

UNIVERSITY OF MASSACHUSETTS LOWELL
Equal Opportunity Concerns / Complaint Procedure

Introduction and Scope

The University of Massachusetts Lowell (“the university”) is committed to fostering a safe, welcoming, and inclusive working and learning environment. At its most basic level, such a climate provides that no member of the university community, nor visitors such as vendors or contractors, be subject to discrimination. The university has issued the UMass Lowell Nondiscrimination Guidelines, (“Guidelines”) which are in accordance with University of Massachusetts policies, and state and federal laws. This Equal Opportunity Concerns/Complaint Procedure, (“Procedure”) describes the process the university uses, in accordance with the Nondiscrimination Guidelines, to review concerns or complaints of Unlawful Discrimination, Harassment based on any Protected Class, or Retaliation for participation in processes covered by this Procedure, (“Protected Class” and “Retaliation” are defined below). This includes Sexual Misconduct (see definitions below).

In May of 2020, the U.S. Department of Education published new regulations in Part 106 of title 34 of the Code of Federal Regulations, which define Sexual Harassment. Please review the Sexual Harassment Grievance Procedure to learn about the definition of Sexual Harassment, reporting requirements and review process for matters involving Sexual Harassment.¹

This Procedure does **not** govern the process for Sexual Harassment as defined in the May 2020 US Department of Education new regulations. This Procedure governs the process for Sexual Misconduct, as defined below. If the concern or complaint involves both Sexual Misconduct and Sexual Harassment based on the same incident, the Title IX Coordinator at their sole discretion may determine that the Sexual Harassment Grievance Procedure will be followed to review the concerns. If during an Equal Opportunity review, other concerns are reported or arise regarding potential violations of other university’s policies, protocols, or laws not covered by the Nondiscrimination Guidelines, those matters will be referred to appropriate university administrators for their review and determination of next steps.

These Procedures shall be conducted in accordance with applicable collective bargaining agreements of the University, UMass Lowell Guidelines, and University of Massachusetts Policies.

Administrators, faculty, and staff are expected to report possible discriminatory, hostile environment or other inappropriate behavior that could potentially be a violation of the university’s Nondiscrimination Guidelines, to the Office of Equal Opportunity and Outreach (“EEO”).²

¹ The University’s procedures relating to unwelcome sexual harassment and sexual misconduct are emailed annually to all members of the UMass Lowell community.

² Concerns or complaints regarding student violations are addressed according to the Student Conduct Code.

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I. Definitions

Advisor of choice is an individual who accompanies and supports the reporting and the responding parties, who may provide support but may not speak on behalf of the person or otherwise participate in or contribute to a meeting, grievance proceeding, or hearing. Advisors have additional responsibilities where the process is governed by the Sexual Harassment Grievance Procedures. Please see the Sexual Harassment Grievance Procedure, which defines the Advisor's role related to a formal(written) Title IX Sexual Harassment complaint.

Complainant: A student or employee who reports to the university of being subjected to or has information about an incident of a potential violation of the university's Nondiscrimination Guidelines.

Confidential Resource Provider means an employee or other individual designated by the university to provide information on: (1) reporting options and the effects of each option; (2) counseling services available on and off campus; (3) medical and health services available on and off campus; (4) available supportive measures; (5) disciplinary process of the university; and (6) the legal process carried out through local law enforcement agencies. Confidential Resource Provider services are available to assist parties in a Sexual Misconduct or Sexual Harassment matter. Their services are confidential unless otherwise required by state or federal law. If requested by the Complainant (Reporting Party) and/or Respondent of an alleged sexual harassment/sexual misconduct matter, the Confidential Resource Provider may coordinate with other members of the university's community, as needed, to arrange Supportive measures. The Confidential Resource Provider shall notify the parties 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. For additional information regarding supportive measures please see this EOO Complaint Procedure and the university's Sexual Harassment Grievance Procedure. Parties may access the services of the Confidential Resource Provider, even if a formal(written) complaint has not been filed. At UMass Lowell, the Confidential Resource Provider is Angelique Conto, Case Manager and Confidential Resource Provider, 978-934-6800, [Angelique Conto@uml.edu](mailto:Angelique.Conto@uml.edu), Counseling Services, 220 Pawtucket Street, Suite 300, Lowell, MA 01854.

Harassment, for the purposes of this definition Harassment does not include Sexual Harassment as defined in the Sexual Harassment Grievance Procedure. Harassment is conduct by a person or persons against another person or persons based upon their legally Protected Class(es) that adversely has the effect of:

- (i) unreasonably interfering with a person or person's employment, educational benefits, academic grades or opportunities, or participation in university programs or activities; or
- (ii) unreasonably interfering with a person or person's work or academic performance; or
- (iii) unreasonably creating an intimidating, hostile, or offensive working or academic environment.

Protected Classes: Groups of individuals afforded legal and university policy protection from discrimination on the basis of sex (including Sexual Misconduct; Sexual Harassment; and pregnancy, childbirth or related medical condition), race, color, age over 40, religion or creed, national or ethnic origin or ancestry, disability status, protected veteran status, gender identity or gender expression, sexual orientation, genetic information, natural or protective hairstyle, participation in a civil rights report or complaint proceeding (for retaliation claims), or any other characteristic protected by law.

Respondent: A student or employee named as responsible for an alleged incident of a potential violation of the university's Nondiscrimination Guidelines.

Retaliation: The interference through intimidation, threats, coercion, or unlawful discrimination, with an individual's right or privilege secured under Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1964, the Massachusetts anti-discrimination laws, or other related equal opportunity laws and the university's Nondiscrimination Guidelines and related procedures 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 Harassment under the Title IX regulations 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 effectively denies a person equal access to the university's education program or activity; or
- (iii) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a) (10), "domestic violence" as defined in 34 U.S.C. 1229(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a) (30), as amended. The definitions of these terms are listed separately in this section.

Sexual Misconduct is an incident of sexual violence, dating violence, domestic violence, gender-based violence, violence based on sexual orientation or gender identity or expression, sexual assault, sexual harassment, or stalking, as these terms are defined by M.G.L. Chapter 6 §§ 168D

and 168E, when such conduct is not defined as Sexual Harassment under Title IX³.

Unlawful discrimination is behavior that is directed at a specific person or persons that subjects them to treatment that adversely affects their employment, application for employment, education, admissions, university benefits, programs, or activities, because of their religion or religious belief, color, race, marital status, veteran or military status, age, sex (including Sexual Misconduct and Sexual Harassment, pregnancy, childbirth, or related conditions, such as lactation or the need to express breast milk for a nursing child, gender identity or expression, sexual orientation, national origin,⁴ ethnicity, disability, genetic information, natural or protective hairstyle, or any other legally Protected Class.

II. Contact information to report a concern or complaint, or for support services

A concern or complaint about Unlawful Discrimination, including but not limited to, Sexual Misconduct, Harassment, or Retaliation for any matter covered by this Procedure may be reported by contacting Equal Opportunity and Outreach at 978-934-3565. If the Respondent is a student, these concerns should be reported to Student Conduct, 978-934-2100, [University Crossing](#), 220 Pawtucket Street, Suite #200, Lowell MA 01854-5142. Individuals can also file a complaint online at <https://www.uml.edu/hr/equal/>.

Individuals who wish to file an anonymous complaint may do so by filing the online Report a Concern form online at: <https://www.uml.edu/HR/Equal/report.aspx> while not including any identifying information such as their name or contact information.

- **University of Massachusetts Lowell Title IX Coordinator:**
William Cummings, Director of Equal Opportunity & Outreach and Compliance
Phone: 978-934-3565
Email: William_Cummings@uml.edu

Individuals with disabilities or limited English proficiency may contact the Office of Equal Opportunity and Outreach at (978) 934-3565 if they need an accommodation or language services to access the complaint process.

Section VI below describes the process for filing a complaint. This involves filing the Report a Concern form online at: <https://www.uml.edu/HR/Equal/report.aspx> and providing identifying information such as name and contact information. Individuals must also meet with Equal Opportunity and Outreach, or with Student Conduct if the Respondent is a student.

³ This Equal Opportunity Concerns / Complaint Procedure applies to concerns defined as Sexual Misconduct but not Sexual Harassment. Concerns involving Sexual Harassment are reviewed pursuant to the UMass Lowell Sexual Harassment Grievance Procedure. The Sexual Harassment definition and Sexual Harassment Grievance Procedure may apply when, for example, the reported conduct happened on campus property, and the university has jurisdiction over both parties. Under the Sexual Harassment definition and Grievance Procedure, the following terms have different definitions: Sexual assault is defined in 20 U.S.C. 1092(f)(6)(A)(v), dating violence is defined in 34 U.S.C. 12291(a) (10), domestic violence is defined in 34 U.S.C. 1229(a)(8), and stalking is defined in 34 U.S.C. 12291(a) (30).

⁴ National origin protections include equal access to individuals of Limited English Proficiency.

Filing an equal opportunity complaint does not in any way waive or deprive an individual of the right to report an incident to campus, local, or state law enforcement or an external federal or state agency.⁵ Please see contact information below. Also, no individual who files a complaint or reports an incident of unlawful discrimination with UMass Lowell shall be required to also report it to law enforcement or any outside agency, unless they choose to do so.

UMass Lowell Police Department
University Crossing, Suite 170
220 Pawtucket Street
Lowell, MA 01854
Emergencies: 978-934-4911, Non-Emergencies: 978-934-2398 or Police@uml.edu
<https://www.uml.edu/Police>

City of Lowell Police Department
50 Arcand Drive
Lowell, MA 01852
Emergencies: 911, Non-Emergencies: (978) 937-3200
www.lowellma.gov/221/Police-Department

The United States Department of Education Office for Civil Rights
Boston Area Office
8th Floor
5 Post Office Square
Boston, MA 02109-3921
Voice phone: (617) 289-0111
Facsimile: (617) 289-0150

The United States Equal Employment Opportunity Commission
Boston Area Office
JFK Federal Building
15 New Sudbury Street, Room 475
Boston, MA 02203-0506
Voice phone: (800) 669-4000, TTY: (800) 669-6820

The Massachusetts Commission Against Discrimination
One Ashburton Place, Suite 601
Boston, MA 02108
Voice phone: (617) 994-6000, TTY: (617) 994-6196

Department of Energy programs: Any individual with a concern of unwelcome sexual behavior in connection with any program or activity receiving assistance from the Department of Energy may submit a complaint in writing to Field Civil Rights Officers located in the Department of Energy's field offices or to the Director, Office of Civil Rights and Diversity, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

⁵ Upon request, the UMass Lowell Police Department may assist students or employees in filing such a complaint or seeking a court protective order.

For information regarding the counseling, health, safety, and other support services available on and off campus please see www.uml.edu/Prevent/Resources. For academic support please contact Student Affairs at (978) 934-2100 or student_affairs@uml.edu.

For emergency assistance and/or medical treatment, the following are local options. Preserving evidence in sexual assault matters is critical and should be done promptly even if the person has not decided they want to file charges. Evidence is preserved for 15 years. You may obtain support from any of these providers without filing a concern or complaint. None will require you to do so.

UMass Lowell Police Department
University Crossing, Suite 170
220 Pawtucket Street
Lowell, MA 01854
Emergencies: 978-934-4911, Non-Emergencies: 978-934-2398 or Police@uml.edu
<https://www.uml.edu/Police>

City of Lowell Police Department
50 Arcand Drive
Lowell, MA 01852
Emergencies: 911, Non-Emergencies: (978) 937-3200
www.lowellma.gov/221/Police-Department

Lowell General Hospital (Main Campus)
SANE Certified Site⁶
295 Varnum Avenue
Lowell, MA 01854
(978) 937-6000
www.lowellgeneral.org

Lowell General Hospital (Saints Campus Emergency Room)
SANE Certified Site
1 Hospital Drive
Lowell, MA 01852
(978) 937-6000
www.lowellgeneral.org

Additional information and assistance may be available from the following sources: Employees may contact the [Employee Assistance Program](#); Students may contact the UMass Lowell Counseling Center, their Residence Life Staff, coach, or academic advisor.

III. Reporting guidelines for UMass Lowell administrators, faculty, and supervisors

⁶ For information about the preservation of evidence, please contact the Lowell General Hospital SANE.

All UMass Lowell administrators⁷, all faculty, and all supervisors have the responsibility to report all possible incidents of potential violations of the UMass Lowell's Nondiscrimination Guidelines including Unlawful Discrimination, Sexual Misconduct, Harassment, and/or Retaliation for participation in processes covered by this Procedure, to Equal Opportunity and Outreach (EOO).⁸ They must do so regardless of whether an individual wishes to file a complaint alleging a violation, and even if the concerned person requests confidentiality or anonymity, or requests that no action be taken.⁹ See the EOO contact information at the beginning of Section II. Individuals designated by the university as Officials with Authority shall report Sexual Harassment as described in the Sexual Harassment Grievance Procedure.

EOO and Director for EOO and Diversity and Inclusion will maintain the privacy of the concern to the extent possible while complying with the University's duty to investigate, consistent with state and federal law. The University will gather information in order to determine the scope of the concern and resolve the situation. While parties may request confidentiality, the University has a responsibility to provide a safe and nondiscriminatory environment for all members of the Campus Community. Confidentiality, therefore, cannot be guaranteed.

For this reason, only Confidential Resource Providers or others with a legal privilege to keep confidentiality such as counselors and healthcare providers, are exempt from reporting possible or known violations to the University or the Title IX Coordinator. Administrators, faculty, supervisors, and Officials with Authority cannot promise confidentiality to the individual from whom they learned the details of a possible violation. **Administrators, faculty, supervisors, and Officials with Authority are expected to report possible as well as known incidents to Equal Opportunity and Outreach.** Additionally, the administrators, faculty, and supervisors must take reasonable proactive steps to become aware of potential incidents.

Whether or not a university employee or student has mandatory reporting obligations, all members of the University community are encouraged to practice bystander intervention, which includes interrupting potential violations of the Equal Opportunity Guidelines when safe. In addition, all members of the university community are strongly encouraged to report any potential violations of these guidelines.

IV. Rights and expectations for the parties and witnesses

Rights

Reasonable Accommodations: Any party, witness, or other participant who wishes to file a complaint or who is involved in any process related to this procedure may request reasonable

⁷ Administrators include members of the University's Executive and Senior Cabinets.

⁸ For Sexual Harassment matters, only Officials with Authority are required to report any potential incidents of Sexual Harassment to the Title IX Coordinator. However, the University encourages all its employees to share any information they receive related to potential violations. For additional information, please review the Sexual Harassment Grievance Procedure.

⁹ Under the Sexual Harassment Grievance Procedure, a Complainant must choose to file a written complaint to initiate a review of their concerns.

accommodations based on a medical reason under the Americans with Disabilities Act, by contacting the ADA/Section 504 Coordinator, Office of Equal Opportunity and Diversity & Inclusion, 978-934-3565, equal_opportunity@uml.edu.

Advisors: The Complainant, the Responding Person, and witnesses are welcome to have an Advisor during their meetings with the Office of Equal Opportunity and Outreach. The Advisor may only act in an advisory capacity for the person and may not speak on behalf of the person or otherwise participate during any interviews, meetings, or hearings. During meetings, the person will have the opportunity to take a break and to confer with the Advisor.

Confidential Resource Providers: For Sexual Misconduct matters, Complainants and Respondents both have the right to confidential discussions with a Confidential Resource Provider to receive assistance and information, whether they choose to file a complaint.

Language Assistance: Any party, witness, or other participant with limited English proficiency may request language services at no cost to them.

Scheduling: Both the Complainant and the Responding Person will be provided with reasonable flexibility for scheduling meetings, while recognizing the need for as prompt a review as possible.

Supportive Measures: The university may choose to provide supportive measures at any point after learning of any equal opportunity concerns including those involving potential Sexual Harassment/Sexual Misconduct. Supportive measures may not be punitive in nature. The Director for Equal Opportunity & Outreach, Diversity & Inclusion at her discretion will determine whether supportive measures should be implemented. Please see Section V for more information.

Discipline for Related Violations: A student complainant or witness who participates in an investigation of an incident of sexual misconduct shall not be subject to a disciplinary sanction for a violation of the Student Code of Conduct related to that incident unless the University determines that the Complainant or witness's participation in the matter was not in good faith or that the violation of the Student Code of Conduct was egregious. An egregious violation includes, but is not limited to, conduct that places the health and safety of person(s) at risk.

Retaliation Protections: Retaliation against any person including the Complainant, Responding Person, witnesses or any other individual, based on their participation in an equal opportunity and /or civil rights-related report, complaint, informal resolution process, or investigation, is prohibited by the UMass Lowell Nondiscrimination Guidelines, the University of Massachusetts Non-Discrimination and Harassment Policy, and state and federal laws. UMass Lowell will take steps to prevent retaliation, and take strong responsive action if it occurs. A concern of retaliation should be immediately reported to Equal Opportunity and Outreach, or for concerns about students, to Student Conduct, which will promptly investigate it. This includes concerns of retaliatory actions taken by the university and its officials. Examples of behavior that may be perceived as retaliatory include but are not limited to attempts to learn of or to influence accounts made during the review, and unwarranted disciplinary actions.

Ascertaining Your Rights: Parties and witnesses may discuss the equal opportunity review to ascertain their rights regarding the matter. To protect the privacy of these individuals and the

integrity of the process to the extent possible, the University only shares information obtained during the review on a need-to-know basis.

The right to *file a criminal report about crime* and the right to *external civil or criminal processes* are described in Section II. The right to *privacy* is described in Section III. The right to a *neutral and unbiased review* and the description of *information provided to the parties and witnesses* are described in Section VIII.

Expectations

The Complainant, Responding Person and witnesses are obligated to not retaliate; to update the reviewer(s) if their contact information changes; to be truthful in presenting their own account; to provide supporting documentation or other evidence in support of their account within the timeframe provided by the Investigator; to notify the reviewer(s) if someone has attempted to improperly learn of or change their account with the purpose of disrupting the outcome of the review; and to notify the reviewer(s) if they believe they have faced retaliation as a result of their participation in the review.

Providing Information Known to be False: Knowingly providing false information regarding discrimination, harassment, sexual misconduct, or retaliation, is prohibited. Providing false information or unduly influencing witnesses is also prohibited. UMass Lowell reserves the right to discipline an individual who brings a false complaint of discrimination or provides false information. No complaint will be considered "false" solely because it cannot be corroborated.

V. Supportive measures

The university may choose to provide supportive measures at any point after learning of any equal opportunity or Sexual Misconduct concern. The provision by the university of supportive measures is separate from the university's review of the concerns and does not mean that the university has determined that any violation of the Guidelines has occurred. Supportive measures are not disciplinary actions or sanctions. The university may provide supportive measures even if a written complaint is not filed, and even if a concern did not occur on campus or related to the university's programs or activities. Such supportive measures may include changes to work locations, living and dining arrangements or locations, course schedules, assignments or tests, and extracurricular activities; temporary leave; transportation; reassignment to another supervisor or position; "no contact" directives issued by the university; assistance from the university's Police Department to obtain a court issued protective order and/or to receive assistance notifying law enforcement of an alleged incident of sexual misconduct; or other measures. If you obtained a court issued protective order, please notify, and send a copy of the order to the UMass Lowell Police Department.¹⁰

Generally, supportive measures are meant to be short-term and may continue throughout the grievance process up to and including appeal. Once in place, they will be reviewed to determine whether they should continue. If so, the Director of Equal Opportunity and Outreach, Diversity and

¹⁰ Please review the university's Sexual Harassment Grievance Procedure for information about supportive measures for matters involving Sexual Harassment as defined by the Title IX regulations.

Inclusion will work with appropriate University resources to provide continued assistance to the parties.

Supportive measures will be kept confidential to the extent possible. However, some employees may need to learn of the supportive measures in order to coordinate or provide them.

Some supportive measures require the cooperation of the other party, for example, “no contact” orders. When supportive measures are imposed which restrict or deny access, the individual receiving the measures will be given in writing a description of the restriction. If a person does not follow the directives of the Director for Equal Opportunity & Outreach, Diversity & Inclusion, and/or the supportive measures, this may lead to disciplinary action.

Emergency Removal

UMass Lowell may determine that the presence or participation of a party is creating an immediate threat to anyone’s physical health or safety. If so, the University may remove the party from university grounds and/or from participation in a university programs or activities. The University will provide the party with the type of emergency removal and the reasons for it. If the party being removed on an emergency basis believes that the reasons are not valid, or disagrees with the type of removal, they may provide their reasons for disagreement to the Director of Equal Opportunity and Outreach, Diversity and Inclusion, for her consideration. Her determination shall be final.

VI. Informal dispute resolution efforts

Parties involved in an EEO matter may request, in writing, to participate in informal resolution. EEO will determine whether informal resolution is appropriate and safe and whether it may be pursued. Both parties must agree to engage in the informal resolution process. Informal resolution is not available in cases in which an employee is alleged to have engaged in sexual misconduct affecting a student.

Any resolution of a complaint through the informal resolution process will address the concerns of the complainant and the responsibility of the University to address alleged violations of its policy, while also respecting the due process rights of the respondent.

If either party has reason to believe that the informal resolution agreement has not been followed, they should notify Equal Opportunity and Outreach in writing within 30 days of the alleged violation. EEO will review the concern and determine next steps.

Before a resolution is reached, the process will change to the formal process described in sections VII and VIII below if:

- either party decides to move to the formal process, at any time;
- EEO determines that the formal process should be followed, at any time; or
- an informal resolution has not been reached within 30 days, except for good cause.

VII. Filing an Equal Opportunity complaint

A Complainant is encouraged to file a complaint as soon as possible. A complaint must be reported to Equal Opportunity and Outreach within three hundred (300) calendar days of the Complainant's first knowledge of the alleged discriminatory act.

Following is the process to file a complaint on the basis of Harassment, Sexual Misconduct, Unlawful Discrimination or Retaliation for participation in processes covered by this Procedure (see definitions above).

1. An individual initiates the complaint process by submitting a written complaint to Equal Opportunity and Outreach, or, for complaints about a student, to Student Conduct. Contact information is provided below. The complaint may be submitted by email, in person, by mail, or by using the online [Report a Concern Form](#). The complaint must be filed in writing, including all known information relevant to the alleged violation, including the Complainant's name, student status or employee title, and contact information; the name of the person(s) alleged to have violated the policy, their student or employee status if known; the date(s), time(s), and location(s) of the alleged occurrence(s); the names and contact information for any witnesses of the alleged occurrence(s); a detailed description of the occurrence(s); a list of relevant supportive documentation; and a statement indicating whether the concern has already been reported to anyone else, and if so, to whom. ***Individuals with disabilities or limited English proficiency may contact the Office of Equal Opportunity and Outreach at (978) 934-3565 if they need an accommodation or language services to during the complaint process.***
2. Meet with Equal Opportunity and Outreach, or, if the Respondent is a student, the Office of Student Conduct.

Equal Opportunity and Outreach, 978-934-3565.

Student Conduct, 978-934-2100, is located at University Crossing, 220 Pawtucket Street, Suite #200, Lowell MA 01854-5142.

The Complainant must provide the supportive documentation as quickly as possible to the investigator(s). It must be provided before the investigator makes a determination.

If the report is made by someone who was not involved, the university will inform the party against whom the violation allegedly occurred and ask whether they wish to file a complaint. The university may review the concerns if it decides doing so is in the best interest of the UMass Lowell community.

The Complainant may indicate any sanction or remedy sought, if relevant. The university, not the person bringing the concern/complaint, determines sanctions and remedies.

As stated earlier in this Procedure, confidentiality cannot be guaranteed. Privacy will be kept to the extent possible while complying with the requirements of state and federal law.

VIII. Complaint review, determination, and possible next steps

Trained Investigators¹¹ conduct a neutral and unbiased review process for each complaint, giving consideration to the accounts and documentation provided by both the Complainant and the Respondent. They presume that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the process.¹² Investigators first consider the reported facts and may conduct preliminary interviews to determine whether the allegations, if true, could constitute a violation of the Nondiscrimination Guidelines. If it is possible that there was a violation, the procedure will proceed as follows. If not, the complaint will be closed with no further action, and the complainant will be notified.

For all matters under this Procedure, the investigator will provide the Respondent in writing, prior to the meeting, with the name of the person who has filed Equal Opportunity-related concerns regarding them. For a Sexual Misconduct concern, the investigator will also provide the Respondent, prior to meeting, with written notification of the alleged dates and locations of the alleged incidents, and the applicable policy statement that may relate to the concerns.

The Complainant and Respondent are each required to meet with the Investigator(s), separately. Both parties have the right to be accompanied by an Advisor of their choice. The parties will be given the opportunity to respond to the allegation(s), to provide names and contact information of witnesses, and to provide documentation in support of their accounts.

The investigation may include, among other things, interviewing the complainant, the respondent, and any witnesses; reviewing law enforcement investigation documents if applicable; reviewing relevant student or employment files (preserving confidentiality wherever necessary); and gathering and examining other relevant documents, social media, and evidence.¹³

For Sexual Harassment and Sexual Misconduct matters, the parties may suggest relevant questions for the Investigator to ask the other party and witnesses. There may be restrictions on evidence considered by the Investigator, such as, for example, evidence related to prior sexual activity, and character witnesses. All relevant documentation is kept as part of the Equal Opportunity and Outreach investigative file.

During the review by Equal Opportunity and Outreach, both parties will be provided with periodic

¹¹ The university's Title IX Coordinator, Deputy Coordinators, Investigators, and other employees involved in the disciplinary process participate annually in training related to Sexual Harassment, Sexual Misconduct, gender-based discrimination and harassment, and Title IX training. UMass Lowell police officers also receive appropriate training. Investigators receive trauma-informed investigation training. Such training serves to help protect the safety and rights of students and employees and to promote accountability. In addition, new employees and new students are expected to complete training in the prevention of and response to unwelcome sexual behavior, within 45 days of beginning to work, study, or live at the university.

¹² If the assigned Investigator has a conflict of interest, a different investigator will be assigned. If a party has a concern that the Director for Equal Opportunity and Outreach, Diversity and Inclusion, has a conflict of interest, they may share that concern with the Vice Chancellor for Finance and Operations.

¹³ Prior sexual activity and character witness accounts shall not be provided to the other party.

status updates. A copy of the UMass Lowell Nondiscrimination Guidelines, this Equal Opportunity Concerns / Complaint Procedure, a list of support resources, and a listing of rights will be provided to both parties and to witnesses. Equal Opportunity and Outreach will provide this information prior to its first meeting with each of these individuals.

For Sexual Misconduct matters, the Investigator will provide an opportunity for the Parties to review all the relevant evidence that is directly related to the allegations.¹⁴ They may provide a response about the evidence in writing within five (5) business days.

Determination and written outcome by Equal Opportunity and Outreach

After conducting a thorough and neutral review of all the evidence, the Investigator will determine whether conduct occurred in violation of the university's Nondiscrimination Guidelines. This determination is made based on the preponderance of the evidence, that is, whether it is more likely than not that such violation occurred.

For all matters the Investigator will provide a written outcome of the review to the Complainant and the Respondent.

Sanctions by the university

If the determination was that it is more likely than not that a violation of the university's guidelines has occurred, the matter will be referred to the appropriate administrator of the Respondent for the determination of next steps, in coordination with Human Resources. Sanctions are not determined by Equal Opportunity and Outreach. The university or appropriate administrator will take sanctions or disciplinary actions to end the prohibited behavior, prevent its recurrence, and address its effects promptly and effectively.

Sanctions shall be based upon the nature and severity of the offense as well as any record of prior sanction imposed on the Respondent. In general, sanctions may include, but are not limited to written warnings, letters of reprimand, participation in training or workshops, change in job duties including in supervisory responsibilities, reduction of regular and/or overtime hours, reduction in pay, transfer, demotion, removal from administrative or supervisory duties, leave without pay, suspension, termination, and barring from campus. For student sanctions, please refer to the Student Conduct Code.

If the university or a person in the Respondent's line of supervision decides to impose sanctions for an employee, that employee may have a letter placed in their personnel file. The disciplinary letter may include a statement of the Equal Opportunity determination and a description of the sanctions imposed by the university.

Each party will be notified of the sanctions which are directly related to themselves, or as otherwise required by law.

¹⁴ The investigator(s) determine what questions are relevant to ask, and whether any evidence presented is directly relevant.

Employees who are members of a collective bargaining unit should refer to the relevant collective bargaining agreement for further information about employee discipline.

Remedies by the university

Remedies for Complainant might include but are not limited to: campus escort, ensuring Complainant and Respondent are not required to interact at work or do not attend the same classes if possible; moving either or both parties to a different work schedule, work location, or residence hall; “no-contact” orders; change of reporting structure; counseling and/or medical services for students; academic or work/life support services; course withdrawal without penalty; and other remedies to assist with the completion of academics or work. Additional remedies may be enacted for the broader university population, including but not limited to policy review; and educational, awareness and prevention programs including anti-discrimination education.

Each party will be notified of the remedies which are directly related to themselves, or as otherwise required by law.

IX. Record retention

All materials relative to an informal resolution or formal investigation shall be confidential, except as necessary to carry out disciplinary process or as permitted under law and shall be maintained by EOO for a period of seven years for employees and for Student Conduct records. For employee personnel action sanctions, case summaries and final decisions shall be kept permanently. Records related to student sanctions shall be retained for 7 years after the student leaves the university, or 25 years from the date of expulsion.

October 13, 2022