may be the Investigator, will review the finalized Investigation Report, any submitted information from the Complainant and/or Respondent, and any documentation and/or evidence generated from the investigation.

The Administrative Reviewer may question either party, the Complainant and/or Respondent separately as it relates to assessment of credibility.

The Administrative Reviewer will determine if there was a violation of policy and/or the Guidelines using the Preponderance of the Evidence Standard and issue a final determination within seven (7) days in the form of a Notice of Outcome contemporaneously to the Complainant and Respondent. [See Notice of Outcome]

Live Hearing (Complaints Involving Students)

Where the Complainant and/or Respondent in the matter is a student, a live hearing will be held. The purpose of the hearing shall be to assess credibility, resolve disputed facts, and to determine if the Policy and/or Guidelines were violated using the Preponderance of the Evidence Standard.

Upon Finalization of the Investigation Report, the Title IX Coordinator or designee shall assign a decision maker who will serve as the hearing officer. The decision maker may be the Investigator, separate hearing officer and/or consist of a panel of hearing officers. A hearing will be scheduled within fifteen (15) days but no sooner than five (5) days from the issuance of the final Investigation Report, barring extenuating circumstances.

The Decision Maker shall be responsible for the following:

- Facilitating the Live Hearing;

- Conducting Questioning of the Parties to:
 - Resolve Disputed Facts,
 - Assess Credibility,
 - Determine if a Policy has been violated;
- Determining Relevancy of Questions
- Rendering a Decision if there is a policy violation or not using the preponderance of the evidence standard; and
- Providing a written determination to the parties.

Hearings will be conducted either in person, via virtual format, or tele-conference, at the discretion of the Decision Maker.

Both the Complainant and Respondent may have an advisor to assist them during the hearing. Parties will be able to consult with their advisor in a non-disruptive manner. The Decision Maker may retain legal counsel as an advisor.

The Decision Maker will conduct questions of the parties. The Complainant and Respondent will be able to submit relevant questions of the other party, in writing to the Decision Maker, who will pose the question to the other Party after they have been determined relevant. Questioning is limited to assessment of credibility and disputed facts.

Pursuant to §106.46(g) Live Hearings shall be recorded by the University, which may be an audiovisual recording. The University shall make available for inspection a copy of the audiovisual recording or transcript of the recording to either Party and their Advisor upon request. The University reserves sole discretion for whether it provides the audiovisual recording or a transcript of the live hearing.

Following the conclusion of the hearing, the Decision Maker will issue a final determination, in the form of a Notice of Outcome contemporaneously to both parties, the Complainant and Respondent. [See Notice of Outcome]

Final Determination and Notice of Outcome

The Administrative Reviewer and/or Decision maker shall issue a written determination in the form of a Notice of Outcome contemporaneously within seven (7) days to both the Complainant and Respondent.

The Notice of Outcome, at a minimum will include the following:

- Summary of the Complaint
- Findings of Fact
 - Resolution of Disputed Facts
- Assessment of Credibility

- Findings of violations of Policy and/or Guidelines using the Preponderance Standard
- Referral to Appropriate Sanctioning body if finding of Policy Violation and/or referral of other Policy Violations
 - Students shall be referred to Student Conduct
 - Employees shall be referred to Human Resources
- Appeals Procedures and How to Appeal

Appeals of Final Determinations

Either party, Complainant or Respondent may submit an appeal to a final determination, Notice of Outcome. Appeals should be submitted within seven (7) days to the Title IX Coordinator or designee, barring extenuating circumstances. Appeals will be considered when they meet one of the following criteria.

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

Please refer to the sections on Appeals of Dismissals and Determinations for the specific procedures that will be followed when an appeal is filed.

Sanctioning and Referral

In the event that a Respondent is found responsible for violation of the Policy and/or Guidelines, the matter shall be referred to Human Resources (for employees), or Student Affairs (for Students), to impose disciplinary and/or remedial action in accordance with applicable policies and/or collective bargaining agreements. Human Resources shall engage the employee's supervisor as is appropriate in the disciplinary process. The Office of Equal Opportunity shall share information from the Investigation as is needed to carry out the process.

Referral

Matters referred to the Office of Equal Opportunity & Outreach, and/or investigated by the Office of Equal Opportunity may be referred to the Office of Human Resources, appropriate Vice Chancellor (or designee), and/or Student Conduct for review. That is even if the Office of Equal Opportunity concludes that a violation of the Policy and/or Guidelines did not occur, the Office may still refer such matters to the appropriate administrative office for review under other policies. The Office of Equal Opportunity &

Outreach shall abide by prevailing privacy and confidentiality laws, and at its sole discretion may redact and/or restrict the sharing of information that may conflict with applicable privacy and/or confidentiality laws.

X. Dismissal of a Complaint

Bases for Dismissal

UMass Lowell may dismiss a complaint of Sex Discrimination [Sexual Harassment] for any of the following reasons:

- UMass Lowell is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in UMass Lowell's Education Program or Activity and is not employed by UMass Lowell;
- The Complainant voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint under the bases described in these procedures, and UMass Lowell determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute sex discrimination under Title IX or these grievance procedures even if proven; or
- UMass Lowell determines that the conduct alleged in the Complaint, even if proven, would not constitute sex discrimination under Title IX or these procedures. Note: UMass Lowell must make reasonable efforts to clarify the allegations with the Complainant before dismissing under this basis.

Notice of Dismissal

Upon dismissal, UMass Lowell will promptly notify the Complainant of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then UMass Lowell will also notify the Respondent of the dismissal and the basis for the dismissal promptly following notification to the Complainant, or simultaneously if notification is in writing.

UMass Lowell will notify the Complainant that a dismissal may be appealed and will provide the Complainant with an opportunity to appeal the dismissal of a Complaint. If the dismissal occurs after the Respondent has been notified of the allegations, then UMass Lowell will also notify the Respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases:

- Procedural irregularity that would change the outcome;

- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- The Title IX Coordinator, Investigator, or Decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

Please refer to the sections on Appeals of Dismissals and Determinations for the specific procedures that will be followed when an appeal is filed.

XI. Appeal of Determinations and Dismissals of Complaints

UMass Lowell offers the following process for appeals from a dismissal or a determination whether sex discrimination occurred:

If the dismissal or determination is appealed, UMass Lowell will:

- Notify the Parties of any appeal, including notice of the allegations, if notice was not previously provided to the Respondent;
- Implement appeal procedures equally for the Parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the Complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the Parties of the result of the appeal and the rationale for the result.

When a Complaint is dismissed, UMass Lowell will, at a minimum:

- Offer supportive measures to the Complainant as appropriate.
- If the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within UMass Lowell's Program or Activity.

The submission of appeal stays (or pauses) any sanctions for the pendency (or duration while the appeal is being deliberated and decided upon) of an appeal. Supportive measures and remote learning opportunities remain available during the pendency of the appeal.

If a Party appeals, the institution will as soon as practicable notify the other Party in writing of the appeal, however the time for appeal shall be offered equitably to all

Parties and shall not be extended for any Party solely because the other Party filed an appeal.

Appeals will be decided by an appellate officer or appellate panel, who will be free of conflict of interest and bias, and will not serve as Investigator, Title IX Coordinator, or Decisionmaker in the same matter.

Appeals are generally a documentary review. As needed, the appellate body may choose, at their discretion to meet with the Parties, Investigator, or Decision Maker as it relates to clarification and understanding of the information provided by the appealing Party and the case file.

The outcome of the appeal will be provided in writing simultaneously to both Parties and include rationale for the decision. The determination of the Appeal Decision-making Body is final.

XII. Retaliation

UMass Lowell prohibits retaliation, including peer retaliation, in its Education Program or Activity. Upon receiving a Complaint alleging retaliation or upon receiving information about conduct that reasonably may constitute retaliation under Title IX, UMass Lowell will initiate its grievance procedure or, as appropriate, an informal resolution process.

XIII. Informal Resolution Procedures

Either party, the Complainant and/or Respondent may make a request for Informal Resolution to the Investigator, Title IX Coordinator, or designee.

The Title IX Coordinator, or designee, will evaluate the request for informal resolution to determine if informal resolution is appropriate for the matter. The Title IX Coordinator, or designee, will evaluate the request on the following criteria:

- Power dynamics between the Parties;
- Age difference between the Parties;
- Nature of the alleged conduct;
- And/or any other factors determined to be relevant by the Title IX Coordinator, or designee, which will be documented.

If the Title IX Coordinator, or designee, determines that the matter is appropriate for Informal Resolution, they will notify the other Party of the request. If both Parties agree to Informal Resolution, the Sex Discrimination Grievance Procedures will be suspended, and matter referred to the Informal Resolution Procedures.

If no resolution is reached, or either party withdraws from Informal Resolution, the Sex Discrimination Grievance Procedures will commence from where they left off.

If an Informal Resolution is reached, but a party alleges violation of the Informal Resolution Agreement, the violation will be referred to Student Conduct in the case of students, or Human Resources in the case of employees for disciplinary action. The Office of Equal Opportunity may commence the Sex Discrimination Grievance Procedures and investigation from where it left off.

Appendix: Informal Resolution Procedures

UMass Lowell offers the following informal resolution procedures for addressing Complaints filed under the EO Complaint Procedure and/or Title IX Sex Discrimination Grievance Procedure.

Administrative Resolution

Should the Parties mutually determine to enter the informal resolution process, and the Respondent elects to accept responsibility for the allegations of the Complaint at any point during the informal resolution process, the institution may administratively resolve the Complaint. The Respondent is required to sign a consent for Administrative Resolution prior to the commencement of this process.

For matters arising from the Sex Discrimination Procedures:

Where the Respondent admits responsibility, the Parties will receive simultaneous written notification of the acceptance of responsibility, and the matter will be referred to the appropriate sanctioning body, Student Conduct for Students, or Human Resources for Employees. The appropriate administrator will provide an opportunity for the Parties to be heard at a sanctions hearing, including without limitation, the submission of impact statements or statements of mitigation, and the Parties may be accompanied by their Advisor, subject to applicable policies, but questioning of Parties or witnesses will not be permitted. The Parties will receive simultaneous written notification of the decision, subject to applicable policies, regarding sanctions and Remedies, which may be appealed according to the Appeals Procedures outlined in the Sex Discrimination Grievance Procedures.

Quasi-Mediation (and/or Mediation)

Quasi-Mediation (and/or Mediation) are **CONFIDENTIAL**. No information disclosed and/or obtained during a mediation shall be provided to the Investigator and/or Decision Maker as part of the Sex Discrimination Grievance Procedure.

Parties may choose to enter into an informal resolution, even when the Respondent does not accept responsibility. Such matters will be referred to a neutral mediator, not the Investigator, who will work with both parties to identify points of agreement and appropriate Remedies to address them. This process will only be used with the consent of both parties. The Parties must sign a consent to Mediation agreement prior to the commencement of this process.

During mediation, a facilitator will guide a discussion between the Parties. In circumstances where the Parties do not wish to meet face to face, either Party can request “caucus” mediation, and the facilitator will conduct separate meetings. Whether or not the Parties agree to meet face to face, each Party will be permitted to bring an advisor of their choice to any meetings who may be, but is not required to be, an attorney.

Either Party may terminate the mediation process at any time, which will reinstitute the Grievance procedure from where it left off. A mediation will also be considered failed if a resolution is not reached within twenty-one (21) days. Extension to the timeframe may be granted, when it the Mediator reasonably believes a resolution may be reached.

If an agreement is reached it will be signed by both Parties and the Mediator. A copy of the agreement will be placed in the file, and the matter closed. The Title IX Coordinator or designee will monitor the adherence to the proposed agreement, and close the matter when compliance is satisfactory.

If either party alleges violation of the agreement, and/or the Title IX Coordinator determines that the conditions of the agreement were not met, the original Complaint and Sex Discrimination Grievance Procedures may be reinstated. The alleged violation of the agreement will be referred to Student Conduct for Students, or Human Resources for Employees

Restorative Justice

Restorative Justice resolutions are **CONFIDENTIAL**. No information disclosed and/or obtained during a restorative justice resolution shall be provided to the Investigator and/or Decision Maker as part of the Sex Discrimination Grievance Procedure.

Restorative Justice is an alternative resolution that allows for the addressing of sex discrimination and/or sexual harassment under Title IX. In such settings, the Respondent may recognize some harm was done (the Respondent need not admit to a policy violation), and the parties seek a developmental approach that addresses needs, promotes accountability, and provides support for healing for the Parties.

Either Party may terminate the restorative justice process at any time, which will reinstitute the Grievance procedure from where it left off. A restorative justice resolution will also be considered failed if a resolution is not reached within twenty-one (21) days. Extension to the timeframe may be granted, when the Mediator reasonably believes a resolution may be reached.

If an agreement is reached it will be signed by both Parties and the Facilitator. A copy of the agreement will be placed in the file, and the matter closed. The Title IX Coordinator or designee will monitor the adherence to the proposed agreement, and close the matter when compliance is satisfactory.

If either party alleges violation of the agreement, and/or the Title IX Coordinator determines that the conditions of the agreement were not met, the original Complaint and Sex Discrimination Grievance Procedures may be reinstated. The alleged violation of the agreement will be referred to Student Conduct for Students, or Human Resources for Employees

Appendix: Addressing External Complaints

The Office of Equal Opportunity and Outreach at UMass Lowell has serves as the primary Office tasked with responding to external allegations of Non-Discrimination Laws, including but not limited to Title II, ADA, Title VI, Title VII, Title IX, and applicable Massachusetts General Laws.

External complaints may come from a myriad of external agencies including but not limited to: the Office of Civil Rights at the U.S. Dept. of Education, the U.S. Equal Employment Opportunity Commission, the U.S. Dept. of Housing and Urban Development, the Massachusetts Commission Against Discrimination, litigation filed in court, and/or other federal, state, and/or local agencies.

Employees at UMass Lowell who receive notice of a complaint related to Discrimination, Discriminatory Harassment, Sex Discrimination, Sexual Harassment, and/or Retaliation are obligated to promptly forward a copy of the complaint to the Office of Equal Opportunity at:

Office of Equal Opportunity & Outreach
(978) 934-3565
Equal_Opportunity@uml.edu

Or directly to the Director

William Cummings, Director of Equal Opportunity
(978) 934-3565
William_Cummings@uml.edu

Employees should generally refrain from making any statement or submitting any response to an external agency. If any Employee chooses to respond they may acknowledge receipt of the notification and notify the agency that they have forwarded the notification to the appropriate office, who will be in touch.

The Office of Equal Opportunity will coordinate a response with the Employee, Office, Department, Division, applicable Vice Chancellor and/or on behalf of the University. The response will be coordinated with the UMass Office of the General Counsel as applicable. This response will serve as the official response of the University.

Employees are reminded to preserve any and all evidence, which may include but is not limited to: documents, emails, notes, information, etc. that may be relevant to an allegation of discrimination, discriminatory harassment, sex discrimination, sexual harassment, retaliation, or the University's response thereof.

Employees have a duty to cooperate with the Office of Equal Opportunity, UMass Office of General Counsel and/or designees of the Office of Equal Opportunity and/or UMass

Office of General Counsel as it relates to responding to external complaints, investigations, and litigation.

Appendix: Electronic ('Maxient') Recordkeeping and Filing

The Office of Equal Opportunity and Outreach maintains records in accordance with applicable records retentions policies of the UMass System, UMass Lowell, Massachusetts Secretary of State, and/or prevailing federal and/or state laws.

Records are maintained in an electronic system, Maxient, which is audited regularly, not less than an annual basis, and access is both monitored and restricted.

Records maintained by the Office of Equal Opportunity are generally not considered public records, and are subject to applicable privacy regulations including but not limited to Personnel Records Laws, the Family Educational Rights and Privacy Act, and other applicable privacy protections under Title IX, and other federal and/or state laws or regulations.

Questions and/or Inquiries regarding records retention and access to files maintained by the Office of Equal Opportunity should be submitted to the Office of Equal Opportunity and/or UMass Lowell Public Records Officer.