UNIVERSITY OF MASSACHUSETTS LOWELL

Nondiscrimination Guidelines

Policy Statement

The University of Massachusetts Lowell (UMass Lowell or University), as a public institution of higher education of the Commonwealth, recognizes its responsibility to promote the interests and welfare of the public it serves. In so doing, the University reaffirms its commitment to employment practices and a learning environment free of discrimination and harassment. At UMass Lowell, equal opportunity and safe working and learning environments are not only just, but also the foundation for a diverse, inclusive and highly effective community in which all members may thrive.

It is the policy of UMass Lowell that all members of the University community, its applicants, visitors and vendors, may not be subjected to unlawful discrimination or harassment in employment, admissions, participation in its programs, services and activities, and selection of vendors who provide services or products to UMass Lowell. UMass Lowell also prohibits practices that adversely impact protected classes. Classes protected under the law and these Guidelines include: religion or religious belief, color, race, marital status, veteran or military status, age, sex (including sexual harassment, sexual misconduct), gender identity or expression, sexual orientation, national origin, ethnicity, disability, genetic information, and pregnancy or related conditions.


The University of Massachusetts Lowell does not discriminate on the basis of sex in its education programs and activities, and it is required by Title IX not to discriminate in such a manner. Unlawful discrimination or harassment based on sex include sexual harassment and all forms of sexual misconduct, including sexual assault, dating violence, domestic violence, and stalking. For information regarding such forms of unwelcome sexual behavior, including information about reporting options, either confidential or not confidential; definitions; investigation procedures; and resources, please see the Sexual Harassment and Sexual Misconduct Reporting and Claims Procedure. Further information is available at uml.edu/prevent. UMass Lowell’s Annual Security Report includes UMass Lowell’s policy regarding its prevention programs and procedures to respond to reports of sexual violence. When both involved parties are students, please see the Student Conduct Code for additional information.

UMass Lowell employees and employment applicants to UMass Lowell have the right to be free from discrimination due to pregnancy or a condition related to pregnancy. Employees may request a reasonable accommodation based on pregnancy or a pregnancy-related condition, without being
subject to adverse action. These requests may be made to Equal Opportunity and Outreach ("EOO"), 978-934-3565, Wannalancit Business Center, 3rd Floor, 600 Suffolk Street, Lowell, MA 01854. A reasonable accommodation is a modification or adjustment that allows the employee or job applicant to perform the essential functions of the job while pregnant or experiencing a pregnancy-related condition, without undue hardship to the employer. If you have questions or need information about lactation rooms, please contact EOO.

**Responsible employees** are required to report a possible violation of these Guidelines, as described below.

If the provisions of these Guidelines are violated, the University will take appropriate steps to halt the inappropriate behavior and address its effects. If it is determined that inappropriate conduct has been committed by one of our employees, regardless of whether conduct constitutes a violation of these Guidelines, University administration or supervisors will take such action as is appropriate under the circumstances. Such action may range from counseling to termination from employment. Equal Opportunity and Outreach may provide recommendations for the consideration of administrators regarding appropriate administrative actions.

**Required Training:** Faculty, 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](http://www.uml.edu/equal). During orientation, new employees will receive instructions for accessing the training. New employees and new supervisors must participate in the training within three months 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. Coaches, staff, and student-athletes in the Division of Athletics must complete training on sexual violence prevention, intervention and response annually. In addition, training is provided on an ongoing basis for all employees and students.

These Guidelines not only reflects the requirements of law, but also serve as a basis for the best possible education and the most effective workplace. They are in accord with the University of Massachusetts Non Discrimination and Harassment Policy, T16-040.

**Purpose**

The purpose of these Guidelines is to

- Establish standards for behavior and policies whereby all members of the UMass Lowell community may have equitable access to its programs and services
- 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 or complaint regarding a potential violation of these Guidelines
- Describe responsibilities of faculty and supervisory employees regarding reporting a concern that these Guidelines may have been violated
- Delineate potential consequences for violations of this policy
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

**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; and
- University employees providing administrative, operational and/or related support for a confidential employee in the performance of such services.

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

**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
- 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 UMass Lowell Guidelines.

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.

Examples of other behaviors that could potentially constitute sexual harassment, if unwelcome and severe, persistent, or pervasive, include:
• Sexual emails;
• Sexting, 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 misconduct**, for the purposes of these Guidelines, includes: dating violence; domestic violence; sexual assault, for example, non-consensual sexual intercourse (rape) or non-consensual sexual contact (fondling), or attempts to commit either; stalking; sexual exploitation, sexual violence; and the forms of sexual misconduct listed in the Student Code of Conduct.

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

**Procedures**

Individuals may file a concern or complaint of discrimination if they believe they are subjected to unlawful discrimination, harassment, or retaliation. They are strongly encouraged to complete the form at the end of the Equal Opportunity Reporting and Claims Procedure before they meet with EOO staff. The EOO staff, located at Wannalancit, 3rd Floor, 600 Suffolk Street, Lowell, MA 01854, telephone 978-934-3565, fax 978-934-3032, will assist in resolving concerns or complaints. These matters will be responded to as expeditiously as possible to facilitate resolution.

**Responsible employees:**

1. are required to report a possible violation of these Guidelines, that is, a possible occurrence of unlawful discrimination, harassment, or retaliation to Equal Opportunity & Outreach, within 24 hours. If the possible violation relates to potential sexual harassment or sexual misconduct, Responsible employees must report the incident within 24 hours directly to the Title IX Coordinator, Clara I. Reynolds, Director, Equal Opportunity and Outreach, Wannalancit 3rd Floor, 978-934-3565, Clara_Reynolds@uml.edu; or to a Deputy Title IX Coordinator – for a list, see www.uml.edu/HR/Equal/Contact.aspx. These reports must be made regardless of whether a police report has been filed, and even if the concerned person requests confidentiality.

2. are expected to exercise vigilance in any instance where they should reasonably know of the existence of sexual harassment or sexual misconduct. Responsible employees must take reasonable proactive steps to become aware of potential incidents, which must be reported.

3. cannot promise confidentiality to the individual reporting possible sexual harassment or sexual misconduct. If the concerned or reporting party requests confidentiality, anonymity,
or that their name or other identifiable information not be disclosed to the responding party, they shall be notified that UMass Lowell’s ability to respond may be limited. The Title IX Coordinator is responsible for evaluating requests for confidentiality. The Title IX Coordinator will make every effort to respect this request, while evaluating the request in the context of the University’s responsibility to provide a safe and non-discriminatory environment. Due to that responsibility, UMass Lowell and its employees cannot ensure such confidentiality. Only Confidential Employees can provide confidentiality.

4. are encouraged 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 violation of these Guidelines is less likely to occur.

As a performance factor, UMass Lowell administrators are charged with the responsibility to support this and other equal opportunity policies and the Affirmative Action Plans. They are expected to be actively engaged in developing and achieving designated objectives and goals.

All members of the UMass Lowell community are encouraged to practice bystander awareness, that is, to take action to end and report potential sexual harassment or sexual misconduct, and to report those incidents or concerns to the Title IX coordinator(s). For more information, see www.uml.edu/Prevent/Bystander. 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.

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

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

Responsibility

Responsible employees must report potential violations of the guidelines, as indicated above.

In consultation with Equal Opportunity and Outreach, administrators must enact remedial measures as appropriate to stop, remedy, and prevent future occurrence of violations of these Guidelines.

The Director of Equal Opportunity and Outreach is the Title IX Coordinator and the Section 504/ADA Coordinator. She is responsible for implementation of these Guidelines and of the affirmative action programs for women, minorities, persons with disabilities, and protected veterans.

Attachments

UMass Lowell’s Affirmative Action Plan is available for inspection from 9 a.m. to 4 p.m. weekdays in Equal Opportunity & Outreach at the address listed above.

September 2018
cir