Guidelines for Sexual Harassment, Sexual Discrimination, and Other Sexual Misconduct

The University of Massachusetts Lowell (UMass Lowell) is firmly committed to working to ensure that all employees, students and persons who are authorized to conduct business with and/or perform other services on behalf of UMass Lowell are not subject to unlawful discrimination on the basis of sex\(^1\), sexual harassment, sexual assault, dating violence, domestic violence, stalking, or any form of prohibited sexual behavior.

It is the policy of UMass Lowell to comply with these state and federal laws: M.G.L. Chapter 151B, Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments Act of 1972 (Title IX), 20 U.S.C. §§ 1681 et seq., and its implementing regulations, 34 C.F.R. Part 106, and the Violence Against Women Reauthorization Act of 2013, Pub. Law 113–4 (VAWA). UMass Lowell does not discriminate on the basis of sex in employment or in the operation of its education programs and activities, and it is required by Title IX to not discriminate in such a manner.

Title IX relates to full access to university employment and education programs or activities regardless of gender. Potential violations of Title IX include any act, policy, practice, procedure, or allocation of resources that creates differential access on the basis of sex to UMass Lowell’s education programs, activities, employment in and/or admission to UMass Lowell’s programs and activities. Potential violations include discrimination on the basis of gender, and interpersonal conduct that creates differential access on the basis of sex. Examples of such prohibited conduct include but are not limited to gender-based discriminatory personnel or academic actions against employees, applicants, or students; gender-based hostile environment against employees or students; and sexual harassment in any form as described below, including sexual violence.

These guidelines apply to all members of the UMass Lowell community of any sex, gender identity and sexual orientation, as well as applicants, vendors and other campus visitors. Any such behavior occurring at UMass Lowell or in other settings in which individuals may find themselves in connection with the university or its programs or activities will not be tolerated by UMass Lowell.

Definitions (See additional definitions in Sexual Harassment, Sexual Discrimination, and Other Sexual Misconduct Concerns/Complaint Procedure)

**Responsible Employee** is an employee (a) who, because of his/her position, must report known or possible incidents of sexual violence or any other sexual misconduct by students or employees, including the known details of the incident and the name(s) of alleged victim(s) and respondent(s), to the Title IX Coordinator(s) or other appropriate school designee; or (b) who has the authority to take action to redress sexual harassment/misconduct; or (c) whom a student reasonably believes has this authority or duty. Campus police officers are Responsible Employees; but, see exception for public safety personnel. UMass Lowell’s Responsible Employees include the following categories of employees:

- Administrators

\(^1\) Unlawful discrimination on the basis of sex includes unlawful discrimination on the basis of sexual orientation, gender identity, and gender expression.
• All faculty
• Staff who direct the work of others in supervisory roles
• Campus police officers (but, see exception noted below)
• Resident assistants
• Student Affairs staff (including student employees)
• Coaches in the Division of Athletics
• Teaching Assistants and Research Assistants
• Academic Program Coordinators
• Advisors of student clubs
• Supervisors of summer programs
• Study-abroad program chaperones

**Exception for public safety personnel:** Although campus police officers are designated as Responsible Employees, if a student or employee reporting sexual assault or domestic violence requests confidentiality, the campus police officer must not disclose the name of the reporting party to the Title IX Coordinator(s).

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

**Sexual Assault** is broadly defined as any sexual activity that is forced, coerced, or unwanted.

**Sexual Harassment** is unwelcome conduct of a sexual nature when:
(i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, education, or participation in University programs or activities; or
(ii) submission to or rejection of such conduct by a person or persons is used as a basis for employment or educational decisions affecting such person or persons, or participation in University programs or activities; or
(iii) such conduct unreasonably interferes with a person or person’s work or academic performance; interferes with or limits a person or person’s ability to participate in or benefit from a work or academic program or activity; or creates an intimidating, hostile, or offensive working or academic environment.

Examples of sexual harassment include, but are not limited to:
• **sexual exploitation**;
• gender-based bullying;
• to attempt to **coerce** an unwilling person into a sexual relationship;
• to repeatedly subject a person to egregious, unwelcome sexual attention;
• to punish a refusal to comply with a sexual based request;
• to condition a benefit on submitting to sexual advances.
• While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct, its persistence, and its pervasiveness:
Sexual emails;
Sexing, or sexual messages or images posted on social media, for example, texts, instant messages, Facebook posts, Tweets, Snapchat, Instagram, blog entries;
Physical contact such as patting, pinching, or purposely rubbing up against another’s body;
Unwelcome sexual advances -- whether they involve physical touching or not;
Sexual “kidding,” epithets, jokes, written or verbal references to sexual conduct, gossip regarding one's sex life; comment on a person’s body, comment about a person’s sexual activity, deficiencies, or prowess;
Displaying sexually suggestive objects, pictures, cartoons;
Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
Inquiries into one's sexual experiences; and,
Discussion of one's sexual activities.

Not all unwelcome sexual behavior is considered prohibited sexual harassment. For example, a mere utterance of a gender-based epithet which creates offensive feelings in an employee or student may be inappropriate, but it would not normally affect the terms or conditions of their employment or education.

**Sexual violence** is any physical sexual act or activity engaged in without the consent of the other individual, including when the other individual is unable to consent to the act or activity (See also, definition for Consent).

**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 sex (including sexual harassment), gender identity or expression, sexual orientation, religion or religious belief, color, race, marital status, veteran or military status, age, national origin, ethnicity, disability, genetic information, or any other legally protected class.

**Undesignated Employee** is an employee who is not designated as a Responsible Employee, a Confidential Employee, or a Privacy Employee. Undesignated employees are encouraged to practice bystander awareness and to report any incidents of abuse or sexual misconduct to the Title IX coordinator(s).

**Reporting, Reporting Responsibilities, and Response**
UMass Lowell will respond promptly and effectively to reports of sexual harassment, sexual violence, and other forms of sexual misconduct.

Any person with an inquiry regarding Title IX and Title IX regulations, or who wishes to report a Title IX concern or complaint on behalf of him/herself or on behalf of another, may contact the University Title IX Coordinator or a Deputy Title IX Coordinator. The Title IX Coordinator is:
Clara I. Orlando, Director and Title IX Coordinator
Equal Opportunity & Outreach
University of Massachusetts Lowell
Wannalancit, 3rd Floor
600 Suffolk Street, Lowell, MA 01854
Equal Opportunity Direct Line: 978-934-3565
Clara_Orlando@uml.edu

A list of Title IX Deputy Coordinators is available at www.uml.edu/HR/Equal/Contact.aspx.

If a person wants to share or report a concern, but wants the information to remain confidential, he/she should contact or visit a confidential employee or a privacy employee such as a licensed counselor or licensed treating physician. Also, the UMass Lowell Police Department or the City of Lowell Police Department (police officers) will, upon request, maintain the confidentiality of identifying information for a concern regarding rape, fondling, incest, or statutory rape, attempt to commit those crimes; and domestic violence. For more on UMass Lowell Police Department procedures and definitions, please see the UMass Lowell Annual Security Report available online or upon request.

Regardless of whether a complaint is filed, if UMass Lowell becomes aware of a possible violation of these Guidelines, prompt and appropriate action will be taken to prevent, correct, and when appropriate, discipline such behavior.

**Responsible Employees** are required to:

- promptly report any claims of a violation of these Guidelines directly to the Title IX Coordinator, listed above, or a Deputy Title IX Coordinator. These reports must be made regardless of whether a police report has been filed, and even if the concerned person requests confidentiality.
- exercise vigilance in any instance where they should reasonably know of the existence of sexual harassment. Responsible employees must take reasonable proactive steps to become aware of potential incidents, which must be reported.
- seek to foster learning and work environments in which community members feel free to report any concerns related to sexual harassment without fear of retaliation. A climate in which faculty and supervisors model respect and inclusion is one in which a Title IX violation is less likely to occur.

**Undesignated Employees** and all members of the UMass Lowell community are encouraged to practice bystander awareness, that is, to take action to end and report potential violations, and to report any incidents of abuse or sexual misconduct to the Title IX coordinator(s).

For additional specific guidance regarding privacy considerations, please see Sections III, for UMass Lowell Police; and Section IV, for Responsible Reporting Employees; in the Sexual Harassment, Sexual Discrimination, and Other Sexual Misconduct Complaint Procedure.

Impartial trained investigators will promptly investigate to determine what occurred and take appropriate steps to resolve the situation if needed. Investigators are trained in how to respond and how to identify and report sexual harassment and sexual violence. Complaints against students will typically be responded to initially by trained investigators who administer the Student Conduct Code & Discipline Process (see www.uml.edu/student-services/reslife/policies/code-of-conduct.aspx). Complaints against employees will typically be initially responded to by Title IX investigators in Equal Opportunity & Outreach (see www.uml.edu/HR/Equal/Equal-Opportunity/Sexual-Harassment-Assault.aspx). A police investigation may also take place if needed.

The Sexual Harassment, Sexual Discrimination, and Other Sexual Misconduct Complaint Procedure includes additional information about the investigation process for both parties, privacy considerations, and a list of response and support resources.
After being notified of a concern of a violation of these guidelines, UMass Lowell will take interim measures as appropriate. If it is determined that inappropriate conduct has been committed by a University UMass Lowell employee or student, UMass Lowell will take such action as is appropriate under the circumstances. Such action may include counseling, issuing a “no-contact” order, termination from employment or enrollment, or other responses. Inquiries and UMass Lowell’s responses to sexual harassment and sexual violence claims will occur while protecting privacy to the extent possible.

Regardless of whether conduct constitutes a policy violation, these Guidelines do not limit UMass Lowell’s authority to discipline or take remedial action for workplace conduct that it deems inappropriate or unprofessional.

In addition to the UMass Lowell remedies described above, a concerned party may also refer questions regarding Title IX to, or file a Title IX, sexual harassment, or sexual violence 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 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
- If the occurrence involves a potential crime, a person also may file a complaint with the University of Massachusetts Lowell Police Department or with local police.

Prohibitions Against Retaliation and False Reports
UMass Lowell prohibits Retaliation. It is unlawful to retaliate against an employee or student for filing a Title IX complaint, or for cooperating in a Title IX complaint. Forms of retaliation may include but are not limited to: unreasonable hostility directed at the person which effects the person’s ability to perform his/her job or effects his/her academics, demotion, dismissal, suspension, or losses in other terms or conditions of employment or student status.

Knowingly providing a false Title IX report or complaint is prohibited. This violation will subject the person to discipline who knowingly provides such false information.

Required Training
New employees and new students are required to complete an in-person or web-based training on the prevention of sexual harassment and sexual violence. The employee harassment prevention training is available at www.uml.edu/equal. During orientation, new employees will receive instructions for accessing the Title IX/sexual violence prevention training. New employees and new supervisors must participate in these training within one year of beginning the new position or the new supervisory role and they are strongly encouraged to do so within the first month of employment or the new supervisory role. In addition, training is provided on an ongoing basis for all employees and students.

Approved October 5, 2016