

UNIVERSITY OF MASSACHUSETTS DARTMOUTH

Title IX Grievance Procedure

Introduction and Scope

The Grievance Procedure set forth in this policy applies to allegations of sexual harassment under Title IX that occurred on or after August 14, 2020. Prior policies will apply for allegations that occurred before August 14, 2020

The University of Massachusetts Dartmouth (“UMass Dartmouth” or “University”) prohibits sexual harassment, as that term is defined by Title IX regulations, as amended in 2020 and published in Part 106 of Title 34 of the Code of Federal Regulations. UMass Dartmouth is firmly committed to ensuring 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 Dartmouth are not subject to such harassment, as defined by the above-mentioned regulations.

This Grievance Procedure applies to formal complaints for sexual harassment and provides for the prompt and equitable resolution of such complaints in compliance with Title IX regulations and Massachusetts law. UMass Dartmouth also prohibits sexual misconduct and other forms of discrimination and harassment as required by federal and state law. Sexual misconduct and additional forms of discrimination and harassment are defined by additional University policies, including the Non-Discrimination and Harassment Policy. Procedures for addressing such forms of discrimination and harassment may be found in the Student Code of Conduct, UMass Dartmouth’s Equal Opportunity and Anti-Harassment Complaint Procedure for Staff and Faculty Members, UMass Dartmouth’s Sexual Misconduct Procedure or other University policies as applicable. In addition, this Grievance Procedure may be used to address sexual misconduct and other forms of discrimination and harassment or other misconduct as appropriate.

Questions about this Grievance Procedure, the Non-Discrimination and Harassment Policy, and related policies and procedures may be referred to UMass Dartmouth’s Title IX Coordinator or to the Office of Diversity, Equity & Inclusion. Please see the contact information in Section IV of this document.

I. Definitions

Advisor means an individual chosen by a party (the Complainant or the Respondent) to provide support to that party. The advisor will be furnished with a copy of the evidence gathered during the course of the investigation and will be provided with a copy of the final investigation report prior to the live hearing. The advisor may, but is not required to be, an attorney. The advisor’s participation prior to the live hearing is at the discretion of the party. Prior to and following the live hearing, the advisor’s role is limited and they may not speak on behalf of the party. During live hearings, the advisor is responsible for conducting cross-examination of the other party. The University will provide an advisor at the live hearing if a party has not selected one.

Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment who has submitted a signed formal complaint with the Title IX Coordinator. At the time of the filing of the complaint, the complainant must be participating in or attempting to participate in an educational program at this institution.

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 considered 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.

Consent is clear, knowing, and voluntary words or actions that give permission for specific sexual activity. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding willingness to engage in (and the conditions of) sexual activity. Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity. Previous relationships or prior consent cannot imply consent to future sexual acts. Consent can be withdrawn once given, as long as that withdrawal is clearly communicated. Once consent is withdrawn, sexual activity must stop immediately. In order to give consent, one must be of legal age. In Massachusetts, the legal age of consent is 16. Consent cannot be given when a person is asleep, incapacitated by alcohol or another drug or if a person has a mental or intellectual disability.

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. For purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

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.

Formal complaint means a document filed and signed by a Complainant alleging a violation of sexual harassment against a Respondent as specified by the Title IX regulations. The receipt of a formal complaint will initiate the grievance process. A formal complaint may also be initiated by the Title IX Coordinator.

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, the Deputy Title IX Coordinator(s), 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 the individual who has been alleged to have engaged in conduct that would constitute sexual harassment as defined by the Title IX regulations.

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 names of alleged Complainant(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/conduct; or (c) whom a student reasonably believes has this authority or duty. UMass Dartmouth's Responsible Employees include the following categories of employees:

- Vice Chancellors;
- Vice Provosts;
- Deans;
- Faculty Directors of Centers or Institutes;
- Faculty;
- All Department Heads and Chairs;
- Staff and Librarians who direct the work of others in supervisory roles (including student employees);
- University police officers (but, see exception in footnote below);¹
- 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, the Massachusetts anti-discrimination laws, or other laws] to report or make a complaint, testify, assist or participate, or refuse to participate in any manner in an investigation or grievance proceeding, or hearing, or to intervene to prevent a violation of this policy.

Sexual assault means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation². Sexual assault is any attempted or actual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent. More specifically, sexual assault is:

¹ Exception for public safety personnel. Although University police officers are designated as Responsible Employees, if a student or employee reporting sexual assault or domestic violence requests confidentiality, the University police officer must not disclose the name of the reporting party to the Title IX Coordinator or designee.

² Please see <https://ucr.fbi.gov/nibrs/2012/resources/nibrs-offense-definitions> for the definition of sexual assault by the FBI uniform crime reporting system. For the definition of sexual assault under Commonwealth of Massachusetts law, please see <https://statelaws.findlaw.com/massachusetts-law//massachusetts-sexual-assault-laws.html>

- Any attempted or actual sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent.
- **Rape** is the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- **Fondling** is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- **Incest** is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape** is sexual intercourse with a person who is under the statutory age of consent.

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. 1229(a) (10), "domestic violence" as defined in 34 U.S.C. 1229(a)(8), or "stalking" as defined in 34 U.S.C. 1229(a) (30), as amended.

Sexual Misconduct is unwelcome conduct of a sexual nature when:

- 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
- such conduct unreasonably (a) interferes with a person or person's work or academic performance; (b) interferes with or limits a person or person's ability to participate in or benefit from a work or academic program or activity; or (c) creates an intimidating, hostile, or offensive working or academic environment.

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. For the purposes of this definition, "course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. "Reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim. "Substantial emotional distress" means significant mental

suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

II. Jurisdiction

This Grievance Procedure applies to allegations of sexual harassment that occurred in the United States and:

1. On property owned or controlled by the University or property owned or controlled by a student organization that is 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.

III. Reporting Sexual Harassment

Sexual harassment is prohibited under University policy. Sexually harassing behavior should be reported in accordance with this Grievance 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 by any means (verbal, written, or electronic) to the Title IX Coordinator, to a University Official with Authority or Responsible Employee or by completing the online complaint form: https://cm.maxient.com/reportingform.php?UMassDartmouth&layout_id=30. Please note that these employees cannot guarantee confidentiality.

When the Title IX Coordinator receives a report alleging sexual misconduct, the Title IX Coordinator will contact the alleged victim to offer supportive measures, review the report as well as this Grievance Procedure and other reporting options as applicable. After consultation with the Title IX Coordinator, the alleged victim will decide whether to submit a formal complaint.

To the extent possible, reports should include the conduct that forms the basis for the allegations of sexual harassment, the identity of the Respondent, if known, and the date and location of the alleged conduct, if known.

A. Confidential Reporting Options

A report may also be filed anonymously using UMass Dartmouth's online complaint form https://umassdartmouth.co1.qualtrics.com/jfe/form/SV_6PWfqEbSw5mw3Ou, which does not require the reporting party to disclose their name. 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.

IV. Filing a Formal Complaint of Sexual Harassment

Alleged victims who are participating in or attempting to participate in an education program or activity at the University, including 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 must be submitted to the Title IX Coordinator in person, by mail, by e-mail, or by use of the following the online reporting form: https://cm.maxient.com/reportingform.php?UMassDartmouth&layout_id=30.

Formal complaints may also be filed and signed by the Title IX Coordinator as specified in the Title IX regulations. In circumstances where the Title IX Coordinator files a formal complaint, the Title IX Coordinator or designee will, to the extent possible, inform the persons affected by alleged sexual harassment of their rights, options, and the availability of supportive measures.

Upon receipt of a formal complaint, the Title IX Coordinator will again review supportive measures as appropriate with the Complainant, and may initiate this Grievance Procedure as outlined in Section VIII.

David A. Gomes, Chief Diversity Officer / Title IX Coordinator
University of Massachusetts Dartmouth
Office of Diversity, Equity & Inclusion
285 Old Westport Road
Dartmouth, MA 02747
Telephone: (508) 999-8802
E-mail: dgomes3@umassd.edu

For information about how to file a formal complaint or to learn more about this Grievance Procedure, please contact the Title IX Coordinator or a Deputy Title IX Coordinator. Upon review of the specific allegations as noted in the complaint, the Title IX Coordinator will determine if the complaint meets the definition of sexual harassment as specified in the Title IX regulations. If the complaint meets the definition, the Title IX Coordinator will initiate this Grievance Procedure.

Upon receipt of a formal complaint, the Title IX Coordinator will provide written notice to the parties who are known. This notice shall contain:

- Notice of this Grievance Procedure, including any informal resolution process;
- Notice of the allegations of sexual misconduct potentially constituting sexual harassment as defined in §106.30, including sufficient details known at the time and with sufficient time to prepare a response before any initial review;
- The identities of the parties involved in the incident, if known;
- The date and location of the alleged incident, if known;
- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- A statement informing the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence;
- A statement advising the parties of the University's policy that prohibits knowingly making false statements or knowingly submitting false information during the grievance process;

- A statement outlining any additional allegations added after the initial notice to the parties whose identities are known

The Title IX Coordinator will also provide written notice to the parties of:

- A reasonable delay in the grievance process
- Additional interviews, hearings, meetings with sufficient time to prepare a response.

Complainants may, but are not required to, notify law enforcement authorities of alleged sexual misconduct. The University encourages Complainants to notify both the Title IX Coordinator and law enforcement when sexual misconduct occurs that may also be criminal. However, the choice of whether and where to report conduct belongs to each individual Complainant. Alleged victims 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 Dartmouth Police Department³

On-campus Emergency: 508-999-9191

Off-campus Emergency: 911

Silent Witness/Police Tip Line: (508) 999-8477

Power Plant Building

285 Old Westport Road

Telephone: (508) 999-8107

FAX: (508) 910-6897

If a Complainant has filed a Title IX complaint with the University, they have the right to withdraw their complaint from this Grievance Procedure at any time. The Complainant also has the right to file a complaint with an external agency such as those listed below.

³ UMass Dartmouth complies with Massachusetts state law in recognizing Abuse Prevention Orders (209A) and directs any person who obtains an order of protection from domestic or dating abuse, harassment, stalking or sexual assault from any state in the country to provide a copy to the University Police Department and the Office of the Title IX Coordinator. A Complainant may then meet with an officer from the University Police Department and the Victim Advocate to develop a Safety Action Plan, which is a plan for University Police and the victim to reduce the risk of harm while on campus or coming and going from campus. This plan may include, but is not limited to: escorts, special parking arrangements, changing classroom location, supervisor, work location, or allowing a student to complete assignments from home, depending on the course, safe room, and any other aspect the Complainant may need support or help. The Complainant decides upon the Safety Action Plan and all of its components. The University cannot apply for a legal Abuse Prevention Order, no contact order, or restraining order for a Complainant from the applicable jurisdiction(s). The Complainant is required to apply directly for these services.

External enforcement agencies:

United States Department of Education Office of Civil Rights
5 Post Office Square, 8th Floor
Boston, MA 02109-3921
Telephone: (617) 289-0111
Facsimile: (617) 289-0150
E-mail: OCR.Boston@ed.gov

United States Equal Employment Opportunity Commission
Boston Area Office
JFK Federal Building
25 Sudbury Street
Boston, MA 02222
Voice Phone: 800-669-4000
FAX: (617) 565-3196
TTY: 800-669-6820
www.eeoc.gov

Massachusetts Commission Against Discrimination, Boston Office
One Ashburton Place, Suite 601
Boston, MA 02108
Telephone: (617) 994-6000
FAX: (617) 994-6024
<https://www.mass.gov/orgs/massachusetts-commission-against-discrimination/>

Dismissal of a Formal Complaint

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

- the conduct does not meet the definition of sexual harassment even if substantiated;
- the conduct did not occur in the jurisdiction, or
- the conduct did not occur in an educational program or activity.

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 Title IX Coordinator must send written notice of the dismissal including a rationale to both parties simultaneously. Both parties will have a right to appeal the dismissal in accordance with the appeal proceeding as outlined Section X of this Grievance Procedure.

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

V. Reporting Requirements for Officials with Authority and Responsible Employees

If you are an Official with Authority or Responsible Employee, you are required to report all sexual harassment concerns to the Title IX Coordinator.

Officials with Authority and Responsible Employees:

1. Are required to report all possible incidents of sexual harassment. Officials with Authority and Responsible Employees must promptly report the incident directly to the Title IX Coordinator including the names of the parties involved, and relevant facts regarding the alleged incident (including the date, time, and location of the event related to the concern). Officials with Authority and Responsible Employees must make these reports even if the reporting person requests confidentiality, and regardless of whether a police report has been filed. Officials with Authority and Responsible Employees are required to report to the UMass Dartmouth Police Department, the local police department, or the Massachusetts Department of Children and Families any abuse of a minor, per M.G.L. 119, section 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 the 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 the extent possible while complying with the requirements of University policies, state and federal law.**

VI. 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 this Grievance Procedure. The advisor may only act in an advisory capacity for the party and may not speak on behalf of the person 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 other than as is necessary to provide advice and support during this Grievance Procedure. During investigatory meetings, the party will have the opportunity to take a break and confer privately with their advisor. During the live hearings, the advisor will be responsible for posing questions to the other party and witnesses during cross-examination. Because the advisor will review personally identifiable information from the Complainant's and Respondent's education records, the parties may need consent to the disclosure of the information to the advisor in accordance with the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. §1232g; 34 CFR Part 99). The consent would specify that the information may only be used for purposes of this Grievance Procedure and cannot be further disclosed. FERPA is a federal law that protects the privacy of student education records. If a party does not have an advisor present at the live hearing, an advisor of the University's choice will be furnished for the purpose of cross-examination.

Scheduling: Both parties will be provided with written notice of the date, time, location, and participants of 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, and a list of possible support measures. Each party will be provided with the evidence gathered during the investigation and the final investigation report. The parties will be afforded the opportunity to respond in writing within ten (10) calendar days of receipt of each document.

Confidentiality and gathering of information: The investigator(s), Title IX Coordinator, or decision-maker 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, the Non-Discrimination and Harassment Policy, and other University policies. For example, a party may not discuss the allegations in a manner that is retaliatory, or to knowingly present false evidence.

Neutrality: All University investigators and decision makers involved in this 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 rendered at the conclusion of this Grievance Procedure.

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 or designee. It is the party's responsibility to provide a rationale for such a conflict or bias. The Title IX Coordinator will determine whether to recuse themselves or anyone else from further participation.

Privacy: The investigator(s), Title IX Coordinator, and other employees involved in this Grievance Procedure 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 the University's Non-Discrimination and Harassment Policy, and state and federal law. UMass Dartmouth will take steps to prevent retaliation, and will take strong remedial action if it occurs. A concern of retaliation should be immediately reported to the Title IX Coordinator who may initiate an investigation of the alleged retaliation. This includes concerns of retaliatory actions taken by the University of 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 criminal complaint with law enforcement authorities, and will not be dissuaded from doing so. Upon request, the University of Massachusetts Dartmouth 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 the information about the Appeal request process at the end of Section X of this document.

Expectations:

Both parties and witnesses are obligated not to retaliate; to update the investigator(s) of their contact information if it 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 of the incident 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 conduct cross-examination 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 Panel. If an advisor cannot participate in the live hearing according to the University's expectations, that advisor will be replaced by the University.

False information or complaint: Knowingly filing a false complaint, providing false information, or exercising undue influence on a participant in order to sway the outcome of the proceeding may result in appropriate sanctions rendered against the offending party or parties.

VII. Supportive Measures

The Title IX Coordinator, may at any time, coordinate the implementation of supportive measures for either a Complainant or Respondent. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

Supportive measures shall be designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other 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 adjustment, 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;
- Leaves of absences;
- Assistance notifying law enforcement of alleged sexual harassment
- Assistance in seeking a court-issued protective order.

Upon learning of an incident of sexual harassment, the Title IX Coordinator shall contact the alleged victim to discuss the availability of supportive measures as well as this Grievance Procedure.

The University shall 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 (7) years.

Violations of the Title IX Coordinator's directives and/or temporary measures will constitute related violations that may lead to further disciplinary action. Temporary measures imposed may become permanent depending upon the results of this Grievance Procedure as determined by the University.

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 is an immediate threat to the physical health or safety of any other individual arising from the allegations of sexual harassment.

When supportive measures include emergency removal, the individual being removed will be given in writing a description of 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/are imposed, or within a reasonable time thereafter by contacting the Title IX Coordinator.

VIII. Informal Resolution

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 Respondent may request that the University facilitate an informal resolution of a formal complaint. Both parties would need to agree to participate in an informal resolution process and mutually agree to the outcome. ***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 has determined that informal resolution is appropriate.

Upon determining that informal resolution is appropriate, the Title IX Coordinator will assign the matter to a facilitator who has been trained in the 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 agreement, either party may withdraw from the informal resolution process, and this Grievance Procedure will proceed.

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 (7) years, and will share it only to the extent necessary to carry out the purposes of the informal resolution agreement.

Ordinarily, the parties will have ten (10) business 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 a condition of either party's enrollment or employment.

IX. Grievance Procedure, Resolution, and Remedies

A. Investigation

A neutral, trained investigator will conduct a timely and impartial review to assess the reported facts and will conduct interviews to determine whether the allegations, if true, could constitute a finding that prohibited sexual harassment, as defined in this Grievance Procedure, occurred. A formal complaint or any allegations therein may be dismissed at any time during this Grievance Procedure if the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations; or if specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein. If the Respondent withdraws from or is no longer employed by the University, the case will proceed in accordance with this Grievance Procedure. When a formal complaint is dismissed, referrals to other campus resources will be provided as appropriate.

The investigator will conduct a thorough and fair investigation of formal complaints in a timely manner, and based on the preponderance of the evidence (More Likely Than Not) standard. Prior to interviewing either party, the investigator will provide each party with copy of this Grievance Procedure and written notice of the allegations potentially constituting sexual harassment. 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 this Grievance Procedure. The investigator must send to each party and the party's advisor, if any, the evidence gathered during the investigation for their inspection and review in an electronic format or hard copy. After receiving the evidence, the parties will have ten (10) calendar days to submit a written response.

After the parties have had an opportunity to respond to the evidence, the investigator will finalize an investigation report that fairly summarizes relevant evidence, including evidence not considered ten (10) calendar days prior to the hearing or other time of determination regarding responsibility. The investigator will send to each party and the party's advisor, if any, the investigation report in an electronic format or hard copy, for their review and written response, which will also be provided to the Hearing Panel.

After the conclusion of ten (10) calendar days, the matter will be referred to a panel of three (3) Hearing Officers for a live hearing. The Title IX Coordinator or designee will assist in scheduling the live hearing.

B. Live Hearing

Prior to their assignment to a particular case, each of the three (3) Hearing Panelists will have received all relevant training and have been properly screened to ensure that they do harbor any bias or conflict of interest related to the parties and/or witnesses involved or the case in general.

At the live hearing, the panelists must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up inquiries, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by the party personally. Before a Complainant, Respondent, or third-party witness answers a cross-examination question or other inquiry, the Chair of the Hearing Panel must first determine whether the question is relevant and explain any decision to exclude the question as not relevant.

Questions and evidence about the Complainant's sexual pre-disposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior 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 the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. The panelists may not draw an inference about the determination regarding responsibility based solely on a party's own or witness's absence from the live hearing or refusal to participate in cross-examination.

Neither the panelists 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.

At the request of either party, the University will provide for the live hearing to occur virtually with technology enabling the panelists 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 the investigative process for their reference. 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 such recording will be made available to both parties to review upon request and under the supervision of the Title IX Coordinator. The parties may not obtain a copy of the recording. The recordings will be maintained for seven (7) years following the final disposition of the case.

After the live hearing, the panelists will prepare a written decision, which they will provide to the parties simultaneously within seven (7) business days after conclusion of the live hearing. The written decision 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 Non-Discrimination and Harassment Policy to the facts; and a statement of, and rationale for, the result of each allegation. The results will include, a determination regarding responsibility; and disciplinary sanctions the University imposes on the Respondent, and whether remedies designed to restore and preserve equal access to the University's education program or activity will be provided to the Complainant. For employee-related matters, the Hearing Panelists will share the draft of the hearing decision with the relevant administrators or supervisors, and consult with them as to the applicable

disciplinary sanctions, if any⁴. The hearing decision letter, including disciplinary sanctions, will be provided to the parties. The hearing decision letter will also include procedures and permissible bases for appeal of the Hearing Panelists' determination.

The panelists' 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 evidence that was not considered. Determinations regarding credibility may not be based on a person's status as a Complainant, Respondent, or witness.

C. Sanctions

The following factors will be considered by the hearing panelists when determining the appropriate sanction(s):

- Whether or not the sexual misconduct was perpetrated with a weapon or had other aggravating considerations;
- The impact of the conduct on the Complainant;
- Prior disciplinary history, including current sanction status, if any;
- The impact of the conduct on the University community, and the need for any sanctions and remedies to eliminate, prevent, or address the existence of any hostile environment cause in the University community or to maintain a safe and respectful environment conducive to learning, working, and living; and
- Any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate resolution in this case.

Disciplinary sanctions that the hearing panelists may determine for employees may include, but are not limited to: placing a letter of discipline in the employee's personnel file, transfer to another division, department, or work location at the University; disciplinary suspension; or termination from employment.

Disciplinary sanctions that the hearing panelists may determine for students may include, but are not limited to: exclusion from participation in specified University programs or activities or other loss of privilege, University Warning, Housing Probation, Removal from Housing, University Probation, University Suspension, or University Dismissal.

D. Remedies

Remedies that the panelists may impose 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 supportive measures for a specified period of time, or imposition of additional supportive measures; educational training for one or both 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.

⁴ Additional information about employee discipline may be found in the collective bargaining agreement applicable to the Respondent's employment, if any. Nothing in this Grievance Procedure shall preclude the University from imposing discipline for conduct that is not subject to this Grievance Procedure.

X. Appeal

Both parties have the right to appeal the hearing panelists' determination within five (5) calendar days of receiving the written decision. The parties can appeal the panelists' determination based on the following:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination was made, and that could affect the outcome of the matter; or
- The Title IX Coordinator, Investigator(s), Hearing Officer(s), or Appeal 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, within five (5) calendar days of the determination to the Title IX Coordinator⁵. The Title IX Coordinator will assign the appeal to a trained Appeal Officer who will then review the matter and render a determination. The Appeal Officer must provide both parties with a copy of the appeal. The party who did not file the appeal will then have five (5) calendar days to submit any written responses to the appeal. The Appeal Officer will issue a written decision, including the rationale for their findings on appeal to both parties simultaneously. The decision of the Appeal Officer is final.

XI. Sources of Assistance, Counseling, and Support

Supportive measures are available to UMass Dartmouth community members who have experienced sexual harassment, regardless of whether they report the incident or file a formal Title IX complaint. Supportive measures are also available to the Respondent.

Below are on-campus and off-campus resources which may be available to respond and assist. Inclusion in this list is not an endorsement. This information is subject to change.

ON CAMPUS RESOURCES:

FOR STUDENTS

Office of Diversity, Equity and Inclusion

Foster Administration Building, Suite 307

www.umassd.edu/diversity

508-999-8802

Center for Women, Gender & Sexuality (Confidential)

Campus Center, Suite 207

www.umassd.edu/cwgs/

508-910-6567

⁵ If the grounds for appeal include a conflict of interest or bias allegation levied against the Title IX Coordinator, the appeal may be submitted to the Vice Chancellor for Human Resources or Vice Chancellor for Student Affairs.

University Counseling Center (Confidential)

Auditorium Annex

www.umassd.edu/counseling/

508-999-8650

Office of Student Affairs

Campus Center, Suite 221

www.umassd.edu/studentaffairs/

508-910-6402

Health Services (Confidential)

Health Services Modular Building

www.umassd.edu/studentaffairs/health/

508-999-8982

Housing and Residential Education

Oak Glen Hall, First Floor

<http://www.umassd.edu/housing/>

508-999-8140

Center for Religious and Spiritual Life (Confidential)

Campus Center, Suite 221

<https://www.umassd.edu/studentaffairs/departments/center-for-religious-and-spiritual-life/>

508-999-9153

FOR EMPLOYEES

ComPsych Guidance Resources

Employee Assistance Program (24/7)

<https://www.umassd.edu/hr/employee-resources/benefits/employee-assistance-program/>

www.guidanceresources.com (enter Web ID: UMASS)

844-393-4983

FOR ALL COMMUNITY MEMBERS

University Police Department

Power Plant Building

www.umassd.edu/university-police/about/contact

Emergency: 508-999-9191

Business Line: 508-999-8107

OFF CAMPUS RESOURCES:

The Women's Center

Office: 508-996-3343

24-Hour Hotline: 508-999-6636 (99WOMEN)

www.thewomenscentersc.com

174 Union Street, 4th Floor (entrance on Spring Street)

New Bedford, MA 02740

Fall River Office

209 Bedford Street

Fall River, MA 02720

All services are free and confidential.

- Professionally trained volunteers provide immediate crisis intervention to victims of domestic/relationship violence
- Emergency shelter. A 90-day confidential shelter for women who have been battered (and their children).
- A 5-day safe home program is also available. Safe homes are individual sites in private homes that offer short-term safety (up to 5 days) to women, children, and gay men who are fleeing domestic/relationship violence.
- Court Advocacy Program. Accompaniment to court to file restraining orders (209A) and/or criminal charges. Medical, legal, housing, and other social program advocacy information and referral services.

SANE (Sexual Assault Nurse Examiner)

A Sexual Assault Nurse Examiner (SANE) exam can be done to collect any evidence and is free of charge. SANE/Sexual Assault Nurse Examiner sites in the area:

St. Luke's Hospital

508-997-1515

101 Page Street

New Bedford, MA 02740

www.southcoast.org/stlukes

Charlton Memorial Hospital

508-679-3131

363 Highland Avenue

Fall River, MA 02720

www.southcoast.org/charlton

During the SANE/Sexual Assault Nurse Examiner exam, a **rape crisis counselor** from the New Bedford's Women's Center can be available to support you.

Jane Doe, Inc., The Massachusetts Coalition Against Sexual Assault and Domestic Violence

www.janedoe.org

Jane Doe, Inc., The Massachusetts Coalition Against Sexual Assault and Domestic Violence, brings together organizations and people committed to ending sexual assault and domestic violence. Jane Doe, Inc., also operates SafeLink.

SafeLink: 877-785-2020

SafeLink is a 24-hour, multi-lingual hotline for programs in Massachusetts. An advocate can talk with you about your needs and help you identify shelters, programs, and other resources. They can connect you to services for both domestic/relationship violence and sexual assault.

Greater New Bedford Community Health Center

874 Purchase Street

New Bedford, MA 02740

<http://www.gnbchc.org>

Main Phone: 508-992-6553

Dental Appointments Only: 508-984-7031

Women's Health: 508-342-4400

TTY: 508-994-2478

Fax: 508-997-2498

(for medical information)

FAX: 508-992-2023

(for all other information)

HOURS OF OPERATION:

Adult Medicine

Monday thru Friday: 8:00 A.M. – 5:30 P.M.

Adult Urgent Care

Monday thru Friday: 7:00 A.M. – 7:00 P.M.

Saturday: 8:00 A.M. – 4:30 P.M.

Sunday: 8:00 A.M. – 2:00 P.M.

24-hour/7-day on-call service. After hours, call 508-992-6553

Gay Men's Domestic Violence Project

Office: 617-354-6056

Crisis Line: 1-800-832-1901

<http://nationaltoolkit.csw.fsu.edu/resource/gay-mens-domestic-violence-projects-24-hour-hotline-1-800-832-1901/>

The Gay Men's Domestic Violence Program offers shelter, guidance, and resources to gay, bisexual, and transgender men in crisis to remove them from violent situations and relationships