

## **Equal Opportunity Concerns / Complaint Procedure**

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### **Introduction and Scope**

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The University of Massachusetts Lowell is committed to fostering a safe, welcoming, and inclusive working and learning environment. At its most basic level, such a climate requires that no member of the University community, nor visitors such as vendors or contractors, may be subject to discrimination. The University has issued equal opportunity guidelines/policies which are also reflective of state and federal laws. The guidelines include the Nondiscrimination Guidelines. This procedure applies to concerns of violations of the above guidelines.

Administrators, faculty and staff who direct the work of others in supervisory roles are required to report possible discrimination or hostile environment behavior to Equal Opportunity & Outreach.

Concerns regarding student violations are addressed according to the Student Handbook and Conduct Code, available on the University's [Student Conduct Code webpage](#).

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### **Contents**

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- I. Definitions**
- II. Contact information to report an equal opportunity concern or file a complaint**
- III. Guidelines for Responsible Reporting Employees of UMass Lowell**
- IV. Informal dispute resolution efforts: A useful first step for some concerns**
- V. Concern/complaint procedures and notifications**
- VI. Review, resolution and remedies**

**Attachment 1. Request for Review of Concerns / Complaint form**

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## **I. Definitions**

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

- (i) unreasonably interfering with a person or person's employment, educational benefits, academic grades or opportunities, or participation in University programs or activities;
- (ii) unreasonably interfering with a person or person's work or academic performance;
- (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 due to sex (including 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, participation in a civil rights report or complaint proceeding, or any other characteristic protected by law.

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

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

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## **II. Contact information to report an equal opportunity concern or file a complaint**

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A concern about, or complaint of discrimination or retaliatory harassment may be made by contacting Equal Opportunity & Outreach, 978-934-3565, Wannalancit, 3<sup>rd</sup> Floor, 600 Suffolk Street, Lowell, MA 01854.

Individuals with concerns of discrimination also have the right to file a complaint with:

- The United States Department of Education Office for Civil Rights Boston Area Office, J. F. Kennedy Federal Building, 475 Government Center, Room 1875, Boston, MA 02203, voice phone (800) 368-1019, TDD (800) 537-7697.

- The United States Equal Employment Opportunity Commission, J.F. Kennedy Federal Building, 475 Government Center, Boston, MA 02203, voice phone: 1-800-669-4000, TTY: 1-800-669-6820.
- The Massachusetts Commission Against Discrimination, Boston Office, One Ashburton Place, Sixth Floor, Room 601, Boston, MA 02108, voice phone: 617-994-6000, TTY: 617-994-6196.
- 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 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.
- If the occurrence involves a potential crime, a concerned party or the person against whom the alleged crime occurred may file a complaint with the University of Massachusetts Lowell Police Department or with local police.

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

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If UMass Lowell knows, or reasonably should know about possible incidents of discrimination, discrimination and/or retaliatory harassment, it must respond to them appropriately. Therefore, regardless of whether an individual wishes to file a complaint alleging a violation, all UMass Lowell administrators, faculty, and staff who direct the work of others in supervisory roles are required to report any incident which may be a violation to Equal Opportunity & Outreach (EOO). See the EOO contact information in Section II.

This report must take place even if the concerned person requests confidentiality or anonymity, or requests that no action be taken. Privacy will be kept to the extent possible while complying with the requirements of state and federal laws. Administrators, faculty, and supervisors cannot promise confidentiality to the individual from whom they learned of the possible violation.

The administrator, faculty member, or supervisor must report to Equal Opportunity & Outreach all relevant details about the possible violation that the concerned party shared. The University will need to determine what occurred and resolve the situation. This includes the names of the alleged violator (if known), the person against whom the alleged violation occurred, as well as other relevant facts, including the date, time, and location of the event related to the concern.

Additionally, the administrators, faculty, and supervisors must take reasonable proactive steps to become aware of potential incidents, which must be reported to Equal Opportunity & Outreach.

Whether or not a University employee or student is an administrator, faculty member, or supervisor, all members of the University community are encouraged to practice bystander awareness, that is, to take appropriate actions to report and end possible violations of any of the Equal Opportunity Guidelines.

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### **IV. Informal dispute resolution efforts: A useful first step for some concerns**

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After Equal Opportunity and Outreach is notified of a concern, if deemed possible and safe, the concerned party may request from EOO one of the resolution efforts below.

- If deemed possible and safe for the concerned party, EOO may assist the concerned party with discussing the problem or concern with the individual about whom there is a concern. If satisfactory resolution is not reached after discussion with the individual, the concerned party may contact the individual's direct supervisor to attempt to resolve the concern.
- A concerned employee may request facilitated meetings or mediation.
- A student may contact Equal Opportunity & Outreach at 978-934-3565 if their concern involves a UMass Lowell employee. A student may contact Student Affairs if their concern involves another student.

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 faculty advisor.

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## **V. Concern/complaint procedures and notifications**

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### Notifications to both parties

A copy of this Procedure will be provided to both parties, and the notifications below will be provided to them.

If the report of a policy violation is initiated by someone other than the individual against whom the violation was alleged to have occurred, UMass Lowell will inform the party against whom the violation allegedly occurred, and ask whether they wish to file a complaint.

Privacy will be kept to the extent possible while complying with the requirements of state and federal law. While information is only provided on a need-to-know basis, confidentiality cannot be ensured.

Retaliation is against the law and against UMass Lowell policy. The University will take steps to prevent retaliation, and also take strong responsive action if it occurs. A concern of retaliation should be immediately reported and will be immediately investigated. Examples of behavior which may be perceived as retaliatory are willful violation of “no-contact” orders, excluding someone from education or employment-related activities or correspondence, attempts to learn of or to influence accounts made during the course of the review, and unwarranted disciplinary actions.

Knowingly filing false allegations of discrimination is prohibited.

### Preliminary intervention and review

Immediate safety measures or temporary measures may be taken after a concern or complaint is received, even prior to the completion of the formal review. Such temporary measures may include changes of work locations, living arrangements, course schedules, assignments or tests; temporary leave; “no contact” orders; or other measures.

Neutral trained investigators will assess the reported facts and may conduct preliminary interviews to determine whether the allegations, if true, could constitute a violation of the Guidelines. If it is possible that there was a violation, the formal procedure will proceed. If not, the complaint will be closed with no further action.

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## **VI. Review, resolution and remedies**

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This review is designed to provide a fair and reliable determination about whether the UMass Lowell guidelines have been violated. If so, the University will implement a prompt and effective remedy designed to end the violation, prevent its recurrence and address its effects.

#### Review process

The individual reporting the concern must provide all know information relevant to the alleged violation, including their name, student status or employee title, 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), and a list of relevant documentary evidence. The evidence must be provided as quickly as possible. Also they may indicate any remedy sought, if relevant. UMass Lowell, not the person bringing the concern/complaint, will determine appropriate remedies, but this information may be helpful in understanding the complaint. The information may be provided verbally or in writing. Using the attached Formal Complaint Form is suggested.

Each party and witness to the concern will be required to meet in person with the investigators. Both parties may be accompanied by a support person. The parties will be given the opportunity to respond to the allegation(s), to provide names and contact information of witnesses, and to provide documentary evidence in support of their account. The evidence must be provided as quickly as possible. Notes of accounts given and all documentation are confidentially kept in Equal Opportunity and Outreach; no copies will be provided to parties or witnesses.

Both parties interviewed may be given notice of the complaint prior to, or at the time of, the interview.

Witnesses will be interviewed and the investigators will inquire further as needed, at their discretion.

The presence/involvement of legal counsel is not permitted at any time during the complaint procedures.

During the course of the review, both parties will be provided with periodic status updates.

After reviewing the accounts, documentation, and any other relevant facts, a determination will be made based on whether it is more likely than not that the conduct occurred. The outcome of the review will be provided to both parties in writing, concurrently, to the extent possible.

#### Resolution and remedies

If the final status of the review is that a violation of the University's guidelines is probable, the university will promptly and effectively implement steps to end the prohibited behavior, prevent its recurrence, and address its effects. This may include appropriate disciplinary actions up to and including termination, appropriate to the offense involved.

The university may impose sanctions for employees including: no contact orders, required participation in training, counseling, and/or intervention; change in job duties including in supervisory responsibilities, change in work schedule and/or location, reduction of regular and/or overtime hours, reduction in pay, transfer, demotion, leave without pay; suspension; termination; and barring from campus. For student sanctions, please refer to the Student Conduct Code.

Remedies for the complainant employees or students 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 site or residence hall, no-contact orders, change of reporting structure; counseling services, advocacy, medical services, 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 counseling services, on-call victim assistance, policy review, and educational, awareness and prevention programs including anti-discrimination education.

Each party will be notified of the sanctions and/or remedies which are relevant to him/herself.

November 8, 2019



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Wannalancit Mills  
Lowell, MA 01854

Phone: (978) 934-3565  
Fax: (978) 934-3032

## **Request for Review of Concerns Form – Equal Opportunity and Outreach**

*Note: For concerns regarding Sexual Harassment or Sexual Assault, please use the form found at the end of the [Sexual Harassment and Sexual Misconduct Reporting and Concerns/Complaint Procedure](#).*

Please provide all of the following known information relevant to your allegations of a violation of the University of Massachusetts Guidelines found at [www.uml.edu/HR/Equal/Equal-Opportunity/Default.aspx](http://www.uml.edu/HR/Equal/Equal-Opportunity/Default.aspx). Alternately, you may report your complaint verbally. For more information, see the Equal Opportunity and Outreach website for the University of Massachusetts Lowell [Equal Opportunity Concerns/Complaint Procedure](#), or the [Sexual Harassment and Sexual Misconduct Reporting and Concerns/Complaint Procedure](#), or contact Equal Opportunity and Outreach, 978-934-3565.

1. Your name:

Your student status or employee title:

Your contact information:

2. If you are a concerned person but not the person you believe was directly impacted, please provide the following:

The impacted person's name:

The impacted person's student status or employee title:

The impacted person's contact information:

3. Name(s) of the person(s) alleged to have violated University of Massachusetts Guidelines:

Contact information if known:

Alleged violator's student or employee status:

4. Date(s), time(s), and location(s) of the alleged occurrence(s); or, practice(s) that are unfair to some groups or create unequal access:

5. Names of and contact information for any witnesses to the alleged occurrence(s):

6. A detailed description of the occurrence(s); or a detailed description of the alleged practice(s) that are unfair to some groups or create unequal access:

7. List of relevant documentary evidence. The evidence itself must also be provided as quickly as possible.

8. Any remedy you are looking for, if relevant. UMass Lowell will determine appropriate remedies, but this information may be helpful in understanding the complaint.