

UNIVERSITY OF MASSACHUSETTS DARTMOUTH
Title IX Grievance Procedure
August 1, 2024

Introduction and Scope

The Grievance Procedure set forth in this policy applies to allegations of sex-based harassment under Title IX that occurred on or after August 1, 2024. Prior policies will apply for allegations that occurred before August 1, 2024.

The University of Massachusetts Dartmouth (“UMass Dartmouth” or “University”) prohibits sex discrimination, including sex-based harassment, as defined by Title IX of the Education Amendments of 1972 (“Title IX”), as amended in 2024 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 individuals who are authorized to conduct business with and/or perform other services on behalf of UMass Dartmouth are not subject to such conduct, as defined by the above-mentioned regulations.

This Grievance Procedure applies to complaints for sex-based harassment and provides for the prompt and equitable resolution of such complaints in compliance with Title IX and Massachusetts law. UMass Dartmouth also prohibits other forms of discrimination (including sex discrimination that does not involve sex-based harassment) and harassment based on protected class status as required by federal, state, and local law. Procedures for addressing these forms of discrimination and harassment may be found in the Code of Student Conduct, UMass Dartmouth’s Equal Opportunity and Anti-Harassment Complaint Procedure, or other University policies as applicable.

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 be a friend, colleague, parent, attorney, or anyone whom the party wishes. 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.

Complainant means an individual who is alleged to be the victim of conduct that could constitute sex-based harassment and who has submitted a complaint, either orally or in writing, to the Title IX Coordinator. At the time of the alleged act of misconduct, the Complainant must be an employee, applicant for employment or admission, an individual participating in or attempting to participate in an educational program or activity at this institution, or a volunteer.

Complaint means an oral or written communication to the University that can be objectively understood by a reasonable person as a request for the University to investigate and render a determination about alleged sex-based harassment under this Grievance Procedure.

Confidential Employee means an employee who, because of their position, *may not* reveal an individual's identity or other information without written permission from the disclosing party, even to the Title IX Coordinator or designee. The following categories of employees are considered confidential employees¹:

- 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.

A confidential employee is required to explain to the individual disclosing sex-based harassment how to contact the Title IX Coordinator and how to make a complaint of sexual misconduct. Additionally, the confidential employee is required to explain that the Title IX Coordinator may be able to offer and coordinate supportive measures as well as initiate an informal resolution process or an investigation under this Grievance Procedure.

Confidential Resource Provider means an employee or other individual designated to provide information on reporting options of sex discrimination 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 law enforcement agencies. Upon receiving information that could reasonably be determined to constitute sex discrimination, Confidential Resource Providers are required to provide the reporting party with the Title IX Coordinator's name and contact information. If requested, 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.

Consent means clear, knowing, and voluntary words or actions that give permission for specific sexual activity. Consent is active, not passive. Consent must be sought by the person or persons seeking to engage in a particular sexual activity and must be given by the other person(s) involved. Silence, in and of itself, cannot be interpreted as consent. Consent must be sought verbally and can be given by words or actions, as long as those words and 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

¹ For purposes of Title IX, an employee's confidential status is only with respect to information the employee receives while functioning within the scope of their duties to which privilege or confidentiality applies.

age of consent is 16. Consent cannot be given when a person is incapacitated by alcohol or another drug or if a person has a mental or intellectual disability.

Dating Violence: See Sex-Based Harassment.

Domestic Violence: See Sex-Based Harassment.

Incapacitation means the physical and/or mental inability, whether temporary or permanent, of an individual to make rational, reasonable decisions or judgments regarding one's well-being or welfare. States of incapacitation include, but are not limited to, unconsciousness, sleep, and blackouts. Incapacitation may result from the voluntary or involuntary consumption of alcohol and/or other drugs. Where alcohol or other substances are involved, incapacitation is determined by how the substance impacts a person's decision-making capacity, awareness of consequences, and ability to make informed judgments. For purposes of this Grievance Procedure, a person is **NOT** incapacitated merely because the person has been drinking or using drugs. The question of incapacitation is determined on a case-by-case basis using both objective and subjective standards. In evaluating whether a person was incapacitated for purposes of evaluating effective consent, the University will consider: (1) whether the person initiating the sexual activity knew the other person was incapacitated; and if not (2) whether a reasonable person in the same situation would have known that the other person was incapacitated; and (3) whether the person initiating the sexual activity played a role in creating the circumstances of incapacitation.

Relevant means related to the allegations of sex-based harassment under investigation as part of this Grievance Procedure. Questions are relevant when they seek evidence that may aid in showing whether the alleged sexual misconduct occurred, and evidence is relevant when it may aid a decision-maker in determining whether the alleged sex misconduct occurred.

Respondent means the individual who has been alleged to have engaged in conduct that would constitute sex-based harassment, as defined by Title IX. For the purpose of this Grievance Procedure, the Respondent must be a registered student at the time of the incident.

Responsible Employee is a non-confidential employee who, because of their position, must notify the Title IX Coordinator, or designee, when the employee has information about conduct that reasonably may constitute sex discrimination; and provide the contact information of the Title IX Coordinator and information about how to file a complaint.

Retaliation refers to intimidation, threats, coercion, or unlawful discrimination by a student, employee or other person authorized by the institution to provide aid, benefit, or service under the University's education program or activity, for the purpose of interfering with any right or privilege secured under the law [Title IX, Title VII of the Civil Rights Act of 1964, as amended, Massachusetts anti-discrimination laws, and other laws] or because the person has reported information, made a complaint, testified, assisted or participated, or refused to participate in any manner in an investigation or grievance proceeding, or hearing, or to intervene to prevent a violation of this policy.

Sex-Based Harassment is harassment on the basis of sex which includes the following:

- (a) Quid Pro Quo Harassment: An employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the institution's education program

or activity explicitly or impliedly conditioning the provision of such aid, benefit, or service on a person's participation in unwelcome sexual conduct

(b) *Hostile Environment Harassment*: Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the institution's education or activity. Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following.

1. The degree to which the conduct affected the complainant's ability to access the institution's education program or activity.
2. The type, frequency, and duration of the conduct.
3. The parties' ages, roles within the institution's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct
4. The location of the conduct and the context in which the conduct occurred; and
5. Other sex-based harassment in the University's education program or activity

Sex-Based Harassment also includes the following violations:

- **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.
- **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:
 - **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

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>

the consent of the victim. This offense includes the rape of both males and females and regardless of the age of the victim. If the victim consented, the offender did not force or threaten the victim, and the victim was under the statutory age of consent, defined as statutory rape.

- **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
- **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for their 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.

Sex Discrimination as defined by Title IX means discrimination based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Sex discrimination also includes instances of sex-based harassment. (**NOTE:** Please see the Equal Opportunity and Anti-Harassment Complaint Procedure to address allegations of sex discrimination as defined above).

Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonable available, and without fee or charge to the Complainant or the Respondent before or after the filing of a complaint or where no complaint has been filed.

II. Jurisdiction

This Grievance Procedure applies to conduct that occurs both under the University’s education program or activity and in the United States, including, but not limited to, conduct that occurs in any building owned or controlled by a student organization officially recognized by the University and conduct that is subject to the institution’s disciplinary authority.

NOTE: The University has an obligation to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside the University’s education program or activity or outside the United States.

III. Filing a Complaint of Sex Discrimination, including Sex-Based Harassment

Alleged Complainants who are participating in or attempting to participate in an education program or activity at the University may file a complaint with the Title IX Coordinator. Complaints may be submitted either orally or writing. Complaints may be submitted to the Title IX Coordinator in person, by mail, by e-mail, or by use of the following online reporting form: https://cm.maxient.com/reportingform.php?UMassDartmouth&layout_id=30.

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.

When the Title IX Coordinator receives a report alleging sex-based harassment in which the Respondent is a student, the Title IX Coordinator will contact the alleged Complainant to offer supportive measures, review the allegations as well as this Grievance Procedure and confirm with the Complainant what is being alleged and whether the Complainant wants the institution to conduct an investigation. After consultation with the Title IX Coordinator, the Complainant will be invited to submit the complaint in writing if they have not already done so. If the Complainant wishes to file a complaint orally, the Title IX Coordinator will confirm the conversation with the Complainant in writing for the record.

To the extent possible, written reports should include the conduct that forms the basis for the allegations of sex discrimination, including sex-based harassment, the identity of the Respondent, if known, and the date and location of the alleged conduct, if known. (**NOTE:** If the person targeted by an alleged incident of sex-based harassment was under the influence of alcohol or drugs and in violation of University policy, including the Code of Student Conduct, at the time of the incident or at the time the initial report of sex-based harassment was filed, they will not be charged with an alcohol or drug violation (unless involving distribution) through the University's student conduct process).

Complaints may also be filed by the Title IX Coordinator as specified in the Title IX regulations. If the Title IX Coordinator determines that the conduct as alleged presents **an imminent and serious threat** to the health or safety of the Complainant or other person, or that the conduct as alleged prevents the institution from ensuring equal access on the basis of sex, the Title IX Coordinator may initiate a complaint. In circumstances where the Title IX Coordinator files a complaint, prior to doing so, the Title IX Coordinator or designee will notify the Complainant and appropriately address any reasonable concerns about safety.

For information about how to file a complaint or to learn more about this Grievance Procedure, please contact the Title IX Coordinator or a Deputy Title IX Coordinator.

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) 999-8192
E-mail: dgomes3@umassd.edu

Upon review of the specific allegations as noted in the complaint, the Title IX Coordinator will determine if the complaint meets the definition of sex-based harassment, as specified in the Title IX regulations. If the complaint meets the definition and the Respondent is a student, the Title IX Coordinator will initiate this Grievance Procedure. Upon receipt of a 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 sex discrimination, including sex-based harassment, as defined in §106.2 of the Title IX regulations, 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 until a determination is made, and that prior to such determination, parties will have an equal opportunity to present relevant evidence to a trained, impartial investigator;
- 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. (**NOTE:** If the University has reasonable concerns for the safety of any person as a result of providing this notice, the University may reasonably delay providing written notice of the allegations in order to address the safety concern appropriately).

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

- Any 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. Alleged Complainants may decline to file a report with law enforcement or with the Title IX Coordinator. Our 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 complaint with the University, they have the right to withdraw their complaint in accordance with 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.

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
1 Ashburton Place, Suite 601
Boston, MA 02108
Telephone: (617) 994-6000
FAX: (617) 994-6024

<https://www.mass.gov/orgs/massachusetts-commission-against-discrimination/>

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 Diversity, Equity & Inclusion. 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.

Dismissal of a Complaint

The University **MAY** dismiss a complaint when:

- The institution is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in the institution's program or activity;
- The complainant voluntarily withdraws any or all of the allegations in the complaint and the Title IX Coordinator declines to initiate a complaint, and the institution determines that, without the withdrawn allegations, the conduct that remains would not constitute discrimination even if proven; or
- The institution determines the conduct alleged in the complaint would not constitute sex discrimination, including sex-based harassment.

When a complaint is dismissed, the Title IX Coordinator must provide the parties with written notice of the dismissal, including the rationale, simultaneously, except if the dismissal occurs before the Respondent has been notified of the allegations and obtain the Complainant's voluntary withdrawal of the complaints or allegations. Both parties will have a right to appeal the dismissal in accordance with the appeal procedure as outlined Section X of this Grievance Procedure.

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

IV. Reporting Requirements for Responsible Employees

If an individual is classified as a Responsible Employee, they are required to notify the Title IX Coordinator, or designee, when they have information about conduct that reasonably may constitute sex discrimination, including sex-based harassment. The individual must also be prepared to provide the contact information of the Title IX Coordinator and information about how to file a complaint to a Complainant or other interested party.

Responsible Employees should report all relevant details 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) to the Title IX Coordinator. Responsible Employees must make these reports even if the reporting party requests confidentiality, and regardless of whether a police report has been filed. 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.

Responsible Employees cannot guarantee confidentiality. The University has a responsibility to respond to 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 sex discrimination, 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 as well as 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 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 the 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. Because the advisor will review personally identifiable information from the Complainant's and Respondent's education records, the parties may need to 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.

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 complaint, both parties will receive copies of this Grievance Procedure, the allegations potentially constituting sex-based harassment, and a list of possible supportive measures. Each party will be provided with the investigation report and supporting documents and be afforded ten (10) calendar days to respond in writing.

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 Equal Opportunity and Anti-Harassment Complaint 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 University investigators and decision-makers involved in the Grievance Procedure will conduct a neutral review of the 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. 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 third-party 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 or its officials or peer retaliation of a student Complainant, Respondent, or third-party witness involved in this process.

Right to file a criminal report: Anyone who may have been subjected to sex discrimination, including sex-based 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 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 IX 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 preserve evidence; 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 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.

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.

VI. Supportive Measures

The Title IX Coordinator, may at any time, coordinate the implementation of supportive measures for either a Complainant or Respondent. 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 sex discrimination, including sex-based 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;
- Leaves of absences;
- Assistance notifying law enforcement of alleged sexual harassment; and
- Assistance in seeking a court-issued protective order.

Upon learning of an incident of sex discrimination, including sex-based harassment, the Title IX Coordinator shall contact the Complainant to discuss the availability of supportive measures as well as this Grievance Procedure. A party may seek to modify or terminate supportive measures at any time by contacting the Title IX Coordinator. The Title IX Coordinator will designate an impartial administrator to review the request.

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 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

Following an individualized safety and risk analysis, a Respondent may be removed from the University or a University program or activity on an emergency basis when the University has determined that an imminent and serious threat to the health or safety of the Complainant or any student, employee, or other person arising from the allegations of sex discrimination, including sex-based harassment, justifies removal.

The Respondent will be given a written description of the events and rationale justifying the emergency removal. Additionally, the University will provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

VII. Informal Resolution

Depending upon the facts and circumstances, the University of Massachusetts Dartmouth offers an informal resolution process to address allegations of sex-based harassment. The informal resolution process may be initiated at any time before determining whether sex-based harassment occurred, including before an investigation commences, as well as during the course of the investigation.

In order to expedite the informal resolution process, the University must obtain the parties' voluntary consent and must not require waiver of the right to an investigation and determination of a complaint as a condition of enrollment or continuing enrollment, or employment or continuing employment, or exercise of any other right. The institution must also provide notice to the parties that describes the allegation and the requirements of the informal resolution process.

The University will not offer informal resolution in cases involving allegations that a University employee engaged in sex-based harassment of a student. (NOTE: Please refer to the University's Equal Opportunity and Anti-Harassment Complaint Procedure for additional information).

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 sex discrimination complaints, including sex-based harassment, and who does not have a conflict of interest or bias toward either of the parties or their positions as either a Complainant or Respondent. The facilitator will attempt to aid the parties to find a mutually acceptable resolution. The facilitator will communicate with each party and their advisor separately to solicit the terms of an agreement that is acceptable to each. The facilitator will share the terms submitted by each party with the other party for review and response. If the parties reach an agreement that is acceptable to both, the facilitator will share the terms of the agreement with the Title IX Coordinator for their review.

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 agreeing to a resolution, either party has the right to withdraw from the informal resolution process or the Title IX Coordinator, at their discretion, may remand the complaint back to the Grievance Procedure in which the matter will proceed to investigation and/or a hearing.

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 complaint will be deemed resolved. In signing the informal resolution agreement, both parties agree to waive their right to a hearing and to an appeal of the hearing decision. 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.

If a party breaches the informal resolution agreement or if the University has other compelling reasons, the University may void the informal resolution agreement and initiate or resume the grievance procedure, as long as the institution exercises its discretion in a manner that is equitable to the parties.

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.

VIII. Grievance Procedure for Sex-Based Harassment Where the Respondent is a Student

The below Grievance Procedure applies where allegations reported fall under the definition of sex-based harassment as defined in Section I and where the Complainant is either an employee or student and the Respondent is a student. A separate grievance procedure applies to claims of sex discrimination, other than sex-based harassment, where both parties are employees or when the Complainant is an employee and the Respondent is a student. Please see the Equal Opportunity and Anti-Harassment Complaint Procedure at <https://www.umassd.edu/media/umassdartmouth/eeo/forms/Equal.Oppty.Anti-Harassment.Complaint.Procedure.Jan.2024.pdf>

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 sex discrimination, including sex-based harassment, as defined in this Grievance Procedure. A 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 complaint or any allegations; or if specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the complaint or allegations therein. If the Respondent withdraws or is not participating in a University's educational program or activity, the case will proceed in accordance with this Grievance Procedure. When a complaint is dismissed, referrals to other campus resources will be provided as appropriate.

The investigator will conduct a thorough and fair investigation of 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 this Grievance Procedure, and written notice of the allegations potentially constituting sex-based 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 shall send to each party and the party's advisor, if any, the investigation report and supporting documentation which was 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. The investigator will include in the investigation report a recommendation of a finding of "Responsible" or "Not Responsible" for violation of University policy based on the preponderance of the evidence (or more likely than not) standard as well as a recommendation of any imposition of sanctions (if appropriate).

After the parties have had an opportunity to respond to the evidence, the investigator, taking into consideration the comments received by the respective parties, will finalize the investigation report which fairly summarizes the relevant evidence, including evidence not considered, and distribute the investigation report to each party and the parties' advisor. Upon distribution of the final investigation report, the Office of Diversity, Equity & Inclusion ("ODEI") representative will invite the parties to submit proposed questions that they would like presented to the opposing party to answer at the live hearing. Each party will have five (5) calendar days to provide the proposed questions to the ODEI representative. The ODEI representative will forward the questions to the Hearing Panel who, in turn, will render a determination as to the relevance and admissibility of the proposed questions. Upon completion of this review, the Hearing Panel, through the ODEI, will notify the parties of which questions are deemed acceptable for 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 not harbor any bias or conflict of interest related to or the parties and/or witnesses involved or the case in general.

The University will provide for a live hearing to occur virtually with technology enabling the panelists and parties to simultaneously see and hear the party or third-party 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, including a script for the 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 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.

At the live hearing, each party, at their discretion, will be permitted to provide an opening statement to the Hearing Panel. The Hearing Panel shall proceed with questioning of the parties, and pose questions submitted in advance of the hearing as presented by each party to the opposing party as well as any questions deemed relevant by the Hearing Panel.

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 answer questions as posed by the hearing panel.

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.

Following the conclusion of the questioning phase of the live hearing, each party, at their discretion, will be permitted to provide a closing statement.

After the live hearing, the Hearing Panel will prepare a written decision, which shall include a determination of Responsible or Not Responsible based on the More Likely Than Not standard, with an articulated rationale behind the decision, as well as sanctions imposed against the Respondent if a finding of responsible is rendered.

The Hearing Panel's written determination shall be transmitted to the Title IX Coordinator, who, in turn, will provide the parties with the Hearing Panel's decision in writing within five (5) business days following the conclusion of the live hearing. The written findings provided by the Title IX Coordinator shall include the following: the identification of the allegations potentially constituting sex discrimination, including sex-based harassment; a description of the procedural steps taken from the receipt of the complaint through the determination; the findings of fact supporting the determination; and a statement of, and rationale for, the result of each allegation. The results will also 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. The final determination, including disciplinary sanctions, will be provided to the parties. The final determination will also include procedures and permissible bases for appeal of the Hearing Panel's determination.

The Hearing Panel's determination 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 Panel when determining the appropriate sanction(s):

- Whether or not the act of 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 Panel 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, housing probation, removal from University housing, University probation, suspension from the University, or dismissal from the University.

D. Remedies

Remedies that the Hearing Panel 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 sex discrimination awareness and prevention in specified areas of the University.

IX. Appeal

Both parties have the right to appeal the Hearing Panel's determination within five (5) business days of receiving the written decision. The parties can appeal the Hearing Panel's 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), or Hearing Panelist(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) business days of the determination to the Title IX Coordinator⁴. The Title IX Coordinator must provide both parties with a copy of the appeal. The Title IX Coordinator will assign the appeal to a trained Appeal Officer who will then review the matter and render a determination. The party who did not file the appeal will then have five (5) business days to submit any written responses to the appeal. The Appeal Officer will transmit their written determination to the Title IX Coordinator who, in turn, will issue a written decision, including the rationale for their findings on appeal to both parties simultaneously. The appeal determination decision is final.

X. Sources of Assistance, Counseling, and Support

Supportive measures are available to UMass Dartmouth community members who have experienced sexual misconduct, regardless of whether they report the incident or file a written or oral 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

Center for Women, Gender & Sexuality (Confidential)

Campus Center, Suite 207

www.umassd.edu/cwgs/

508-910-6567

University Counseling Center (Confidential)

Auditorium Annex

www.umassd.edu/counseling/

508-999-8650

Division of Student Affairs

Campus Center, Suite 221

www.umassd.edu/studentaffairs/

508-910-6402

Health Services Office (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

⁴ 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 Student Affairs for parties who are students.

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 (Main Office)

Office: 508-996-3343

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

www.thewomenscentersc.com

174 Union Street, 4th Floor

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

The Network/La Red

Office: 617-742-4911

24-hour Hotline: 1-800-832-1901

<https://www.tnlr.org/en/>

The Network/La Red is a survivor-led, social justice organization that works to end partner abuse in lesbian, gay, bisexual, transgender, and queer communities.