

UNIVERSITY OF MASSACHUSETTS LOWELL

Guidelines for Sexual Harassment, Sexual Discrimination, and 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 sex discrimination, 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 gender 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 gender. 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

Sexual Harassment: **Sexual Harassment** that rises to an actionable level is:

- Gender-based or sexual verbal or physical conduct that is,
- unwelcome and/or without consent,
- considered to be sufficiently offensive in terms of severity, persistence, or pervasiveness, both to a reasonable person and the person impacted, that it,
- has the effect of unreasonably or substantially interfering with, or of depriving someone of access to, the terms, conditions, privileges, benefits, or opportunities of the University's
 - education,
 - employment, or

- programs or activities,
regardless of whether it occurs on or off campus.

There are three main types of the above actionable sexual harassment:

- Such conduct is considered *quid pro quo sexual harassment* when there is a power differential, such as between a faculty member and student, or between a supervisor and direct report, when, a) submission to or rejection of such conduct, advances, or sexual requests is made either explicitly or implicitly a term or condition of educational or employment evaluation, decisions, or progress, or, b) such conduct, advances, or sexual requests have the effect of unreasonably interfering with a person's work or academic performance by creating an intimidating, hostile, humiliating or sexually offensive environment.
- Such conduct is considered *hostile environment sexual harassment* when there is not a power differential and the conduct creates a hostile, intimidating, humiliating, or sexually offensive environment.
- The behavior is **retaliatory**.

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;
 - 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 workplace or educational conduct that may be described as "harassment" affects the terms, conditions or privileges of employment or education. For example, a mere utterance of a gender-based

epithet which creates offensive feelings in an employee or student would not normally affect the terms or conditions of their employment or education.

Sexual Violence: Physical sexual acts engaged in without the **consent** of the other person or when the other person is unable to consent to the activity. For the purposes of this document, **sexual assault, domestic violence, dating violence, and stalking**. Some other types of **sexual harassment** may also be forms of sexual violence. For definitions of the terms in bold, please see the Sexual Harassment, Sexual Discrimination, and Sexual Misconduct Complaint Procedure, which is available at www.uml.edu/Prevent, or upon request.

Reporting, Reporting Responsibilities, and Response

UMass Lowell will respond promptly and effectively to reports of sexual harassment and sexual violence.

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 resource such as the Student Counseling Center, an off campus counselor, medical doctor, licensed nurse, or rape crisis center. Some examples are listed in Section IX, Sources of Counseling, Advocacy, and Support, in the [Sexual Harassment, Sexual Discrimination, and Sexual Misconduct Complaint Procedure](#). 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 **sexual assault**, attempt to commit sexual assault, or **domestic violence**.

Regardless of whether a complaint is filed, if UMass Lowell becomes aware of a possible incident of sexual harassment or sexual violence, prompt and appropriate action will be taken to prevent, correct, and when appropriate, discipline behavior in violation of UMass Lowell's policies. All UMass Lowell community members are encouraged to report incidents of sexual harassment or sexual violence the Title IX Coordinator, above, a Deputy Title IX Coordinator, or a University-designated **Responsible Reporting Employee**.

Responsible Reporting Employees are: all supervisors including administrators; Police Department employees; Student Affairs including Residence Life employees; athletics staff who interact with

student athletes including coaches, assistant coaches and advisors; all faculty; and all UMass Lowell Police Department employees.

Responsible Reporting Employees are required to promptly report any claims of sexual harassment or sexual violence 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. In contrast, the Student Counseling Center is a confidential resource. Its employees maintain privacy. The UMass Lowell Police Department must report potential violations to the Title IX Coordinator, and, if requested by the reporting party, will maintain confidential the identifying information of the parties in matters related to **sexual assault**, attempts to commit sexual assault, **or domestic violence**.

Responsible reporting employees are required to exercise vigilance in any instance where they should reasonably know of the existence of sexual harassment. Responsible reporting employees must take reasonable proactive steps to become aware of potential incidents, which must be reported. Responsible reporting employees must 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. All employees are encouraged to practice bystander awareness, that is, to take action to end and report potential violations.

For additional specific guidance regarding privacy and confidentiality considerations, please see Sections III, for UMass Lowell Police, and Section IV, for Responsible Reporting Employees, in the [Sexual Harassment, Sexual Discrimination, and 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 Sexual Misconduct Complaint Procedure includes additional information about the investigation process for both parties, privacy and confidentiality considerations, and a list of response and support resources. That Procedure is available at www.uml.edu/Prevent.

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 unacceptable.

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 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
- 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. **Retaliation** means adverse employment or educational action taken against a person because of the person's participation in a Title IX complaint or inquiry, regardless of its outcome. 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. Supervisors must seek to foster learning and work environments in which community members feel free to report any concerns related to Title IX without fear of retaliation. When faculty and supervisors model respect and inclusion, potential violations are less likely to occur.

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 sexual harassment prevention training is available at www.uml.edu/equal. During orientation, new employees will receive instructions for accessing the 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 July 2015
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