

UNIVERSITY OF MASSACHUSETTS LOWELL

Nondiscrimination 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 non-discrimination 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 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 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, only Officials with Authority 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. For further detail regarding how these Guidelines apply to students, please see the [Student Conduct Code](#).

Definitions

Advisor of choice is an individual who accompanies and supports the reporting 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 have additional responsibilities where the process is governed by the Sexual Harassment Grievance Procedures. Please see the Sexual Harassment Grievance Procedure, which defines the Advisor's role related to a formal Title IX Sexual Harassment complaint.

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, 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 who are not mandatory reporters for child abuse and neglect.
- 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.

Confidential Resource Provider, please see this EOO Complaint Procedure and the university's Sexual Harassment Grievance Procedure. Parties could access the services of the Confidential Resource Provider, even if a formal(written) complaint has not been filed. At UMass Lowell, the Confidential Resource Provider means 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. 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 978-934-6800, for Counseling Services, 220 Pawtucket Street, Suite 300, Lowell, MA 01854.

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.

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.

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 this guidelines.

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

1. An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct.
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that effectively denies a person equal access to the University's education program or activity.
3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a) (10), "domestic violence" as defined in 34 U.S.C. 1229(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a) (30), as amended. Please see the definitions of each of these terms in the **Sexual Harassment Grievance Procedure**.

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 Sexual Harassment under Title IX, above).

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,

¹ Concerns involving Sexual Harassment will be reviewed pursuant to the UMass Lowell Sexual Harassment Grievance Procedure. The Sexual Harassment definition and Sexual Harassment Grievance Procedure may apply when, for example, the reported conduct happened on campus property, and the university has jurisdiction over both parties. In other instances, the definition of Sexual Misconduct may apply.

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

Procedures

Individuals who believe they are subjected to **Unlawful Discrimination, Harassment, Sexual Misconduct**, or **Retaliation** may file a concern with the Office of Equal Opportunity & Outreach or, if concerns involve students as respondents, with the Office of Student Conduct (“Student Conduct”).

Individuals who believe they are subjected to Sexual Harassment as that term is defined above and under Title IX may file a formal(written) complaint directly with the university’s Title IX Coordinator. **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.**

Reporting persons must complete the Concerns Reporting Form online and must meet with EOO, Student Conduct, the Title IX Coordinator or designee, as appropriate. EOO staff will meet with individuals to review concerns involving employees. The Student Conduct staff will meet with students to review matters involving students as respondents. These matters will be responded to as expeditiously as possible to facilitate resolution. The complainant and the respondent may be accompanied by an **Advisor** to all UMass Lowell meetings pertaining to the complaint.

Department of Energy programs: Any individual with a concern of discrimination based on race, color, national origin, sex, disability, or age in connection with any program or activity receiving assistance from the Department of Energy (D.O.E.) may also submit a complaint in writing to Field Civil Rights Officers located in the 'D.O.E.'s field offices or to the Director, Office of Civil Rights and Diversity, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

The university’s Equal Opportunity Complaint Procedure describes the processes followed by the university’s staff to review Unlawful Discrimination, Harassment, Sexual Misconduct and Retaliation complaints. The university’s Sexual Harassment Grievance Procedure describes the processes followed to review **Sexual Harassment** complaints. Both Procedures also include a possible option of informal resolution, in specified limited circumstances.

Anonymous Reports: Individuals who wish to file an anonymous report or complaint may do so by filing the online **Report a Concern** form online at: www.uml.edu/HR/Equal/report.aspx while not including any identifying information such as their name or contact information. These reports are not considered formal(written) complaints. If complaints are filed anonymously, the university’s ability to review and address the concern may be limited.

Confidentiality Requests: Only **Confidential Employees** and, for matters involving **Sexual Harassment** or **Sexual Misconduct**, **Confidential Resource Providers** can provide confidentiality. All individuals may discuss the matter with a **Confidential Employee**. Confidentiality cannot be ensured if the matter is also disclosed to another member of the university. For sexual harassment (as defined under Title IX), formal(written) complaints must be filed directly with the university’s Title IX Coordinator.

² Individuals with limited English language proficiency are invited to contact EOO at (978) 934-3565 to request assistance in accessing UMass Lowell’s programs and activities.

Please note that these guidelines prohibit **Retaliation**. The university takes steps to prevent **Retaliation** and will take strong responsive action if it occurs. The Director of Equal Opportunity and Outreach and Diversity and Inclusion / Title IX Coordinator will evaluate a confidentiality request in the context of the university's responsibility to provide a safe and nondiscriminatory environment for all its students, employees, and visitors, and the rights of the responding person to receive information about the identity of the reporting person and the concerns, if sanctions may result.

UMass Lowell administrators are essential to the successful implementation of these and other Equal Opportunity Guidelines, and the Affirmative Action Plans. By modeling these standards, and by actively designing and achieving programmatic initiatives and goals, they foster the principles of equity and inclusion upon which the Guidelines and Plans are based.

All members of the UMass Lowell community are encouraged to practice bystander awareness, that is, to take action to end and report potential violations of these Guidelines, and to report those incidents or concerns to EOO. Employees are also encouraged to monitor their work environment for the presence of any forms of **Unlawful Discrimination, Harassment, or Retaliation**. A performance factor for all staff is compliance with these Guidelines and fostering inclusion with colleagues.

Knowingly providing a false equal opportunity concern is prohibited. This violation will subject the person who knowingly provides such false information to discipline.

Filing an External Complaint

In addition to filing a complaint with Equal Opportunity and Outreach, you may pursue filing a complaint with an external agency, such as the following, at the same time. You also may pursue any civil action available to you.

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, TYY: (617) 994-6196

Responsibility

EOO, under the leadership of William Cummings, Director for Equal Opportunity and Outreach, and Compliance, is responsible for the administration of these Guidelines. William Cummings is also the Title IX Coordinator and the Section 504/ADA Coordinator and is responsible for the administration of the affirmative action programs for women, minorities, persons with disabilities, and protected veterans.

Administrators must enact remedial measures as appropriate to stop, remedy, and prevent future occurrences of violations of these Guidelines.

Attachments

UMass Lowell's Affirmative Action Plan is available for inspection from 9 a.m. to 4 p.m. weekdays in EOO.

October 13, 2022

UNIVERSITY OF MASSACHUSETTS LOWELL Equal Opportunity Concerns / Complaint Procedure

Introduction and Scope

The University of Massachusetts Lowell (“the 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, (“Procedure”) describes the process the university uses, in accordance with the Nondiscrimination Guidelines, to review concerns or complaints of Unlawful Discrimination, Harassment based on any Protected Class, or Retaliation for participation in processes covered by this Procedure, (“Protected Class” and “Retaliation” are defined below). This includes Sexual Misconduct (see definitions below).

In May of 2020, 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. Please review the Sexual Harassment Grievance Procedure to learn about the definition of Sexual Harassment, reporting requirements and review process for matters involving Sexual Harassment.¹

This Procedure does **not** govern the process for Sexual Harassment as defined in the May 2020 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 Harassment based on the same incident, the Title IX Coordinator at their sole discretion may determine that the Sexual Harassment 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 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 university’s Nondiscrimination Guidelines, to the Office of Equal Opportunity and Outreach (“EOO”).²

¹ The University’s procedures relating to unwelcome sexual harassment and sexual misconduct are emailed annually to all members of the UMass Lowell community.

² Concerns or complaints regarding student violations are addressed according to the Student Conduct Code.

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I. Definitions

Advisor of choice is an individual who accompanies and supports the reporting 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 have additional responsibilities where the process is governed by the Sexual Harassment Grievance Procedures. Please see the Sexual Harassment Grievance Procedure, which defines the Advisor's role related to a formal(written) Title IX Sexual Harassment complaint.

Complainant: A student or employee who reports to the university of being subjected to or has information about an incident of a potential violation of the university's Nondiscrimination Guidelines.

Confidential Resource Provider means 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. Their services are confidential unless otherwise required by state or federal law. If requested by the Complainant (Reporting Party) 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, and tribal court. For additional information regarding supportive measures please see this EOO Complaint Procedure and the university's Sexual Harassment Grievance Procedure. Parties may access the services of the Confidential Resource Provider, even if a formal(written) complaint has not been filed. At UMass Lowell, the Confidential Resource Provider located in Counseling Services, 220 Pawtucket Street, Suite 300, Lowell, MA 01854.

Harassment, for the purposes of this definition Harassment does not include Sexual Harassment as defined in the Sexual Harassment Grievance Procedure. Harassment is conduct by a person or persons against another person or persons based upon their legally Protected Class(es) 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) unreasonably creating an intimidating, hostile, or offensive working or academic environment.

Protected Classes: 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 over 40, 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.

Respondent: A student or employee named as responsible for an alleged incident of a potential violation of the university's Nondiscrimination Guidelines.

Retaliation: The interference through intimidation, threats, coercion, or unlawful discrimination, with an individual's right or privilege secured under Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1964, the Massachusetts anti-discrimination laws, or other related equal opportunity laws and the university's Nondiscrimination Guidelines and related procedures 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 this policy.

Sexual Harassment under the Title IX regulations means conduct on the basis of sex that satisfies one or more of the following:

- (i) An employee of the university conditioning the provision of an aid, benefit, or service of the university on an individual's participation in unwelcome sexual conduct.
- (ii) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that effectively denies a person equal access to the university's education program or activity; or
- (iii) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a) (10), "domestic violence" as defined in 34 U.S.C. 1229(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a) (30), as amended. The definitions of these terms are listed separately in this section.

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 Sexual Harassment under Title IX³.

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 Misconduct and Sexual Harassment, pregnancy, childbirth, or related conditions, such as lactation or the need to express breast milk for a nursing child, gender identity or expression, sexual orientation, national origin,⁴ ethnicity, disability, genetic information, natural or protective hairstyle, or any other legally Protected Class.

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, Harassment, or Retaliation for any matter covered by this 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 Rights and Responsibilities, 978-934-2100, [University Crossing](https://www.uml.edu/hr/equal/), 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:**
William Cummings, Director of Equal Opportunity & Outreach and Compliance
Phone: 978-934-3565
Email: William_Cummings@uml.edu

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 Rights and Responsibilities if the Respondent is a student.

³ This Equal Opportunity Concerns / Complaint Procedure applies to concerns defined as Sexual Misconduct but not Sexual Harassment. Concerns involving Sexual Harassment are reviewed pursuant to the UMass Lowell Sexual Harassment Grievance Procedure. The Sexual Harassment definition and Sexual Harassment Grievance Procedure may apply when, for example, the reported conduct happened on campus property, and the university has jurisdiction over both parties. Under the Sexual Harassment definition and Grievance Procedure, the following terms have different definitions: Sexual assault is defined in 20 U.S.C. 1092(f)(6)(A)(v), dating violence is defined in 34 U.S.C. 12291(a) (10), domestic violence is defined in 34 U.S.C. 1229(a)(8), and stalking is defined in 34 U.S.C. 12291(a) (30).

⁴ National origin protections include equal access to individuals of Limited English Proficiency.

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.⁵ 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.

⁵ Upon request, the UMass Lowell Police Department may assist students or employees in filing such a complaint or seeking a court protective order.

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 Site⁶
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

⁶ For information about the preservation of evidence, please contact the Lowell General Hospital SANE.

All UMass Lowell administrators⁷, all faculty, and all supervisors have the responsibility to report all possible incidents of potential violations of the UMass Lowell's Nondiscrimination Guidelines including Unlawful Discrimination, Sexual Misconduct, Harassment, and/or Retaliation for participation in processes covered by this 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.⁹ See the EOO contact information at the beginning of Section II. Individuals designated by the university as Officials with Authority shall report Sexual Harassment as described in the Sexual Harassment Grievance Procedure.

EOO and Director for EOO and Diversity and Inclusion 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. Administrators, faculty, supervisors, and Officials with Authority cannot promise confidentiality to the individual from whom they learned the details of a possible violation. **Administrators, faculty, supervisors, and Officials with Authority are expected to report possible as well as known incidents to Equal Opportunity and Outreach.** Additionally, the administrators, faculty, and supervisors 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 Equal Opportunity 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

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

⁸ For Sexual Harassment matters, only Officials with Authority are required to report any potential incidents of Sexual Harassment to the Title IX Coordinator. However, the University encourages all its employees to share any information they receive related to potential violations. For additional information, please review the Sexual Harassment Grievance Procedure.

⁹ Under the Sexual Harassment Grievance Procedure, a Complainant must choose to file a written complaint to initiate a review of their concerns.

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 Rights and Responsibilities, 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 reviewer(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, 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.¹⁰

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, Diversity and

¹⁰ Please review the university's Sexual Harassment Grievance Procedure for information about supportive measures for matters involving Sexual Harassment as defined by the Title IX regulations.

Inclusion 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 for Equal Opportunity & Outreach, Diversity & Inclusion, and/or the supportive measures, this may lead to disciplinary action.

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 provide their reasons for disagreement to the Director of Equal Opportunity and Outreach, Diversity and Inclusion, for her consideration. Her 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 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.

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.

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.

Following is the process to file a complaint on the basis of Harassment, Sexual Misconduct, Unlawful Discrimination or Retaliation for participation in processes covered by this Procedure (see definitions above).

1. An individual initiates the complaint process by submitting a written complaint to Equal Opportunity and Outreach, or, for complaints about a student, to Student Rights and Responsibilities. 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 must be filed in writing, including 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.***
2. Meet with Equal Opportunity and Outreach, or, if the Respondent is a student, the Office of Student Rights and Responsibilities.

Equal Opportunity and Outreach, 978-934-3565.

Student Rights and Responsibilities, 978-934-2100, is located at University Crossing, 220 Pawtucket Street, Suite #200, Lowell MA 01854-5142.

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 review, determination, and possible next steps

Trained Investigators¹¹ 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.¹² 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 not, the complaint will be closed with no further action, and the complainant will be notified.

For all matters under this Procedure, the investigator will provide the Respondent in writing, prior to the meeting, with the name of the person who has filed Equal Opportunity-related concerns regarding them. For a Sexual Misconduct concern, the investigator will also provide the Respondent, prior to meeting, with written notification of the alleged dates and locations of the alleged incidents, and the applicable policy statement that may relate to the concerns.

The Complainant and Respondent are each required to meet with the Investigator(s), separately. Both 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.¹³

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

¹¹ 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.

¹² 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, Diversity and Inclusion, has a conflict of interest, they may share that concern with the Vice Chancellor for Finance and Operations.

¹³ Prior sexual activity and character witness accounts shall not be provided to the other party.

status updates. A copy of the UMass Lowell Nondiscrimination Guidelines, this Equal Opportunity Concerns / 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.

For Sexual Misconduct matters, the Investigator will provide an opportunity for the Parties to review all the relevant evidence that is directly related to the allegations.¹⁴ They may provide a response about the evidence in writing within five (5) business days.

Determination and written outcome by Equal Opportunity and Outreach

After conducting a thorough and neutral review of all the evidence, the Investigator will determine whether conduct occurred in violation of the university's Nondiscrimination Guidelines. This determination is made based on the preponderance of the evidence, that is, whether it is more likely than not that such violation occurred.

For all matters the Investigator will provide a written outcome of the review to the Complainant and the Respondent.

Sanctions by the university

If the determination was that it is more likely than not that a violation of the university's guidelines has occurred, the matter will be referred to the appropriate administrator of the Respondent for the determination of next steps, in coordination with Human Resources. Sanctions are not determined by Equal Opportunity and Outreach. The university or appropriate administrator will take sanctions or disciplinary actions to end the prohibited behavior, prevent its recurrence, and address its effects promptly and effectively.

Sanctions shall be based upon the nature and severity of the offense as well as any record of prior sanction imposed on the Respondent. In general, sanctions may include, but are not limited to written warnings, letters of reprimand, participation in training or workshops, change in job duties including in supervisory responsibilities, reduction of regular and/or overtime hours, reduction in pay, transfer, demotion, removal from administrative or supervisory duties, leave without pay, suspension, termination, and barring from campus. For student sanctions, please refer to the Student Conduct Code.

If the university or a person in the Respondent's line of supervision decides to impose sanctions for an employee, that employee may have a letter placed in their personnel file. The disciplinary letter may include a statement of the Equal Opportunity determination and a description of the sanctions imposed by the university.

Each party will be notified of the sanctions which are directly related to themselves, or as otherwise required by law.

¹⁴ The investigator(s) determine what questions are relevant to ask, and whether any evidence presented is directly relevant.

Employees who are members of a collective bargaining unit should refer to the relevant collective bargaining agreement for further information about employee discipline.

Remedies by the university

Remedies for Complainant might include but are not limited to: campus escort, ensuring Complainant and Respondent are not required to interact at work or do not attend the same classes if possible; moving either or both parties to a different work schedule, work location, or residence hall; “no-contact” orders; change of reporting structure; counseling and/or medical services for students; academic or work/life support services; course withdrawal without penalty; and other remedies to assist with the completion of academics or work. Additional remedies may be enacted for the broader university population, including but not limited to policy review; and educational, awareness and prevention programs including anti-discrimination education.

Each party will be notified of the remedies which are directly related to themselves, or as otherwise required by law.

IX. Record retention

All materials relative to an informal resolution or formal investigation shall be confidential, except as necessary to carry out disciplinary process or as permitted under law and shall be maintained by EOO for a period of seven years for employees and for Student Conduct records. For employee personnel action sanctions, case summaries and final decisions shall be kept permanently. Records related to student sanctions shall be retained for 7 years after the student leaves the university, or 25 years from the date of expulsion.

October 13, 2022



UNIVERSITY OF MASSACHUSETTS LOWELL Sexual Harassment Grievance Procedure

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 sexual harassment.

UMass Lowell prohibits Sexual Harassment, in accordance with the UMass Lowell Nondiscrimination Guidelines (“Nondiscrimination Guidelines”) and Title IX. In May 2020, 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 Sexual Harassment, as that term is defined in the 2020 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 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 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.¹

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 www.uml.edu/HR/Equal/Guidelines-Procedures/ and uml.edu/prevent.

¹ The University’s procedures relating to unwelcome sexual harassment and sexual misconduct are emailed annually to all members of the UMass Lowell community.

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I. Definitions

Advisor means an individual chosen by a party (the Complainant or the Respondent), who may provide support to that party, and may inspect and review evidence gathered during the investigation. Both parties are highly encouraged to have an advisor of choice with them throughout the entire Grievance Process.² If a party needs assistance identifying an advisor, they are encouraged to contact the Title IX Coordinator. The university will provide an advisor for the live hearing, if a party does not select one, for the limited purpose of posing questions for the parties and witnesses. The advisor's participation is limited during the investigation and other proceedings, during which they may not speak on behalf of the party. During the live hearings, the advisor is responsible for posing questions for both parties and witnesses.

Complainant means an individual who is alleged to be the recipient of conduct that could constitute sexual harassment.³

Confidential Employee means an employee who, because of their position, may not reveal an individual's identity or other information without permission, even to the Title IX Coordinator or designee. The following categories of employees are confidential employees:

- Licensed sexual assault counselors, psychologists, psychotherapists, social workers, clergy, 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; and
- University employees providing administrative, operational and/or related support for a confidential employee in the performance of such services.
- Confidential Resource Providers

² For employees, the advisor may be, but is not required to be, their union representative.

³ A parent or legal guardian may file a complaint on behalf of a minor.

Confidential Resource Provider means 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 Harassment or Sexual Misconduct matter. Their services are confidential unless a party, in writing, requests certain information be disclosed, or as otherwise required by state or federal law. If requested by the Complainant and/or Respondent in an alleged sexual assault matter, the Confidential Resource Provider may 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 and tribal court. For additional information regarding supportive measures please see this EOO Complaint Procedure and the university's Sexual Harassment Grievance Procedure. The party is not required to file a written complaint to receive assistance from a Confidential Resource Provider. At UMass Lowell, the Case Manager and Confidential Resource Provider can be reached at 978-934-6800, Counseling Services, 220 Pawtucket Street, Suite 300, Lowell, MA 01854.

Dating Violence is abusive behavior (including, but not limited to physical, emotional, and/or sexual acts or conduct) committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship will be determined by factors such as the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved.

Domestic Violence is any abusive behavior (including, but not limited to physical, emotional, and/or sexual acts or conduct) committed:

- against a person who is a current or former spouse;
- against a person with whom the abuser shares a child in common;
- against a person who is or has cohabitated with the abuser as a spouse;
- against a person similarly situated to a spouse;
- between a parent and child;
- between members of the same household in an intimate relationship; or
- against any other person similarly situated.

Formal (Written) complaint means a document filed and signed by a complainant or by the Title IX Coordinator alleging sexual harassment against a respondent requesting that UMass Lowell initiate the grievance process. When the Title IX Coordinator executes the complaint to begin the grievance process, the Title IX Coordinator does not become a party.

Nondiscrimination Guidelines/Policy: The University of Massachusetts Lowell Nondiscrimination Guidelines. These guidelines describe the UMass Lowell's application of the university of Massachusetts system-wide policy against sexual harassment, sexual misconduct, discrimination and retaliation. The Nondiscrimination Guidelines are available at www.uml.edu/equal or in alternate formats upon request and are incorporated into this procedure by reference.

Official with Authority means an employee who has the authority to institute corrective measures for sexual harassment on behalf of the university. Officials with Authority include the Title IX Coordinator, the Chancellor, the Provost, Vice Chancellors, Vice Provosts, Deans, Associate Vice Chancellors, and Assistant Vice Chancellors. Officials with Authority must report notices or allegations of sexual harassment to the Title IX Coordinator.

Respondent means an individual who has been reported to have engaged in conduct that could constitute sexual harassment.

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 of Massachusetts Nondiscrimination and Harassment policy.

Sexual Assault is broadly defined as an offense classified as a forcible or non-forcible sex offense including rape, fondling, and statutory rape, without the consent of the victim (including where the victim is incapable of giving consent), as those crimes are defined in the FBI's uniform crime reporting system. 20 U.S.C. 1092(f)(6)(A)(v). See the link for the definition of sexual assault by the FBI uniform crime reporting system: ucr.fbi.gov/nibrs/2012/resources/nibrs-offense-definitions

Sexual Harassment under the Title IX regulations means conduct on the basis of sex that satisfies one or more of the following:

- (i) An employee of the university conditioning the provision of aid, benefit, or service of the university on an individual's participation in unwelcome sexual conduct.
- (ii) Unwelcome conduct determined by a reasonable person to be so **severe, pervasive, and objectively offensive** that effectively denies a person equal access to the university's education program or activity; or
- (iii) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a) (10), "domestic violence" as defined in 34 U.S.C. 1229(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a) (30), as amended. The definitions of these terms are listed separately in this section.

Sexual Misconduct 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 Sexual Harassment under Title IX, above). Please note that Sexual Misconduct complaints are reviewed and addressed in accordance with the Student Code of Conduct, UMass Lowell's Equal Opportunity Complaint Procedure or other university policies as applicable.

Stalking is any course of conduct (more than one act) directed at a specific person (directly, indirectly, through a third party or other means) that would cause a reasonable person to:

- (a) fear for his or her safety or the safety of others; or

- (b) suffer substantial emotional distress.

II. Jurisdiction

This Grievance Procedure applies to allegations of Sexual Harassment as defined in the Nondiscrimination Guidelines and listed above, when the allegations of Sexual Harassment occur in a university's education program or activity, against a person in the United States. This includes allegations of Sexual Harassment that occurred:

1. On property owned or controlled by the university or property owned or controlled by a student organization that is officially recognized by the university; or
2. At locations or events or involving circumstances over which the university exercised substantial control over both the Respondent and the context in which the Sexual Harassment occurred.

This grievance procedure also applies to allegations of sexual harassment under Title IX that occurred before August 14, 2020.⁴

III. Your Options, and Filing a Formal(written) complaint of Sexual Harassment

Sexual Harassment is prohibited by the University of Massachusetts Non-Discrimination and Harassment Policy. Sexually harassing behavior should be reported in accordance with this Grievance Procedure in order to provide immediate supportive measures to both parties, grievance options for the Complainant, and whenever possible, to prevent any recurrence.

University Officials with Authority are required to report possible Sexual Harassment of which they have knowledge to the Title IX Coordinator.

If you are a person who has been subjected to Sexual Harassment, you are encouraged, but not required, to report it to the Title IX Coordinator, to a university Official with Authority, or by completing the Report a Concern Online form at: www.uml.edu/HR/Equal/report.aspx.

If you have a disability or limited English proficiency you may contact the Office of Equal Opportunity and Outreach at (978) 934-3565 if you need assistance accessing the complaint process or need language services.

If you choose to file a formal (written) complaint, you are encouraged to do so as soon as possible.

[If you have not decided at this time to file a formal \(written\) complaint](#)

⁴ For incidents that occurred prior to August 14, 2020, the University will use the definition of sexual harassment that was in effect at the time of the incident. However, the complaint would be review using the current Sexual Harassment Grievance Procedure.

Choosing whether to file a formal (written) complaint can be a process that unfolds over time. When you report or discuss your concerns, you do not have to decide whether to pursue a formal (written) complaint or to name the other party. You do not have to pursue a formal(written) complaint to take advantage of the resources and supportive measures available to you. The following chart, Sexual Harassment Reporting and Discussion Options, provides an overview of what each option provides. You may contact, learn about, and pursue several of these options prior to a decision to file a formal(written) complaint.

Sexual Harassment Reporting and Discussion Options

Reporting / Discussion Option	Can Provide Counseling?	Can Refer You to Resources and Support?	Can Maintain Confidentiality?	Can Investigate, Leading to Corrective Measures if a Violation is Found?
Report a Concern Online Form www.uml.edu/HR/Equal/report.aspx	No	Yes	Yes, if you do not provide any identifying information; otherwise No, but will maintain privacy to the extent possible	Yes, if you provide identifying information and choose to file a written complaint (see Section VIII); otherwise No
Counseling Services: Wellness Center University Crossing 300 Walk-in or phone appt. 978-934-6800	Yes	Yes	Yes	No
Health Services: Wellness Center University Crossing 300 Walk-in or phone appt. 978-934-4991	No	Yes	Yes	No
Confidential Resource Provider - call the Title IX Coordinator at 978-934-3565 to request one	No	Yes, including discussion of your options	Yes	No
Official with Authority - see definition for list of titles	No	No	No, but will maintain privacy to the extent possible	Yes, if you choose to file a formal(written) complaint (see below for the process)
Title IX Coordinator, 978-934-3565 or Deputy Title IX Coordinators in Student Rights and Responsibilities: 978-934-2100 in Athletics: Sandra Roecker 978-934-6805	No	Yes, including discussion of your options	No, but will maintain privacy to the extent possible	Yes, if you choose to file a formal(written) complaint (see Section VIII). If not, other safety and educational measures may be taken, when possible.
Equal Opportunity and Outreach, 978-934-3565, equal_opportunity@uml.edu or Student Rights and Responsibilities, 978-934-2100	No	Yes	No, but will maintain privacy to the extent possible	Yes, if your concern constitute Sexual Misconduct. Please see the EOO Complaint Procedure. If you have a Sexual Harassment concern, a formal(written) complaint is required (see below for the process)

UMass Lowell Police Department 978-934-2398 University Crossing, Building B Emergencies: 978-934-4911 or x44911	No	Yes	For sexual assault, dating violence, domestic violence or stalking reports, you have the option of whether or not to share your identity with the university. In the criminal investigation, it will be shared as needed with the Respondent and witnesses. Privacy will be maintained to the extent possible	Yes
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You may file a report of a concern anonymously using UMass Lowell's [Report a Concern Online form](#), which does not require you to input your name. Please note that anonymous reporting limits the university's ability to respond or pursue appropriate action against the Respondent. Filing an anonymous report online is **not** considered filing a formal(written) complaint under this Grievance Procedure.

Want to Keep it Confidential

For confidential conversations, you may speak to Counseling Services or Health Services, or a Confidential Resource Provider.

Also, Confidential Resource Providers and the Title IX Coordinator and Deputy Coordinators can provide you with information about your options, rights, and resources. **If you share information about your concerns with a Title IX Coordinator, Deputy Coordinator, or Official with Authority, your concern cannot be kept confidential. Officials with Authority are required to report potential concerns of Sexual Harassment to the Title IX Coordinator.** An anonymous online report submitted by an Official with Authority does not fulfill their requirement to notify the Title IX Coordinator of potential concerns of Sexual Harassment.

Filing a formal(written) complaint of Sexual Harassment

Who may file, and timeframe:

If you are participating in, or attempting to participate in, an education or employment program or activity at the university as an employee and/or student, you may file a formal (written) complaint of Sexual Harassment with the Title IX Coordinator. A Complainant is encouraged to file a complaint as soon as possible.

How to file a formal(written) complaint of Sexual Harassment:

1. An individual initiates the complaint process by submitting a written complaint to the Title IX Coordinator (see contact information below). The complaint may be submitted by email, in person, by mail, or by using the online [Report a Concern Form](#) at www.uml.edu/HR/Equal/report.aspx. The complaint must be filed in writing, including 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 access the complaint process.

2. The Title IX Coordinator will reach out to the Complainant to invite them for a meeting to share information about the university's Nondiscrimination guidelines and the Sexual Harassment Grievance process, on- and off-campus resources, and to explore supportive measures.
3. A Title IX investigator will reach out to you to schedule a meeting, which is required for formal (written) complaints. A formal (written) complaint is not completed until an individual meets with a Title IX investigator.

The Complainant must provide the supportive documentation as quickly as possible to the investigator(s).

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

To ask questions about how to file a formal(written) complaint or to learn more about the Grievance Procedure, you may contact the Confidential Resource Provider in Counseling Services, or the Title IX Coordinator. Contact information for the Title IX Coordinator is listed below and at www.uml.edu/HR/Equal/Contact.aspx and www.uml.edu/Prevent/Contact.aspx.

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

The university will share information as required:

Please note that if a Complainant files a formal (written) complaint, the university is required to provide relevant information to the Respondent, in writing, prior to an interview. The Title IX Coordinator, Investigator(s) and Hearing Officers will maintain the privacy of the concern to the extent possible, while complying with the requirement to conduct the grievance process and consistent with state and federal laws. The university will need to determine what occurred to resolve the situation. During the process, the identities of the parties will not be disclosed except as necessary to conduct the process. The university has a responsibility to respond to concerns to the extent possible. For this reason, only Confidential Resource Providers, or others, such as counselors and healthcare providers, with a legal privilege to do so, can keep confidentiality.

Your right, but not requirement, to also file elsewhere:

Filing an internal complaint with the university 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.⁵ Complainants may, but are not required to, notify law enforcement authorities of alleged sexually harassing conduct. The university encourages complainants to notify both the Title IX Coordinator and law enforcement when sexually harassing conduct occurs that may also be criminal. However, 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. Law enforcement contact information is below.

University of Massachusetts Lowell Police Department:⁶

Emergencies, 24 hours a day, every day: 978-934-4911 (or 44911 on campus) or use any of the "Blue Light" Emergency Radio Phones.

Dispatch or non-emergencies: 978-934-2398 (24 hours a day, every day).

To speak in person to staff at the dispatch window: University Crossing, Building B
220 Pawtucket Street, Lowell, MA 01854

Email: Police@uml.edu

City of Lowell Police Department:

Emergencies: 911; non-emergencies 978-937-3200

50 Arcand Drive

Lowell, MA 01852

www.lowellma.gov/221/Police-Department

If a complainant has filed a Title IX formal (written) complaint with UMass Lowell, the complainant has the option to (1) withdraw their complaint from the UMass Lowell process at any time and to file a complaint with an external agency such as those listed below, or other antidiscrimination agency; or (2) the complainant may continue with their formal(written)complaint at UMass Lowell while simultaneously filing a complaint with an outside agency. Depending on the circumstances, UMass Lowell may determine to continue with its review of the initially alleged incidents if the Complainant decides to withdraw their complaint.

External enforcement agencies:

The United States Department of Education Office for Civil Rights

Boston Area Office

8th Floor

5 Post Office Square

Boston, MA 02109-3921

⁵ Upon request, the UMass Lowell Police Department may assist students or employees in filing such a complaint or seeking a court protective order.

⁶ UMass Lowell complies with Massachusetts General Law in recognizing Abuse Prevention Orders (209A) and Harassment Prevention Orders (258E) and directs any person who obtains an order of protection from domestic or dating abuse, harassment, stalking or sexual assault from any state in the country to provide a copy to the UMass Lowell Police Department and to the Title IX Coordinator. A Complainant may then meet with an officer from the UMass Lowell Police Department to develop a Safety Action Plan, which is a plan for University Police and the victim to reduce risk of harm while on campus or coming and going from campus. This plan may include but is not limited to the temporary measures listed in this document. To apply for a legal Abuse Prevention Order, no contact order or restraining order, the person seeking it must apply directly must apply with the appropriate governmental office.

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 sexual harassment 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.

IV. Reporting Requirements for Officials with Authority

If you are an Official with Authority, you are required to report all Sexual Harassment concerns to the Title IX Coordinator (see contact information in Section III above).

Officials with Authority:

1. Are required to report possible sexual harassment. Officials with the Authority must promptly report the incident of concern directly to the Title IX Coordinator. Officials with Authority must report all relevant details including the names of all persons involved, and relevant facts regarding the alleged incident (including the date, time, and location of the event related to the concern). Officials with Authority must make these reports even if the reporting person requests confidentiality, and regardless of whether a police report has been filed. Officials with Authority are required to report any abuse of a minor to the UMass Lowell Police Department, the local police department, or the Massachusetts Department of Children and Families, per M.G.L. 119, section 51A.
2. Cannot guarantee confidentiality. The university has a responsibility to respond to formal(written) complaints to the extent possible. A decision to keep a concern confidential would prevent the university from fully investigating and responding to the complaint. The university may review the complaint for the purpose of ending Sexual Harassment, preventing its recurrence, and remedying its effects. For these reasons, confidentiality cannot be assured. Only Confidential Employees can provide confidentiality including counselor. However, privacy will be maintained to the extent possible while complying with the requirements of university policies, state and federal law.

V. Rights and Expectations for the Parties and Witnesses

Rights

Advisors: Both parties are welcome to have an advisor of their choice, during all stages of the grievance process. The advisor may only act in an advisory capacity for the party and may not speak on behalf of the person or otherwise participate during the investigation. During meetings, the person will have the opportunity to take a break and to confer with the advisor. The advisor may review evidence gathered during the investigation and may review the investigator's report and other communications. The advisor is prohibited from disseminating the evidence and/or investigator's report without both parties' written consent. Because the advisor will review personally identifiable information from the complainant's and respondent's education records, the parties who are students may need to consent, in writing, to the disclosure of this information to the advisor in accordance with the Family Educational Rights and Privacy Act (FERPA), 20 USC § 1232g; 34 CFR Part 99. The consent would specify that the information may only be used for purposes of the grievance process and cannot be further disclosed. FERPA is a federal law that protects the privacy of student education records.

During the Live Hearings, the advisor will be responsible for posing questions to both parties and witnesses. There are certain limitations to the questions which may be asked. For more information, please see the Live Hearing, in Section VIII.

Reasonable Accommodations: Any party, witness, or other participant involved in any process related to this procedure may request a reasonable accommodation based on a medical reason under the Americans with Disabilities Act, by contacting the ADA/Section 504 Coordinator, William Cummings, Director of Equal Opportunity and Compliance, 978-934-3565, William_Cummings@uml.edu.

Language Assistance: Any party, witness, or other participant with limited English proficiency may request language services at no cost to them by contacting the Title IX Coordinator William Cummings, Director of Equal Opportunity and Compliance, 978-934-3565, William_Cummings@uml.edu.

Confidential Resource Providers: 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.

Scheduling: Both parties will be provided with written notice of the date, time, location, and participants of all hearings, investigative interviews, or other meetings with sufficient time to prepare to participate.

Gathering information and ascertaining your rights: The Investigator(s), Title IX Coordinator, Hearing Officer(s), Appeal Officer(s), or other decision-makers, will not restrict the ability of either party to discuss the allegations under investigation and gather and present relevant evidence, except as is provided by this Grievance Procedure, the Nondiscrimination Guidelines, and other university policies. For example, a party may not discuss the allegations in a manner that is retaliatory, or knowingly present false evidence. Also, parties and witnesses may discuss the process for the

purpose of ascertaining their rights regarding the matter.

Privacy: The Investigator(s), Title IX Coordinator, and other employees involved in the grievance process will maintain the privacy of both parties to the extent possible, to protect their privacy and the integrity of the process to the extent possible. While information is only divulged on a need-to-know basis, confidentiality cannot be ensured. The University only shares information obtained during the process on a need-to-know basis.

Neutrality: All UMass Lowell Investigators, Hearing Officers and Appeal Officers and other employees involved in the Grievance Procedure will conduct a neutral and unbiased review of the formal(written) complaint and give equal consideration to the accounts and documentation provided by both parties. The respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Grievance proceeding.

Parties with concerns regarding potential bias or conflict of interest may report that concern to the Title IX Coordinator. If an Investigator, Hearing Officer or Appeal Officer has a conflict of interest, a different investigator will be assigned. Such a concern regarding the Title IX Coordinator may be reported to the Vice Chancellor for Finance and Operations.

Information Provided: Both parties will be provided with the UMass Lowell Nondiscrimination Guidelines, this Sexual Harassment Grievance Procedure, the listing of Rights and Expectations, a listing of support resources, and written notice of the allegations potentially constituting Sexual Harassment.⁷ The written notice will also inform both parties of their right to an Advisor of their choice, the prohibition on providing false information, and the presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. During the Grievance Process, both parties will be provided with periodic status updates. The Investigator(s) will send to each party and the party's Advisor, if any, the evidence gathered during the investigation for their inspection and review. After receiving the evidence, the parties will have ten calendar days to submit a written response. Ten days prior to a hearing of determination regarding responsibility, Investigator(s) will provide an investigative report that fairly summarizes relevant evidence, including inculpatory and exculpatory evidence, to each party and the parties' advisors, if any, for their review and written response. The relevant evidence will also be available to the parties and their advisors during the hearing. Within seven days after the hearing, the Hearing Officers will provide the final report which includes the determination regarding responsibility and the findings of fact which support that determination.

Supportive Measures: The university may choose to provide supportive measures at any point after learning of concerns including 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 VI for more information.

Discipline for Related Violations: A Complainant or witness who causes an investigation of an incident of Sexual Harassment shall not be subject to a disciplinary sanction for a violation of an employment expectation or policy or of the Student Code of Conduct related to that incident unless

⁷ The notice of allegations includes the identity of the parties, a description of the alleged conduct constituting sexual harassment, including the date and location of the incident, if known.

the University determines that the Complainant or witness's participation in the matter was not in good faith or that the violation of the employment expectation or policy, or 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 parties and witnesses, based on their participation in this Grievance Procedure 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 will take strong responsive action if it occurs. A concern of retaliation for participation in any matter pertaining to this Grievance Procedure should be immediately reported to the Title IX Coordinator, who may initiate an investigation. This includes concerns of retaliatory actions taken by the university or its officials. Examples of behavior which may be perceived as retaliatory include but are not limited to attempts to learn of or to influence accounts made during the course of the review, and unwarranted disciplinary actions.

Right to File a Criminal Report: Anyone who may have been subjected to sexual harassment which may also constitute a crime has the right to file a complaint with law enforcement authorities and will not be dissuaded from doing so. Upon request, the UMass Lowell Police Department may assist students or employees in filing such a complaint or seeking a court protective order.

Right to External Civil Processes: Any person who has filed or is participating in the investigation of a complaint under this Grievance Procedure may also utilize external civil or criminal processes available to them from courts or agencies outside of the University.

Appeal Rights: Please see information about the Appeal request process at the end of Section IX of this document.

Expectations

Both parties and witnesses are obligated not to Retaliate; to update the Investigator(s) if their contact information changes; to be truthful in presenting information; to provide information or participate within the timeframe provided by the Investigator(s); to promptly notify the Investigator(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 Investigator(s) if they believe they have faced retaliation as a result of their participation in this grievance process.

The university expects Advisors to make themselves available to participate during Live Hearings, to conduct themselves with decorum and according to the requirements of this Grievance Procedures in all proceedings including Live Hearings, and to abide by the rulings of the Hearing Officer(s).

False information or complaint: Knowingly filing a false complaint, providing false information, or unduly influencing witnesses in a proceeding under this Grievance Procedure is prohibited.

VI. Supportive Measures

Circumstances under which supportive measures may be imposed include those in which there is a

reasonable concern for safety. The Title IX Coordinator at her discretion will determine whether supportive measures should be implemented, at any point. The individual need not have filed a formal(written) complaint to receive supportive measures. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal(written) complaint or where no formal(written) complaint has been filed.

Supportive measures are not disciplinary actions or sanctions. They shall be designed to restore or preserve equal access to the university's education or employment program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the university's educational environment, or deter sexual harassment. Supportive measures may include, but are not limited to:

- Counseling
- Course-related adjustments, including extensions of deadlines or section transfers
- Modifications of work or class schedules, or extracurricular activities
- Mutual restrictions on contact between the parties
- Changes in work, housing, or dining locations
- Reassignment to another supervisor or position
- Transportation
- Leaves of absences
- Assistance notifying law enforcement of alleged sexual harassment
- Assistance in seeking a court-issued protective order.⁸

In addition to providing supportive measures, the Title IX Coordinator will discuss the university's Grievance Procedure.

Generally, supportive measures are meant to be short-term. Once in place, they will be reviewed to determine whether they should continue. If so, the Director of Equal Opportunity and Outreach, Diversity and Inclusion will work with appropriate University resources to provide continued assistance to the parties. She will determine whether, and when, a supportive measure will become permanent.

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 for Equal Opportunity & Outreach, Diversity & Inclusion, and/or the supportive measures, this may lead to disciplinary action.

The university will maintain as confidential any supportive measures provided to the complainant or

⁸ If you obtained a court-issued protective order, please notify, and send a copy of the order to the UMass Lowell Police Department.

respondent, to the extent that maintaining such confidentiality would not impair the ability of the university to provide the supportive measures. The university will maintain records of supportive measures for seven years.

Violations of the Title IX Coordinator's directives and/or supportive measures will constitute related violations that may lead to additional disciplinary action. Supportive measures imposed may become permanent depending upon the results of this Grievance Procedure as determined by UMass Lowell.

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. The university may remove a respondent from its education program or activity on an emergency basis, if provided that it undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. 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 provide their reasons for disagreement to the Title IX Coordinator, for her consideration. Her determination shall be final.

VII. Informal Resolution

Parties involved in an EEO matter may request, in writing, to participate in informal resolution. EEO 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 not available in cases in which an employee is alleged to have engaged in sexual misconduct affecting a student.

The university may facilitate informal resolution when:

- All parties have been informed in writing of the allegations of the formal(written) complaint and this Grievance Procedure as it applies to both the adjudication of a formal(written) complaint and informal resolution.
- All parties have consented in writing to participate in the informal resolution process.
- The Title IX Coordinator has determined that informal resolution is appropriate.

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.

Upon determining that informal resolution is appropriate, the Title IX Coordinator will assign the informal resolution to a facilitator(s) who has been trained in the impartial informal resolution of sexual harassment complaints. The facilitator(s) will attempt to aid the parties to find a mutually acceptable resolution.

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

- Either party decides to move to the formal process, at any time.

- The Title IX Coordinator determines that the formal process should be followed, at any time.
- An informal resolution has not been reached within 30 days, except for good cause.

A matter will be deemed satisfactorily resolved when both parties expressly agree to an outcome that is also acceptable to the university. At any point prior to such an express agreement, either party may withdraw from the informal resolution process, and the grievance of the formal(written) complaint will proceed.

If an informal resolution agreement is reached and the matter is deemed satisfactorily resolved, a written informal resolution agreement will be signed by and provided to the Complainant, the Respondent, and the Title IX Coordinator, and the formal(written) complaint will be dismissed. The Title IX Coordinator will maintain the informal resolution agreement for seven years and will share it only to the extent necessary to carry out the purposes of the informal resolution agreement.

Ordinarily, the parties will have ten (10) calendar days from the date that a facilitator(s) is assigned to reach an informal resolution agreement. This timeframe may be extended for good cause by the facilitator or Title IX Coordinator, and written notice of such extensions shall be provided to each party.

Participation in informal resolution is voluntary and will not be a condition of either party's enrollment or employment.

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.

VIII. Grievance Procedure (Investigation & Live Hearing)

Investigation

Investigation principles: Neutral, trained Investigator(s)⁹ will conduct a timely and unbiased and impartial review, giving consideration to the accounts and documentation provided by both the Complainant and the Respondent. They assess the reported facts and may conduct preliminary interviews to determine whether the allegations, if true, could constitute a finding that Sexual Harassment occurred. 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.¹⁰ The

⁹ 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.

¹⁰ If the assigned Investigator has a conflict of interest, a different investigator will be assigned. If a party has a concern that the Director of Equal Opportunity and Outreach, Diversity, and Inclusion, has a conflict of interest, they may share that concern with the Vice Chancellor for Finance and Operations.

Investigator will provide both parties with periodic status updates. The Investigator's findings will be based on the preponderance of the evidence standard, that is, whether it is more likely than not that the conduct occurred.

First steps in investigation: Prior to interviewing either party, the Investigator will provide each party with the UMass Lowell Nondiscrimination Guidelines, this Grievance Procedure, and written notice of the allegations potentially constituting Sexual Harassment. The written notice will also inform both parties of their right to an advisor of their choice, the prohibition on providing false information, and the presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Dismissal prior to conclusion of investigation: If the allegations, if true, could not constitute a finding that sexual harassment occurred, the formal(written) complaint will be dismissed from this Grievance Procedure, and may be referred to either the Office of Human Resources, Office of Equal Opportunity and Outreach or the Office of Student Rights and Responsibilities for their review under other applicable university guidelines or policies. A formal(written) complaint or any allegations therein may also be dismissed if at any time during the grievance process, the Complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal(written) complaint or any allegations; if the respondent is no longer enrolled or employed by the university; or if specific circumstances prevent the university from gathering evidence sufficient to reach a determination as to the formal(written) complaint or allegations therein. When a formal(written) complaint is dismissed, referrals to other resources will be provided as appropriate.

Where allegations of a formal(written) complaint are dismissed or the complaint is dismissed as described in the preceding sentence, the complainant has the right to inquire as to the reason for the dismissal and the university shall provide the complainant with written explanation and reasons for such dismissal. The parties may appeal a dismissal as described in Section IX.

Next steps in investigation process: 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.¹¹

Each party also 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 accounts of character witnesses. All relevant documentation is kept as part of the Equal Opportunity and Outreach or Student Rights and Responsibilities investigative file.

The Investigator(s) must send to each party and the party's advisor, if any, the evidence gathered during the investigation for their inspection and review in an electronic format or a hard copy. After receiving the evidence, the parties will have ten calendar days to submit a written response about the evidence.

¹¹ Prior sexual activity and character witness accounts shall not be provided to the other party.

After the parties have an opportunity to respond to the evidence, the Investigator(s) will prepare an investigative report that fairly summarizes relevant evidence, including inculpatory and exculpatory evidence. The Investigator(s) will send the investigative report to each party and the party's advisor, if any, in an electronic format or a hard copy, for their review and written response. They shall have 10 days to respond. The Title IX Coordinator or designee will assist in ensuring that the Live Hearing is scheduled at least 10 days after the investigative report is sent to them. After receiving the written responses, the Investigator will provide the report and the parties' written responses to the Hearing Officer(s) and to the parties.

Live Hearing

After reviewing the investigative report and all the evidence, the Hearing Officer(s) will facilitate a live hearing, which will be presided over by the Hearing Officer or a panel of Hearing Officers, each of whom has received relevant training and does not have bias or conflict of interest related to the particular case.

At the live hearing, both parties have the opportunity to present their position to the Hearing Officer(s). The Hearing Officer(s) will ask any relevant questions to the parties and witnesses. During the hearing, the Hearing Officer(s) must permit each party's advisor to ask both parties and any witnesses all relevant questions, including those challenging credibility. Such examination at the Live Hearing must be conducted directly, orally, and in real time by the party's advisor and never by a party personally. Before a complainant, respondent, or witness answers a question posed by the advisor of the other party, the Hearing Officer(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

The decision-maker(s) may rely on any statement of any party or witness in reaching a determination regarding responsibility. If a party or witness chooses not to answer questions, including questions from the other party's advisor, or is absent from the live hearing, the decision-maker(s) cannot draw an inference about responsibility based solely on the refusal to answer questions or based solely on their absence from the live hearing. There may be restrictions on evidence considered by the Hearing Officer(s), such as, for example, evidence related to prior sexual activity, and accounts of character witnesses. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. Neither the Hearing Officer(s) nor the advisor may request or demand that either party provide evidence that is subject to a legal privilege, unless the party has waived the privilege.

At the request of either party, the university will provide for the Live Hearing to occur with the parties located in separate rooms with technology enabling the Hearing Officer(s) and parties to simultaneously see and hear the party or the witness answering questions. During the Live Hearing, both parties and their advisors will have access to all the evidence gathered during the investigative process for their reference. During the Live Hearing, either party may request a break at any time to confer with their advisor, and/or to examine the evidence. The Live Hearing will be recorded or transcribed, and such recording or transcription will be made available to both parties.

The Hearing Officer(s)' findings of fact, conclusion, and determinations must be based on the preponderance of the evidence standard and should be the result of an evaluation of all evidence, including inculpatory and exculpatory evidence. Determinations regarding credibility may not be based on a person's status as a complainant, respondent, or witness.

After the Live Hearing, the Hearing Officer(s) will provide a final written report to the parties simultaneously within seven business days after the conclusion of the Live Hearing. The written report will include: the allegations potentially constituting sexual harassment; the procedural steps taken from the receipt of the formal(written) complaint through the determination; findings of fact supporting the determination, conclusions regarding the application of the Nondiscrimination Guidelines to the facts; a statement of, and rationale for, the result as to each allegation; a determination regarding responsibility; and whether remedies designed to restore or preserve equal access to the university's program or activity will be provided to the complainant. For employee-related matters, the Hearing Officer will share the draft of the report with the relevant administrators or supervisors for them to determine the applicable disciplinary sanctions, if any.¹² The final report will also include procedures and permissible bases for appeal of the Hearing Officer(s)' determination.

Potential sanctions and remedies

Disciplinary sanctions that the Decision Maker(s) (administrators and supervisors) determine for employees may include, but are not limited to: a verbal or written warning; placing a letter in the employee's personnel file; participation in training or workshops; increased supervision; change in job duties including in supervisory or administrative responsibilities; reduction of regular and/or overtime hours; reduction in pay; transfer; demotion; unpaid leave; suspension; termination from university employment; and barring from campus. Employees who are members of a collective bargaining unit should refer to the relevant collective bargaining agreement for further information about employee discipline.

Disciplinary sanctions that the Hearing Officer(s) may determine for students may include but are not limited to: participation in training or workshops; exclusion from participation in specified university programs or activities; probation; suspension; or expulsion from the university.

Remedies that the university may impose for either students or employees should be designed to restore or preserve equal access to the university's programs and activities, and may include, but are not limited to: the extension of support measures for a specified period of time, or imposition of additional support measures, such as counseling, medical, academic, and/or work support services; course withdrawal without penalty; training for the parties or a specified group of university community members; and/or dissemination of materials related to sexual harassment awareness in specified areas of the university. The Title IX Coordinator is responsible for effective implementation of any remedies. Additional remedies may be enacted for the broader university population, including but not limited to policy review; and educational, awareness and prevention

¹² More information about employee discipline may be found in the collective bargaining agreement applicable to the Respondent's employment, if any. Nothing in this Procedure shall preclude the University from imposing discipline for conduct that is not subject to this Procedure. Nothing in this Procedure shall preclude any individual from utilizing the applicable grievance procedure to challenge disciplinary sanctions.

programs including anti-discrimination education.

Any timeframe referenced in this Section VIII can be extended for good cause, and with written notice to the parties, by the Investigator(s) or the Hearing Officer(s).

IX. Appeal

Both parties have the right to appeal the Hearing Officer(s)' determination¹³ within ten calendar days (which can be extended for good cause, and with written notice to both parties) of receiving the decision. The parties may appeal the Hearing Officer(s)' determination on the following bases:

1. Procedural irregularity that affected the outcome of the matter.
2. New evidence that was not reasonably available at the time the determination was made, and that could affect the outcome of the matter.
3. The Title IX Coordinator, investigator(s), or Hearing Officer(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

The parties must submit the appeal, which must be in writing and signed, within ten calendar days of the determination to the Title IX Coordinator.¹⁴ The Title IX Coordinator will assign the appeal to a trained Appeal Officer who will then review and make a determination. The Appeal Officer must provide both parties with a copy of the appeal. The party who did not file the appeal will then have 10 calendar days to submit any written responses to the appeal. The Appeal Officer, after reviewing all the information provided, will then issue a written decision, including the rationale for their findings on appeal to both parties simultaneously. The decision of the Appeal Officer is final.

X. Record Retention

All materials relative to an informal resolution or formal investigation shall be confidential, except as necessary to carry out disciplinary process or as permitted under law and shall be maintained by EOO for a period of 7 years for employees and for Student Rights and Responsibilities records. For employee personnel action sanctions, case summaries and final decisions shall be kept permanently. Records related to student sanctions shall be retained for 7 years after the student leaves the university, or 25 years for expulsions.

XI. Resources of Assistance, Counseling, and Support

Support services are available to UMass Lowell community members who have experienced Sexual Harassment, regardless of whether they report the incident or file a formal(written) Title IX complaint.

¹³ Employees have the right to appeal the Hearing Officer(s) determination of responsibility only. Concerns regarding sanctions are reviewed pursuant to the employees' collective bargaining agreement and for non-unit employees through Human Resources.

¹⁴ If the grounds for appeal include conflict of interest or bias by the Title IX Coordinator, the appeal may be submitted to the Senior Associate Vice Chancellor for Human Resources and Organizational Strategy and Effectiveness.

Below are on-campus and off-campus resources which may be available to respond, assist, and/or provide support. Inclusion in this list is not an endorsement. This information is subject to change.

EMERGENCY ASSISTANCE:

FOR IMMEDIATE EMERGENCY ASSISTANCE, DIAL 911.

You may obtain support from any of these providers without filing a concern or complaint. None will require you to do so.

On-campus emergency assistance is available from the UMass Lowell Police Department at 978-934-411.

For emergency assistance and/or medical treatment, following are other 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.

In cases of sexual assault, the Massachusetts Sexual Assault Nurse Examiner (SANE) Program provides trauma-informed, expert forensic nursing care. For assaults that occurred within the past 5 days, SANE nurses may provide a medical forensic examination and forensic evidence collection kit. SANE services are available at the following healthcare providers:

Lowell General Hospital - Main Campus
295 Varnum Ave.
Lowell, MA 01854
Phone: 978-937-6000
Website: www.lowellgeneral.org/

Lowell General Hospital~ Saints Campus, Emergency Room
1 Hospital Dr.
Lowell, MA 01852
Phone: 978-934-60000
Website: www.lowellgeneral.org/

Lawrence General Hospital
1 General St.
Lawrence, MA 01841
Phone: (978) 683-4000 x2500
Website: www.lawrencegeneral.org/

Additional information about the SANE program, including state-wide SANE sites, and recommendations about the preservation of evidence, can be found here: www.mass.gov/ma-sexual-assault-nurse-examiner-sane-program.

ON-CAMPUS CONFIDENTIAL RESOURCES:

<u>Type of Resource</u>	<u>Name of Resource</u>	<u>Location</u>	<u>Contact Information</u>
Confidential Resource Provider		Counseling Center, 220 Pawtucket Street, Suite 300, Lowell, MA 01854	Phone: 978-934-6800
Counseling (for students)	Counseling Services at the Wellness Center	University Crossing Suite 300 220 Pawtucket St. Lowell, MA 01854	Phone: 978-934-6800 Website: uml.edu/student-services/counseling/ Email: Counseling@uml.edu
Counseling (for employees)	Guidance Resources, Employee Assistance Program	Phone: 844-393-4983 Website: guidanceresources.com/groWeb/login/login.xhtml (Web ID: UMASS)	24 hours a day, every day
Health (for students)	Health Service at the Wellness Center (including Health Wellness)	University Crossing Suite 300 220 Pawtucket St. Lowell, MA 01854	Phone: 978-934-6800 Website: uml.edu/student-services/health Email: Health_Services@uml.edu
Emergency Medical Service (EMS)	University EMS	Donahue Hall EMS Office First Floor 91 Pawtucket St. Lowell, MA 01854	Emergency Phone: 978-934-4911 Non-emergency phone: 978-934-4785 Website: uml.edu/uml-ems/ Email: UMass_EMS@uml.edu

ON-CAMPUS NON-CONFIDENTIAL RESOURCES

Type of Campus Resource	Resource	Address/ Location	Contact Information
Equal Opportunity & Outreach / Title IX Coordinator	William Cummings, Director of Equal Opportunity & Outreach, Diversity & Inclusion, UMass Lowell Title IX Coordinator	Wannalancit Suite 354 600 Suffolk Street, Lowell, MA 01854	Phone: 978-934-3565 Email: William_Cummings@uml.edu Websites: uml.edu/equal uml.edu/prevent
Office of Student Conduct	Office of Student Conduct	University Crossing Suite 200 220 Pawtucket St. Lowell, MA 01854	Phone: 978-934-2100 Email: studentconduct@uml.edu Website: uml.edu/student-services/Student-Conduct/
Deputy Title IX Coordinators	Deputy Title IX Coordinators	Student Affairs, Athletics, and Equal Opportunity and Outreach	Names and contact information are listed at uml.edu/Prevent/Reporting.aspx
University Police Department	UMass Lowell Campus Police	University Crossing Suite 170 220 Pawtucket St. Lowell, MA 01854	Emergency Phone: 978-934-4911 Rape Line: 978-934-4213 Non-emergency Phone: 978-934-2398 Website: uml.edu/police Email: Police@uml.edu
Student Financial Aid	Financial Aid Office	University Crossing Suite 280 220 Pawtucket St. Lowell, MA 01854	Phone: 978-934-4220 Email: TheSolutionCenter@uml.edu Website: uml.edu/financialaid/
Multicultural Student Affairs (for students)	Office of Multicultural Student Affairs	University Crossing Suite 366 220 Pawtucket St. Lowell, MA 01854	Phone: 978-934-4336 Email: Multicultural_Affairs@uml.edu Website: uml.edu/student-services/multicultural/
Student Affairs (academic support for students*)	Division of Student Affairs	University Crossing Suite 200 220 Pawtucket St. Lowell, MA 01854	Phone: 978-934-2100 Email: Ann_Ciaraldi@uml.edu Website: uml.edu/student-services

* For academic support, students may also contact their Residence Life Staff, coach, or academic advisor.

OFF CAMPUS RESOURCES, in addition to the hospitals listed above in Emergency Assistance section

<u>Type of Resource</u>	<u>Resource</u>	<u>Address/ Location</u>	<u>Contact Information</u>
Police	Lowell Police Department	50 Arcand Dr. Lowell, MA 01852	Phone: 978-937-3200 Website: lowellma.gov/221/Police-Department
Courts	Lowell District Courthouse	41 Hurd St., Lowell, MA 01852	Phone: 978-459-4101 Website: mass.gov/courts/court-info/courthouses/ipswich-marl/lowell-district-court-generic.html
Counseling	Center for Hope and Healing (Rape Crisis Center) Alternative House MaleSurvivor.org YWCA OF Greater Lawrence	21 George Street Suite 400 Lowell, MA 01852 Program Information 38 Lawrence St., Lawrence, MA 01840 (Rape Crisis and Domestic Violence Services)	24-hour Hotline: 800-542-5212 Phone: 978-452-7721 Website: chhinc.org Website: https://www.alternative-house.org/ Phone: 1-888-291-6228 Websites: MaleSurvivor.org MaleSurvivor.org/contact-us/ Website: ywcawlawrence.org/programs-services/womens-services/rape-crisis/ Phone: 978-682-3039 x 1023 ywcansrcc.org Rape Crisis 24-Hour Hotline: 877.509.YWCA [9922], Spanish: 800.223.5001 Hours: 9:00 a.m. to 5:30 p.m. Monday – Friday

Mental Health	Vinfen Behavioral Health Lowell	99 Church St. Lowell, MA 01852	Phone: 978-458-6282 Website: vinfen.org/services/how-to-access-services/behavioral-health-services/
Victim Advocacy	Middlesex District Attorney's Office Victim/Witness Advocacy Massachusetts Office for Victim Assistance	15 Commonwealth Ave, Woburn, MA 01801 1 Ashburton Place, Suite 1101, Boston, MA 02108	Phone: 781-897-8900 Website: middlesexda.com/victim-services Phone: (617) 586-1340 AskMOVA: (844) 878-MOVA (6682) Websites: mass.gov/orgs/massachusetts-office-for-victim-assistance MOVA@mass.gov Mass.gov/askmova
Legal Assistance	Victim Rights Law Center Northeast Legal Aid (Lowell office)	115 Broad St., 3rd Floor Boston, MA 02110 35 John St. Suite 302 Lowell, MA 01852	Phone: 617-399-6720 Website: www.victimrights.org/ Phone: 978-458-1465 Toll Free: 800-336-2262 Hotline: 978-458-1465 Website: www.northeastlegalaid.org/

	Northeast Legal Aid (Lawrence office)	50 Island Street, Suite 203A, Lawrence, MA 01840	Phone: 978-458-1465 Toll Free: 800-336-2262 Hotline: 978-458-1465 Website: www.northeastlegalaid.org/
Other	YWCA Advocacy Group- Lowell	97 Central St., #302 Lowell, MA 01852	Phone: 978-454-5405 Website: www.ywcalowell.org
	Alternative House	PO Box 2100 Lowell, MA 01851	Phone: 978-454-1436 24 Hour Crisis Hotline: 888-291-6228 Website: alternative-house.org
	Asian Task Force Against Domestic Violence Lowell Initiative	PO Box 7259 Lowell, MA 01853	Phone: 617-338-2355 Email: joyce@atask.org
	MA Alliance of Portuguese Speakers	11 Mill St. Lowell, MA 01852	Phone: 978-970-1250 TTY: 978-970-1250 Website: maps-inc.org/
	The Cambodian Mutual Assistance Association of Greater Lowell, Inc.	465 School Street Lowell, MA 01851	Phone: 978-454-6200 Email: info@cmaalowell.org Website: cmaalowell.org/wp

Other resources available to persons who report being the victim of sexual assault, domestic violence, dating violence, or stalking, include:

Massachusetts Domestic Violence Hotline: SafeLink 877-785-2020

National Domestic Violence Hotline: 800-799-SAFE (7233), TTY: 800-787-3224, live chat:

thehotline.org/#

Rape, Abuse and Incest National Network: rainn.org

Department of Justice: justice.gov/ovw/sexual-assault

Department of Education, Office of Civil Rights: www2.ed.gov/about/offices/list/ocr/index.html

XII. Required Training

Title IX Coordinators, Investigators, Hearing Officer(s), Appeal Officer(s), Officials with Authority, and any other employees involved in the Grievance Procedure are required to participate annually in Title IX training. UMass Lowell police officers also receive appropriate training. Investigators receive trauma-informed investigation training. Training will be posted on Equal Opportunity and Outreach's website or will be made available for inspection during regular business hours.

Additional Title IX training will be provided periodically to all students and employees.

October 12, 2022