



UNIVERSITY OF MASSACHUSETTS BOSTON
Title IX Grievance Procedure

Introduction and Scope

The University of Massachusetts Boston prohibits sexual harassment in accordance with Title IX as published in Part 106 of Title 34 of the Code of Federal Regulations and sexual misconduct in accordance with M.G.L. c. 6 §§ 168D and 168E. UMass Boston is firmly committed to working to ensure 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 UMass Boston are not subject to sexual harassment.

This Grievance Procedure applies to formal complaints for sexual harassment, as the term "sexual harassment" is defined in Section I of this Procedure and provides for the prompt and equitable resolution of such formal complaints in compliance with Title IX regulations and Massachusetts law. UMass Boston also prohibits sexual misconduct and other forms of discrimination and harassment as defined in other applicable policies and as required by federal and state law. Procedures for addressing such other forms of discrimination and harassment may be found in the Student Code of Conduct, Procedures for Complaints Alleging Gender-Based or Sexual Misconduct in the Workplace, Procedures for Complaints Alleging Unlawful Discrimination or Harassment in the Workplace, or other University policies or procedures. In addition, this Grievance Procedure may be used to address sexual misconduct, other forms of discrimination and harassment, or other misconduct as appropriate.

Questions about this Grievance Procedure and related policies and procedures may be referred to UMass Boston's Title IX Coordinator, Anne-Valerie Imperato, or to the Office of Civil Rights and Title IX. See the contact information in Section III of this document. For additional information and a list of support resources on campus and off campus, please see: <https://www.umb.edu/crtix>.

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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 as detailed in Section V of this Procedure, including by conducting cross examination during the Live Hearing. Both parties are highly encouraged to have an advisor of their choice with them throughout the grievance process.¹ 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 conducting cross-examination of the other party(ies) and witnesses.

Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.²

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

Confidential Resource Provider means an employee or other individual designated to provide information on: reporting options of sexual harassment and the effects of each option; counseling services available on and off campus; medical and health services available on and off campus; supportive measures; the University's disciplinary process; and the legal process carried out through local law enforcement agencies. If requested, the Confidential Resource Provider shall coordinate with the Title IX Coordinator to arrange supportive measures. The Confidential Resource Provider may notify Complainants, Respondents, or other community members 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. Confidential Resource Providers' services are confidential unless a party, in writing, requests that certain information be disclosed, or as otherwise required by state or federal law. A list of Confidential Resource Providers is available at umb.edu/titleix/resources or umb.edu/crtix, or by contacting the Title IX Coordinator.

¹ The advisor may be, but is not required to be, a union representative, advocate, or counsel.

² Under certain circumstances, such as where the Complainant is a minor or the parent or guardian has the legal authority to act on behalf of the Complainant, a parent or legal guardian may file and execute a complaint on behalf of the Complainant.

Dating Violence: See Sexual Harassment.

Domestic Violence: See Sexual Harassment.

Formal Complaint means a document filed and signed by a Complainant or by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that UMass Boston 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.

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, Deans, Vice Chancellors, the Chancellor, Vice Provosts, and the Provost. Officials with Authority must report notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or designees.

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

Responsible Employee is an employee (a) who, because of their position, must report known or possible incidents of sexual harassment or sexual misconduct by students or employees, including the known details of the incident(s) and the name(s) of alleged victim(s) and Respondent(s), to the Title IX Coordinator 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. UMass Boston's Responsible Employees include the following categories of employees:

- Vice Chancellors;
- Vice Provosts;
- Deans;
- Faculty directors of centers and institutes;
- Faculty who directly oversee student activities sanctioned by the University;
- All department heads and chairs;
- Staff and Librarians who direct the work of others in supervisory roles (including student employees);
- Campus police officers (but, see exception in footnote below);³
- Student Affairs staff (including student employees); and
- Employees specifically tasked with responding to sexual harassment and sexual violence (excluding confidential employees).

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, Massachusetts anti-discrimination laws, or other laws] to report or make a complaint, testify, assist or participate or refuse to participate in any

³ 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).

manner in an investigation or grievance proceeding or hearing, or to intervene to prevent a violation of this policy.

Sexual Assault: See Sexual Harassment.

Sexual Harassment under Title IX 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 it 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. § 12291(a)(8), or "stalking" as defined in 34 U.S.C. § 12291(a)(30), as amended, and as are listed separately below in alphabetical order:

Dating Violence: The term “dating violence” means violence committed by a person--

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- (i) The length of the relationship;
- (ii) The type of relationship;
- (iii) The frequency of interaction between the persons involved in the relationship.

Domestic Violence: The term “domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

Sexual Assault: The term “sexual assault” means an offense classified as a forcible or

nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

Sex Offenses, Forcible—Any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.

Forcible Rape—(Except Statutory Rape) The carnal knowledge of a person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.

Forcible Sodomy—Oral or anal sexual intercourse with another person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

Sexual Assault With An Object—To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

Forcible Fondling—The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

Sex Offenses, Nonforcible—(Except Prostitution Offenses) Unlawful, nonforcible sexual intercourse.

Incest—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape—Nonforcible sexual intercourse with a person who is under the statutory age of consent.

Stalking. The term “stalking” means engaging in a course of conduct directed at a specific person 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.

Stalking: See Sexual Harassment.

Undesignated Employee is an employee who is not designated as an Official with Authority, a Responsible Employee, or a Confidential Employee. Undesignated employees are encouraged to practice bystander awareness and to bring any incidents of sexual harassment to the attention of the Title IX Coordinator.

II. Jurisdiction

This Grievance Procedure applies to allegations of sexual harassment, as defined in Section I of this Procedure, when the allegations of sexual harassment occur in the 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 or in locations, events or circumstances over which the University exercised substantial control over both the Respondent and the context in which the sexual harassment occurred.

This Grievance Procedure may also be used to address allegations of sexual misconduct, discrimination, harassment, or other misconduct, as appropriate.

III. Reporting Sexual Harassment

Sexual Harassment is prohibited as defined in Section I of this Procedure. Sexually harassing behavior should be reported in accordance with this Procedure in order to provide immediate supportive measures to both parties, grievance options for the Complainant, and whenever possible, to prevent any recurrence.

The Complainant is encouraged but not required to report sexually harassing behavior to the Title IX Coordinator, to a University Official with Authority or a Responsible Employee, or by completing the online complaint form: https://cm.maxient.com/reportingform.php?UMassBoston&layout_id=2.

University Officials with Authority and Responsible Employees are required to report possible sexual harassment of which they have knowledge to the Title IX Coordinator.

All faculty and librarians who are not Officials with Authority or Responsible Employees as defined above and who receive information regarding concerns of sexual harassment from a student may, but are not required to make a report to the Office of Civil Rights and Title IX, and must provide the reporting student(s) with information regarding all available campus resources and reporting options. If the reporting student wishes to make a report to the Title IX Coordinator or to a Responsible Employee, the faculty member or librarian must assist the student in reporting the information. Office of Civil Rights and Title IX employees and Deputy Title IX Coordinators are available to answer questions about relevant policies and procedures by any community member.

The following is information to determine to whom you may wish to report, or to whom you must report, based on your role and needs.

A. Confidential Reporting Options

An individual (other than someone acting in the capacity of an Official with Authority or Responsible Employee) may file a report or a concern anonymously using UMass Boston's online complaint form (https://cm.maxient.com/reportingform.php?UMassBoston&layout_id=2), which does not require that the name of the reporter be provided. 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 complaint under this Grievance Procedure.

Please note, Officials with Authority and Responsible Employees cannot guarantee confidentiality, including anonymity, and are required to report potential concerns of sexual harassment and/or sexual misconduct to the Title IX Coordinator. An anonymous online report submitted by an Official with Authority or a Responsible Employee does not fulfill their requirement to notify the Title IX Coordinator of potential concerns of sexual harassment and/or sexual misconduct.

B. Filing a Formal Complaint of Sexual Harassment

Complainants who are participating in or attempting to participate in a program or activity at the University as employees and/or students may file a formal complaint with the Title IX Coordinator. Formal complaints must be in writing and signed by the Complainant, either physically or electronically. Formal complaints may be submitted to the Title IX Coordinator in person, by mail, by email, or by use of the following online reporting form: https://cm.maxient.com/reportingform.php?UMassBoston&layout_id=2. To the extent possible, formal complaints should include the conduct that forms the basis for the allegations of sexual harassment, the identity of the Respondent, if known, and the date(s) and location(s) of the alleged conduct, if known.

Upon the Title IX Coordinator, or designee being informed of allegations of sexual harassment, the Title IX Coordinator or designee will discuss with the Complainant their rights, options, and supportive measures. In order to initiate the Grievance Procedure outlined in Section VIII, the Complainant or the Title IX Coordinator must execute a formal complaint.

In circumstances where the Title IX Coordinator files a formal complaint, the Title IX Coordinator or their designee will, to the extent possible, inform the persons affected by alleged sexual harassment of their rights, options, and the availability of supportive measures. Although the Title IX Coordinator may file the formal complaint, they are not considered the Complainant.

For information about how to file a formal complaint or to learn more about the Grievance Procedure, contact the Title IX Coordinator. Contact information for the Title IX Coordinator is listed below and at <https://www.umb.edu/crtix> and <https://www.umb.edu/titleix>.

University of Massachusetts Boston Title IX Coordinator:

Valerie Imperato, Associate Vice Chancellor of Civil Rights and Title IX
University of Massachusetts Boston
Quinn Administration Building, 3rd Floor
100 Morrissey Boulevard, Boston, MA 02125
Office hours: 9:00 AM – 5:00 PM
Phone: 617-287-7391
Email: AnneValerie.Imparato@umb.edu

Please note that if a Complainant files a formal complaint, the University is required to provide relevant information about the complaint to the Respondent, in writing, prior to an interview.

Complainants may, but are not required to, notify law enforcement authorities, including campus, local, or state police, 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, the choice of whether and where to report conduct belongs to each individual, and Complainants may decline to file a report with law enforcement or with the Title IX Coordinator. On-campus law enforcement's contact information is below:

University of Massachusetts Boston Police Department:⁴

Emergency: 911
Cell phone emergency: 617-287-1212
Non-emergency: 617-287-7799
Dispatch non-emergency: 617-287-7780 or 617-287-7791
Tip line: 617-287-5555
Quinn Administration Building, 1st Floor, Room 100
100 Morrissey Boulevard, Boston, MA 02125
<https://www.umb.edu/police>

If a Complainant has filed a Title IX formal complaint with UMass Boston, the Complainant has the option to (1) withdraw their formal complaint from the UMass Boston 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 complaint at UMass Boston while simultaneously having a complaint with an outside agency. Depending on the circumstances, UMass Boston may determine to continue with its review of the initially alleged incidents if the Complainant decides to withdraw their formal complaint.

⁴ If a member of the UMass Boston community is granted an order of protection from domestic or dating abuse, harassment, stalking or sexual assault from any state in the country, that individual is encouraged to provide the order to the UMass Boston Police Department and the Title IX Coordinator, so that they may enforce the order as required. Community members may meet with an officer from the UMass Boston 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 supportive measures listed in this document. To apply for a legal abuse or harassment prevention order, no contact order or other protective order, the person seeking it must apply directly with the appropriate governmental office.

External enforcement agencies:

The United States Department of Education Office for Civil Rights
5 Post Office Square, 8th Floor
Boston, MA 02109-3921
Telephone: (617) 289-0111
Facsimile: (617) 289-0150
Email: OCR.Boston@ed.gov
<https://www2.ed.gov/about/offices/list/ocr/index.html>

The United States Equal Employment Opportunity Commission
JFK Federal Building,
25 Sudbury Street
Boston, MA 02222
voice phone: 800-669-4000, TTY: 800-669-6820
<https://www.eeoc.gov/>

The Massachusetts Commission Against Discrimination, Boston Office
One Ashburton Place, Room 601
Boston, MA 02108
voice phone: 617-994-6000, TTY: 617-994-6196
<https://www.mass.gov/orgs/massachusetts-commission-against-discrimination>

IV. Reporting Requirements for Officials with Authority and Responsible Employees

If you are an Official with Authority you are required to report all sexual harassment concerns to the Title IX Coordinator (see contact information above).

Officials with Authority:

1. Are required to report possible sexual harassment. Officials with Authority must promptly report the incident(s) 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, if known). 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 to the UMass Boston Police Department, the local police department, or the Massachusetts Department of Children and Families any abuse of a minor, per M.G.L. ch. 119, § 51A.
2. Cannot guarantee confidentiality. The University has a responsibility to respond to formal 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. However, privacy will be maintained to

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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 Procedure, who may provide support to that party, and may inspect and review evidence gathered during the investigation. The advisor may only act in an advisory capacity for the party and may not speak on behalf of the party or otherwise participate during the investigation. 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. During investigatory meetings, the parties will have the opportunity to take a break and confer with their advisors. During the Live Hearings, the advisor will be responsible for posing questions to parties and witnesses during cross-examination. Because the advisor will review personally identifiable information from the Complainant's and Respondent's education records, the parties and witnesses 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.

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

Information Provided: Upon receipt of a formal complaint, both parties will receive copies of this Grievance Procedure, the allegations potentially constituting sexual harassment,⁵ and a list of support resources. Each party will be provided with all information directly related to the allegations, including inculpatory and exculpatory evidence, and the investigative report that fairly summarizes all relevant evidence gathered during the investigation.

Confidentiality and Gathering of Information: The Investigators, Title IX Coordinator, Hearing Officers, Appeal Officers, 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 and other University policies. For example, a party may not discuss the allegations in a manner that is retaliatory, or knowingly present false evidence.

Neutrality: All UMass Boston Title IX Coordinators, Title IX Deputy Coordinators, Investigators, Hearing Officers, and Appeals Officers involved in the Grievance Procedure will conduct a neutral review of the formal 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.

⁵ The notice of allegations includes the identity of the parties, a description of the alleged conduct constituting sexual harassment, including the date(s) and location(s) of the incident(s), if known.

Parties with concerns regarding potential bias or conflict of interest may report that concern to the Title IX Coordinator. Such a concern regarding the Title IX Coordinator may be reported to the Vice Chancellor for Human Resources.

Privacy: The Investigators, Title IX Coordinator, and other employees involved in the grievance process will maintain the privacy of both parties to the extent possible. While information is only divulged on a need-to-know basis, confidentiality cannot be ensured.

Retaliation Protections: Retaliation against any person including the parties and witnesses, based on their participation in this Grievance Procedure is prohibited by this Grievance Procedure, and state and federal laws. UMass Boston will take steps to prevent retaliation and will take strong responsive action if it occurs. A concern of retaliation 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.

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 University of Massachusetts Boston Police Department may assist students or employees in filing such a complaint or seeking a court protective order.

Right to External Civil or Criminal 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 Procedure.

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 Procedure.

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 Procedure 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 or providing false information in a proceeding under this Grievance Procedure is prohibited.

Violations of the Student Code of Conduct: 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 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.

VI. Supportive Measures

When the Title IX Coordinator is made aware of sexual harassment or allegations of sexual harassment, the Title IX Coordinator or designee will discuss supportive measures with the Complainant. An individual need not have filed a formal complaint to receive supportive measures, and supportive measures are available regardless of whether the alleged sexual harassment occurred on or off campus, or within a University program or activity. To the extent the Respondent is known, and a formal complaint is filed, the Title IX Coordinator may provide the Respondent with supportive measures. These measures are short-term, non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available, and without fee or charge to the Complainant or the Respondent.

Supportive measures are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening another 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
- Mutual restrictions on contact between the parties
- Changes in work or housing locations
- Changes in transportation arrangements
- Leaves of absences
- Assistance notifying law enforcement of alleged sexual harassment
- Assistance in seeking a court-issued protective order

In addition to providing supportive measures, the Title IX Coordinator or designee will discuss the University's Title IX Grievance Procedure with the parties as appropriate. To the extent there is a continuing need for supportive measures after the conclusion of the Grievance Process, the Title IX Coordinator will work with appropriate University resources to provide continued assistance to the parties. Supportive measures may be re-evaluated on a periodic basis.

The University will maintain as confidential any supportive measures provided to the Complainant or 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 from their implementation.

Emergency Removal

Supportive measures may include removal of a party from the University or a University program or activity on an emergency basis when the University has determined that the party poses an immediate threat to any person's physical health or safety arising out of the sexual harassment

allegations.

When supportive measures include emergency removal, the individual being removed will be given a written description of the reasons for the emergency removal. The individual being removed has the right to be heard regarding the application or scope of the emergency removal whether before the measure(s) is imposed, or immediately thereafter by contacting the Title IX Coordinator.

VII. Informal Resolution

The parties may, but are not required to, participate in an Informal Resolution process. At any time after a formal complaint has been filed, but prior to a decision maker reaching a determination regarding responsibility, either the Complainant or the Respondent may request that the University facilitate Informal Resolution of a formal complaint. The parties may be accompanied by an advisor at any and all stages of the Informal Resolution process. The Informal Resolution process may include, but is not limited to, mediated discussions or other restorative justice measures. The University will not facilitate Informal Resolution in cases involving allegations that a University employee sexually harassed a student. The University may facilitate Informal Resolution when:

- All parties have been informed in writing of the allegations of the formal complaint and this Grievance Procedure as it applies to both the adjudication of a formal complaint and Informal Resolution;
- All parties have consented in writing to participate in the Informal Resolution process; and
- The Title IX Coordinator, in consultation with the appropriate administrators, has determined that Informal Resolution is appropriate

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

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 matter will proceed pursuant to Section VIII of this Procedure.

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 complaint will be dismissed. The Title IX Coordinator will maintain the Informal Resolution agreement for seven years from its execution and will share it only to the extent necessary to carry out its purposes.

Ordinarily, the parties will have ten (10) calendar days from the date that a facilitator 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 made a condition of either party's enrollment or employment.

VIII. Grievance Procedure

A neutral, trained Investigator(s) will conduct a timely and impartial review to assess the allegations reported in the formal complaint, and may conduct preliminary interviews to determine whether the allegations, if true, could constitute a finding that sexual harassment occurred. The Title IX Coordinator will determine if a formal complaint will be dismissed or proceed to investigation.

A. Dismissal

The University **MUST** dismiss a formal complaint if:

- Conduct would not constitute sexual harassment even if substantiated;
- Conduct did not occur in an education program or activity; or
- Conduct did not occur in the United States.

The University **MAY** dismiss a formal complaint if:

- The Complainant withdraws the complaint in writing;
- The Respondent is no longer affiliated with the University as a student or employee; or
- There are circumstances that prevent the University from gathering evidence sufficient to reach a determination.

When an allegation is dismissed, the University must send written notice of the dismissal including a rationale to both parties simultaneously. Both parties will have the right to appeal the dismissal in accordance with the appeal proceeding outlined in Section IX of this Procedure. When a formal complaint is dismissed, referrals to other resources will be provided as appropriate.

A dismissal of a formal complaint under Title IX does not preclude actions under other University's policies and regulations including, but not limited to, the Student Code of Conduct, the Non-Discrimination and Harassment Policy, and the Principles of Employee Conduct.

B. Investigation

If the Title IX Coordinator determines that an investigation should proceed, the Investigator(s) will conduct a thorough and fair investigation of the formal complaint in a timely manner, and based on

the preponderance of the evidence standard.⁶ Prior to interviewing either party, the Investigator(s) will provide each party with this Grievance Procedure and written notice of the allegations potentially constituting sexual harassment, including the date, time, and location (if known) of the alleged conduct, and a specific statement of which policies were allegedly violated and by what actions. 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. The Investigator(s) must provide to each party and the party's advisor, if any, an opportunity to inspect and review the evidence gathered during the investigation in an electronic format or a hard copy. After receiving the evidence, the parties will have at least ten calendar days to submit a written response.

After the parties have an opportunity to respond to the evidence, the Investigator(s) will draft an investigative report that fairly summarizes relevant evidence, including inculpatory and exculpatory evidence ten calendar days prior to the hearing. The Investigator(s) will send the report to each party and the party's advisor for their review and written response. After receiving the written responses, the Investigator(s) will provide the final report and the parties' written responses will be provided to the Hearing Officer(s) and the parties. The final report and written responses may also be provided to the relevant Vice Chancellor for either party for processing under other policies as applicable.

After the conclusion of ten calendar days, the matter will be referred to the Hearing Officer(s) for a Live Hearing. The Title IX Coordinator or designee will assist in scheduling the Live Hearing.

C. Live Hearing

After reviewing the investigative report and all the evidence, a Hearing Officer 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 a conflict of interest or bias related to the particular case.

At the Live Hearing, both parties will have the opportunity to present their positions to the Hearing Officer(s), and the Hearing Officer(s) will have an opportunity to ask any relevant questions to the parties and witnesses. The Hearing Officer(s) must permit each party's advisor to ask both parties and any witnesses all relevant questions and follow-up questions, including those that challenge credibility. Such examination at the Live Hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Hearing Officer(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless they 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

⁶ In order to find that conduct occurred under the preponderance of the evidence standard, the Investigator(s) must find that the evidence gathered indicates that it is more likely than not that the conduct occurred.

the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. The Hearing Officer(s) may not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the Live Hearing or refusal to participate in cross-examination. 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. Employees with a legal privilege may include, but are not limited to:

- 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 that are bound by statutory privilege obligations under Massachusetts law.

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 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 and transcribed, and such recording or transcription will be made available to both parties.

After the Live Hearing, the Hearing Officer(s) will prepare a written report, which they will provide to the parties simultaneously within seven business days after the conclusion of the Live Hearing. The written report must include the following: the identification of the allegations potentially constituting sexual harassment; a description of the procedural steps taken from the receipt of the formal complaint through the determination; findings of fact supporting the determination, conclusions regarding the application of the relevant definitions in Section I to the facts; and a statement of, and rationale for, the result as to each allegation. The results will include a determination regarding responsibility, and/or whether allegations must be dismissed as discussed in Section VIII.A;⁷ 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(s) will share the draft of the report with the relevant administrators or supervisors, and consult with them as to applicable disciplinary sanctions, if any.⁸ The final report, including disciplinary sanctions, will be provided to the parties. The final report will also include procedures and permissible bases for appeal of the Hearing Officer(s)' determination.

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

⁷ Such allegations will be forwarded to the Title IX Coordinator to review with the Vice Chancellor for Human Resources to make a determination whether any follow-up investigation or a referral to another University policy or process is necessary.

⁸ 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 bargaining unit member from utilizing the applicable grievance procedure in their collective bargaining agreement to challenge disciplinary sanctions.

based on a person's status as a Complainant, Respondent, or witness.

Disciplinary sanctions that are determined for employees may include, but are not limited to: a verbal warning; placing a letter in the employee's personnel file; increased supervision; unpaid leave; suspension; or termination from University employment. Disciplinary sanctions will be issued in accordance with University policy and, in the case of employees who are union bargaining unit members, the applicable collective bargaining agreement

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

Remedies that the University may provide 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; 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.

Any timeframe referenced in this section 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)' determination within ten calendar days (which can be extended for good cause, and with written notice to both parties) of receiving the decision. The parties can appeal the Hearing Officer(s)' determination on and/or dismissal of the allegations on the following bases:

- (A) Procedural irregularity that affected the outcome of the matter
- (B) New evidence that was not reasonably available at the time the determination was made, and that could affect the outcome of the matter; or
- (C) 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, to the Title IX Coordinator within ten calendar days of the determination.⁹ 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 a copy of the appeal. The party who did not file the appeal will have ten calendar days to submit any written responses to the appeal. The Appeal Officer will then issue a

⁹ If the grounds for appeal include conflict of interest or bias by the Title IX Coordinator, the appeal may be submitted to the Vice Chancellor for Human Resources.

written decision, including the rationale for their findings on appeal to both parties simultaneously. The decision of the Appeal Officer is final.

X. Sources of Assistance, Counseling, and Support

Support services are available to UMass Boston community members who have experienced sexual harassment, regardless of whether they report the incident or file a Title IX complaint.

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.

For a list of individuals trained as Confidential Resource Providers, please contact the Office of Civil Rights and Title IX, or visit umb.edu/titleix/resources.

FOR IMMEDIATE EMERGENCY ASSISTANCE, DIAL 911.

On-campus emergency assistance is also available from the University of Massachusetts Boston Police Department at 617-287-1212.

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 in Boston:

Beth Israel Deaconess Medical Center
330 Brookline Avenue
Boston, MA 02215
(617) 667-7000

Boston Medical Center
One Boston Medical Center Place
Boston, MA 02118
(617) 638-6800

Cambridge Hospital
(Operating 24 hrs/day, 7 days a week)
1493 Cambridge Street
Cambridge, MA 02139
(617) 665-2300

Children's Hospital – Boston
300 Longwood Avenue
Boston, MA 02115
(617) 355-6000

Massachusetts General Hospital
55 Fruit Street
Boston, MA 02114

(877) 424-5678

Newton Wellesley Hospital
2014 Washington Street
Newton, MA 02462
(617) 243-6000

Boston Area Rape Crisis Center (BARCC)
99 Bishop Allen Drive
Cambridge, MA 02139
24/7 Hotline: (800) 841-8371
TTY: (617) 492-6434
Office: (617) 492-8306

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

ON-CAMPUS CONFIDENTIAL RESOURCES:

For students:

<u>Type of Resource</u>	<u>Name of Resource</u>	<u>Contact Information</u>	<u>Location and Hours</u>
Counseling	Counseling Center at University Health Services	Phone: 617-287-5690 Website: https://www.umb.edu/healthservices/counseling_center	University Health Services Quinn Administration Building, 2 nd Floor. 100 Morrissey Boulevard Boston, MA 02125 **Medical and counseling support are available by phone after hours and on weekends.
Health	University Health Services	Phone: 617-287-5660 Website: https://www.umb.edu/healthservices	General medicine hours of operation are Monday - Friday, 8:30 a.m. – 5:00 p.m. Counseling appointments are available Monday- Wednesday, 8:30 a.m. – 7:00 p.m., and Thursday – Friday, 8:30 a.m. – 5:00 p.m.

Revised: August 13, 2021

For employees:

Counseling	ComPsych GuidanceResources Employee Assistance Program	Phone: 844-393-4983 Website: https://www.guidanceresources.com/groWeb/login/login.xhtml (Web ID: UMASS)	24 hours a day, every day
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For all community members:

Pastoral counseling	Interfaith Campus Ministries	Phone: 617-287-5838 Email: interfaith.campusmin@umb.edu	McCormack Hall, 3 rd Floor, Ryan Lounge 9:30 a.m. – 7:30 p.m.
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ON-CAMPUS NON-CONFIDENTIAL RESOURCES

<u>Type of Campus Resource</u>	<u>Resource</u>	<u>Address/ Location</u>	<u>Contact Information</u>
Office of Civil Rights and Title IX	Valerie Imparato, Associate Vice Chancellor of Civil Rights and Title IX	Quinn Admin Building, Room 03/040	Phone: 617-287-7391 Email: Civilrights.titleix@umb.edu Website: https://www.umb.edu/crtix
Deputy Title IX Coordinator, Students	Shawn DeVeau, Associate Dean of Students	Campus Center, 4 th Floor	Phone: 617-287-5800 Email: Shawn.DeVeau@umb.edu Website: https://www.umb.edu/life_on_campus/dean_of_students
Deputy Title IX Coordinator, Athletics	Megan Cullinane, Associate Director of Athletics		Phone: 617-287-5280 Email: megan.cullinane@umb.edu
Office for Diversity, Equity and Inclusion	Georgianna Melendez, Assistant Chancellor for Diversity, Equity, and Inclusion	Quinn Admin Building, Room 03/022	Phone: 617-287-4827 Email: diversity@umb.edu Website: https://www.umb.edu/odei

University Police Department	UMass Boston Police Department	Quinn Admin Building, Room 100	Emergency: 911 Cell phone emergency: 617-287-1212 Non-emergency: 617-287-7799 Website: https://www.umb.edu/police
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OFF CAMPUS RESOURCES

<u>Type of Resource</u>	<u>Resource</u>	<u>Address/Location</u>	<u>Contact Information</u>
Medical, Counseling, and Advocacy	Center for Violence Prevention and Recovery at Beth Israel Deaconess Medical Center	330 Brookline Avenue, Boston, MA	Phone: 617-667-8141 Website: https://www.bidmc.org/centers-and-departments/social-work/center-for-violence-prevention-and-recovery
Medical, Counseling, and Advocacy	Domestic Violence Program at Boston Medical Center	One Boston Medical Center Place, Boston, MA 02118	Phone: 617-414-5457 Website: https://www.bmc.org/programs/domestic-violence-program

Medical, Counseling, and Advocacy	Brigham and Women's C.A.R.E. Clinic	75 Francis St., Boston, MA 02115	Phone: 617-525-9684 Website: https://www.brighamandwomens.org/womens-health/connors-center/care-clinic/contact-care-clinic
Counseling and Advocacy	Boston Area Rape Crisis Center (BARCC)	99 Bishop Allen Dr., Cambridge, MA 02139	24-7 Hotline: 800-841-8371 Phone: 617-492-8306 Website: https://barcc.org/
Counseling	Safelink Domestic Violence Hotline		Phone: 877-785-2020
Counseling	National Sexual Assault Hotline		Phone: 800-656-4673
Counseling	National Suicide Prevention Lifeline		Phone: 800-273-8255

Legal Services	Victims Rights Law Center	115 Broad St., 3 rd Floor, Boston, MA 02110	Phone: 617-399-6720
Legal Services	Justice Bridge		Phone: 617-860-3414 https://www.justice-bridge.org/about

XI. Required Training

Required Training: Title IX Coordinators, Investigators, Hearing Officers, Appeal Officers, Officials with Authority, and any other employees involved in the Grievance Procedure are required to participate annually in Title IX training. Training will be posted on CRTIX’s website or will be made available for inspection during regular business hours.

Additional training required by Title IX and other federal and state regulations, and other University policies, including the Non-Discrimination and Harassment Policies, will be provided upon matriculation or employment, and periodically thereafter, to all students and employees.