EQUAL OPPORTUNITY,
DIVERSITY AND AFFIRMATIVE ACTION PLAN

BRIDGEWATER STATE UNIVERSITY

FITCHBURG STATE UNIVERSITY

FRAMINGHAM STATE UNIVERSITY

MASSACHUSETTS COLLEGE OF ART AND DESIGN

MASSACHUSETTS COLLEGE OF LIBERAL ARTS

MASSACHUSETTS MARITIME ACADEMY

SALEM STATE UNIVERSITY

WESTFIELD STATE UNIVERSITY

WORCESTER STATE UNIVERSITY

APPROVED BY THE BOARD OF HIGHER EDUCATION: SEPTEMBER 28, 2018
(updated effective August 14, 2020 to reflect Title IX Regulations)

Table of Contents

I. Introduction 1

II. Policy Statement of Non-Discrimination and Diversity 1

III. Scope and Duration 2

IV. Plan Definitions and Terms 4

V. Policy Against Discrimination, Discriminatory Harassment and Retaliation 9

VI. Sexual Violence Policy 13

VII. Policies For Reasonable Accommodations For Persons with Disabilities 46

VIII. Policy Against Discrimination in Employment Based on Pregnancy and Pregnancy-Related Conditions And Requirement to Provide Reasonable Accommodations 47

IX. Mandatory Child Abuse Reporting Policy 48

X. Contracting and Purchasing 48

XI. Monitoring and Goals 50

XII. Affirmative Action Hiring Procedures 50

XIII. Responsibility for the Implementation of The Equal Opportunity Diversity and Affirmative Action Plan and Related Programs, Policies and Procedures 51

XIV. Policy Awareness Procedures 51

XV. Conclusion 52

Appendix 1: Position Description - EO Officer 54

Appendix 2: Position Description - Title IX Coordinator 55

Appendix 3: Position Description - Equal Opportunity Investigator 57

Appendix 4: Investigation and Resolution Procedures 59

Appendix 5: Guidelines for Campus Policies Against Discrimination, Discriminatory Harassment and Retaliation 73

Appendix 6: Advisory Committee For Equal Opportunity, Diversity and Affirmative Action 75

Appendix 7: Title IX Sexual Harassment Policy 76

I. INTRODUCTION

Together, Bridgewater State University, Fitchburg State University, Framingham State University, Massachusetts College of Art and Design, Massachusetts College of Liberal Arts, Massachusetts Maritime Academy, Salem State University, Westfield State University and Worcester State University (collectively, "the Universities") have carefully developed the major elements of this Equal Opportunity, Diversity and Affirmative Action Plan with the understanding that a successful plan requires more than knowledge of the laws, regulations and current government requirements.

This Equal Opportunity, Diversity and Affirmative Action Plan ("the Plan") demands vision to fully comprehend what challenges the Universities face in preparing our students for their post-commencement lives. With this Plan, the Universities continue to take a step beyond and, both collectively and individually, commit themselves to the valuing of human dignity, and to the appreciation of the necessity of providing all members of the University community an experience that equips them to relate to all persons and groups in the increasingly global and diverse world in which we all live and work.

PURPOSES

Pursuant to M.G.L. Chapter 15A, the Commonwealth of Massachusetts' Board of Higher Education ("BHE") is responsible for the overall governance of the Universities. Together with the BHE, the Universities' Boards of Trustees maintain and promote a policy of non-discrimination on the basis of race, color, religion, national origin, age, disability, gender, sexual orientation, gender identity, gender expression, genetic information, marital or parental status, or veteran status. A primary purpose of this Plan is to inform the campuses of: (1) the Universities' prohibition of all forms of discrimination, discriminatory harassment, sexual violence, sexual and gender-based harassment, domestic violence, dating violence, stalking and retaliation; (2) the Universities' efforts to prevent such behaviors; and (3) the manner in which the Universities will respond to such behaviors, including the prompt, impartial, fair and thorough investigation and resolution of complaints.

Through this Plan, the Universities also seek to responsibly recognize and, when possible, resolve the effects of past societal discrimination and the impact that discrimination has had. To those ends, the State Universities commit to an ongoing examination of all policies and procedures to ensure that they do not operate to the detriment of any person on any discriminatory basis. Finally, the Universities commit to a pro-active affirmative action posture with respect to the recruitment, selection and promotion of students and employees.

II. POLICY STATEMENT OF NON-DISCRIMINATION AND DIVERSITY

The Universities are committed to a policy of non-discrimination, equal opportunity, diversity and affirmative action, and dedicated to providing educational, working and living environments that value the diverse backgrounds of all people.

The Universities do not discriminate in admission or access to, or treatment or employment in, its educational programs and activities on the basis of race, color, religion, national origin, age, disability, gender, sexual orientation, gender identity, gender expression, genetic information, marital or parental status, or veteran status. The Universities prohibit discrimination or discriminatory harassment on all of those bases. Such behaviors violate the Universities' Policy Against Discrimination, Discriminatory

Harassment and Retaliation, will not be tolerated, and may result in disciplinary action up to and including termination or expulsion.

It is also the Universities' policy to provide each student, employee, and other person having dealings with the institutions an environment free from sexual violence and all forms of misconduct on the basis of gender. The Universities prohibit rape, statutory rape, sexual assault, sexual exploitation, incest, sexual harassment, gender-based harassment, domestic violence, dating violence and stalking, and retaliation. These behaviors violate the Universities' Sexual Violence Policy, will not be tolerated, and may result in disciplinary action, up to and including termination or expulsion.

The Universities' Non-Discrimination, Discriminatory Harassment and Retaliation Policy and Sexual Violence Policy apply in all University programs and activities, including, but not limited to, athletics, instruction, grading, housing, and employment. They apply to all members of the campus communities, including, but not limited to, students, faculty, librarians, staff, visitors, contractors and applicants for employment or admission. They also apply to off-campus conduct that negatively affects a community member's experience in the University environment.

Each University has appointed an Equal Opportunity Officer ("EO Officer") to oversee its compliance with this Plan, as well as the state and federal non-discrimination and equal opportunity laws. Details regarding the EO Officer's specific duties and responsibilities can be found at Appendix 1. Anyone with questions, concerns or complaints regarding discrimination, discriminatory harassment or retaliation may contact the EO Officer.

Any person with questions or concerns about any form of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence and stalking and/or retaliation may also contact:

The U.S. Department of Education, Office for Civil Rights
33 Arch Street, 9th Floor, Boston, MA 02119-1424
(617) 289-0111/Fax (617) 289-0150, TDD (877) 521-2172
OCR.Boston@ed.gov

or

the University's Title IX Coordinator

The Title IX Coordinator at each University is responsible for the University's compliance with Title IX and the administration of the Universities' Sexual Violence Policy. Details regarding the Title IX Coordinator's specific duties and responsibilities can be found at Appendix 2.

III. Scope and Duration

Equal opportunity, diversity and affirmative action programs are an integral part of the mission of the Universities. This Plan, by its very nature, shall affect and impact not only personnel and admissions policies, but also the procedures and practices that contribute to the academic and educational experiences of our students, and the employment opportunities throughout the Universities.

The provisions of this Plan, in compliance with applicable laws[1,2] and collective bargaining agreements, apply to every educational, employment and co-curricular activity at the Universities. All benefits, services and opportunities pertaining to the Universities' educational programs, employment and services are available to all applicants, students, employees and others having dealings with the Universities regardless of race, color, religion, national origin, age, disability, gender, sexual orientation, gender identity, gender expression, genetic information, marital or parental status, or veteran status. No provision of this Plan is intended, and should not be used, to discriminate against any applicant, employee or student on any prohibited basis.

Pursuant to this Plan, the actions of persons responsible in matters of employment and education, including all supervisors and faculty, must be non-discriminatory. Should one of the Universities discover discrimination in any employment, educational or service decision, action, inaction or practice, all appropriate corrective and/or disciplinary actions shall be taken under the direction of the President of the University, subject to any applicable collective bargaining agreement or other policy or procedure of the University.

This Plan shall take effect as soon as it is approved by the BHE and the Universities' Boards of Trustees, and shall remain in effect for the period determined by those Boards.

CONTINUING REVIEW

The Universities will continually review this Policy and the Complaint Investigation and Resolution Procedures at Appendix 4 to ensure compliance with the requirements of federal and state law and regulations.

APPLICATION

The Plan applies to all members of the campus communities, including, but not limited to, students, faculty, librarians, staff, visitors, contractors and applicants for employment or admission. The Plan also

[1] This EO Plan incorporates by reference, and where applicable, the requirements of: Titles VI and VII of the Civil Rights Act of 1964; Title VI of the Civil Rights Act of 1968; Titles I and II of the Civil Rights Act of 1991; Title IX of the Education Amendments of 1972 and its regulations found at 34 C.F.R. part 106; the Equal Pay Act of 1963; Civil Rights Restoration Act of 1988; Sections 503 and 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990, as amended; Section 402 of the Vietnam-era Veterans Readjustment Act of 1974, Uniformed Services Employment and Reemployment Rights Act; the Age Discrimination Act of 1975; the Age Discrimination in Employment Act of 1967, as amended; the Family and Medical Leave Act of 1993; the Genetic Information Nondiscrimination Act of 2008; the reauthorized Violence Against Women Act, Pub. Law No. 113-4 (2013); the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act; the Higher Education Act of 1965, as amended; Federal Executive Order 11246 of 1965, as amended by Executive Order 11375 of 1967; Federal Executive Order 12900 of 1994; Federal Executive Order 13145 of 2000; Federal Executive Order 13160 of 2000; Federal Executive Order 13166 of 2000; Massachusetts Civil Rights Act; Massachusetts General Laws Chapters 151B, 151C, and Chapter 149; St.2011, c. 199 (H3810), An Act Relative to Gender Identity; directives of the BHE, the Universities' Boards of Trustees and the Commonwealth; and other applicable local, state and federal constitutions, statutes, regulations and executive orders.

[2] Section 106.13 of the Title IX regulations provides: "This part does not apply to an educational institution whose primary purpose is the training of individuals for a military service of the United States or for the merchant marine." 34 C.F.R. § 106.13. Massachusetts Maritime Academy voluntarily complies with the provisions of this EO Plan that incorporate the requirements of, or make reference to compliance with, Title IX.

applies to off-campus conduct that negatively affects a community member's experience in the University environment.

IV. PLAN DEFINITIONS AND TERMS

For the purposes of this Plan, the following terms are defined as follows:

Equal Opportunity. The Universities' effort to ensure that all employment and academic decisions, programs and policies are formulated and conducted in a manner to ensure equal access for all people and to prevent discrimination. As part of this effort, the Universities will ensure that employment and academic decisions, programs and policies will be based solely on the individual eligibility, merit or fitness of applicants, employees and students without regard to race, color, religion, national origin, age, disability, gender, sexual orientation, gender identity, gender expression, genetic information, marital or parental status, or veteran status.

Equal Opportunity Officer or "EO Officer". A University official charged with the responsibility for the University's administration of this Plan, and the state and federal non-discrimination and equal opportunity laws. The EO Officer may also serve as the University's Title IX Coordinator. If the positions are held by different individuals, the EO Officer and Title IX Coordinator may collaborate on the enforcement of any part of this Plan. The identity and contact information for the EO Officer shall be published and widely distributed on each campus, including on the website of each campus. See also Appendix 1.

Protected Classes. Characteristics or groups of persons protected from discrimination by law, including:

1. Race. Discrimination laws do not contain a definition of "race," but are interpreted to prohibit discrimination on the basis of ancestry or physical or cultural characteristics associated with a certain race, such as skin color, hair texture or styles, or certain facial features, and on the basis of stereotypes and assumptions about abilities, traits, or the performance of individuals of certain racial groups. All individuals, including persons of more than one race and the following racial classifications, are protected from discrimination:

   Black: All persons having origins in any of the Black racial groups of Africa including, but not limited to, African-Americans, and all persons having origins in any of the original peoples of the Cape Verdean Islands.

   White (not of Hispanic origin): Persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.

   Hispanic/*Latino*: All persons of Mexican, Puerto Rican, Cuban, Central, Latin or South American or other Spanish culture or origin, regardless of race.

   Asian or Pacific Islander: All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands, including, for example, the areas of China, India, Japan, Korea, the Philippine Islands and Samoa.

   American Indian or Alaskan Native: All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

2. Color. Variations in skin tone among persons of the same race.

3. Religion. "Religion" and "creed" have the same or equivalent meaning: all religious and spiritual observances, practices, and sincerely held beliefs.

4. National Origin. A "national origin group" or "ethnic group" is a group sharing a common language, culture, ancestry, and/or other similar social characteristics.

5. Persons of Color. Members of the following racial classifications: Black, American Indian/Native Alaskan, Asian/Pacific Islander, and Hispanic/Latino.

6. Age. For employment purposes, persons 40 years of age or older. For the purposes of access to and participation in University programs and services, all persons of all ages are protected on the basis of age.

7. Disability. A person with a disability is one who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.

8. Gender. A person's sex (female or male). "Gender" and "sex" may be used interchangeably for the purposes of the EO Plan.

9. Gender Identity. Gender identity is a person's internal view of the person's gender. "Gender identity" covers a multitude of sexual identities including, but not limited to, male, female, and transgender or gender-nonconforming individuals, who are persons whose gender identity or gender presentation falls outside of stereotypical gender norms.

10. Gender Expression. Gender expression is a term that refers to the ways in which individuals manifest or express masculinity or femininity. It refers to all of the external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, grooming, mannerisms, speech patterns and social interactions.

11. Sexual Orientation. Actual or perceived heterosexuality, homosexuality or bisexuality, either by orientation or by practice.

12. Genetic Information. Any written, recorded individually identifiable result of a genetic test or explanation of such a result or family history pertaining to the presence, absence, variation, alteration, or modification of a human gene or genes.

13. Marital/Parental Status. A person's status as single, married, parent or non-parent, where discrimination on these bases has disparately impacted against those of different protected classes, including gender and sexual orientation.

14. Veteran Status. A person who is a member of, has served in, applies to perform or is obligated to perform service in, a uniformed military service of the U.S., including the National Guard.

Discrimination. An intentional or unintentional act that adversely affects employment and/or educational opportunities because of a person's membership in a protected class or association with a member(s) of a protected class. Discrimination may be classified as either disparate impact (facially neutral practices that fall more harshly on one group than another and cannot be justified by business necessity) or disparate treatment (treatment of an individual that is less favorable than treatment of others based on discriminatory reasons). A single act of discrimination may be based on more than one protected class status. For example, discrimination based on anti-Semitism may relate to religion,

national origin, or both; discrimination against a pregnant woman might be based on sex, marital or parental status, or both; discrimination against a transgender individual might be based on sex or sexual orientation.

Discriminatory harassment. A form of discrimination including verbal and/or physical conduct based on legally protected characteristics and/or membership in a protected class that:

1. has the purpose or effect of creating an objectively intimidating or hostile work or educational environment;

2. has the purpose or effect of unreasonably interfering with an individual's work or educational opportunities; or

3. otherwise unreasonably adversely affects an individual's employment or educational opportunities.

Reasonable directions or warnings by authorized University personnel as to the time, place and manner in which employees perform their assigned responsibilities, students carry out their educational assignments or program participants engage in sponsored activities do not constitute evidence of discriminatory harassment under this Policy.

For purposes of this Plan, unwelcome conduct constitutes hostile environment harassment when:

- it is targeted against a person on the basis of his/her membership in a protected class;

AND

- it is sufficiently severe or pervasive that it alters the conditions of education or employment and creates an environment that a reasonable person would find intimidating or hostile; **OR**

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education; **OR**

- submission to, or rejection of, such conduct by an individual is used as a basis for academic or employment decisions affecting that individual.

The determination of whether an environment is "hostile" is based on the totality of the circumstances. These circumstances could include the frequency of the conduct, its severity, and whether it is threatening or humiliating. Simple teasing, offhand comments and isolated incidents (unless extremely serious) will not amount to hostile environment harassment under this Plan.

For emphasis, conduct that is not based on a person's membership in a protected class is not considered hostile under this Plan.

Retaliation. Taking adverse employment or educational action against a person who: (a) files claims, complaints or charges under this Plan, or under applicable local, state or federal statute; (2) is suspected of having filed such claims, complaints or charges; (3) has assisted or participated in an investigation or resolution of such claims, complaints or charges; or, (4) has protested practices alleged to be violative of the non-discrimination policies of the University, the BHE, or local, state or federal regulation or statute. Retaliation, even in the absence of provable discrimination in the original complaint or charge,

constitutes as serious a violation of this Plan as proved discrimination under the original claim, complaint or charge.

Title IX Coordinator. A University official charged with the University's overall compliance with Title IX of the Education Amendments of 1972. Among other duties, the Title IX Coordinator is responsible for the enforcement of this Plan regarding all issues pertaining to sexual violence, sexual and gender-based harassment, domestic violence, dating violence, stalking and retaliation. A campus may have Deputy Title IX Coordinators. The Title IX Coordinator may also serve as the University's EO Officer. If the positions are held by different individuals, the Title IX Coordinator and the EO Officer may collaborate on the enforcement of any part of this Plan. The identities and contact information for all Title IX Coordinators and Deputy Title IX Coordinators shall be published and widely distributed on each campus, including on the website of each campus. See also Appendix 2.

Sexual Violence. As defined by the U.S. Department of Education's Office for Civil Rights and this Plan, sexual violence "refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (*e.g.*, due to the [person's] age or use of drugs or alcohol, or because an intellectual or other disability prevents the [person] from having the capacity to give consent)." All forms of sexual violence are prohibited by the Universities and Title IX.

Title II/504 Coordinator. A University official charged with the responsibility for the University's compliance with Title II of the Americans with Disabilities Act of 1990, as amended, Section 504 of the Rehabilitation Act of 1973, the University's Policies for Reasonable Accommodations for Persons with Disabilities, and this Plan with regard to issues of disability discrimination. The Title II/504 Coordinator may also serve as the University's EO Officer. If the positions are held by different individuals, the Title II/504 Coordinator and the EO Officer may collaborate on the enforcement of any part of this Plan. The identity and contact information for the Title II/504 Coordinator shall be published and widely distributed on each campus, including on the website of each campus.

Individual with a Disability. A person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of impairment, or is regarded as having an impairment. Examples of disabilities include, but are not limited to: alcoholism; asthma; blindness or other visual impairments; cancer; cerebral palsy; depression; diabetes; epilepsy; hearing or speech impairments; heart disease; migraine headaches; multiple sclerosis; muscular dystrophy; orthopedic impairments; paralysis; thyroid gland disorders; tuberculosis; loss of body parts.

Qualified Individual with a Disability. An employee or applicant who satisfies the skill, experience, education, and other job-related requirements of the position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of that position; a student who meets the academic and technical standards requisite for admission or participation in the institution's educational program or activity.

Reasonable Accommodation. Modifications or adjustments to an application process, job, work environment, academic program or activity, or a course of study, that permit a qualified individual with a disability to perform the essential functions of a position or to enjoy the benefits and privileges of employment or education equally with persons without disabilities.

Undue Hardship. The Universities are required to make reasonable accommodations to qualified individuals with disabilities unless doing so would impose an undue hardship on the operation of the Universities' business. Undue hardship means an action that requires significant difficulty or expense

when considered in relation to factors such as the University's overall size, financial resources, and the nature and structure of its operation.

Interactive Process. An on-going communication between the University and an individual with a documented disability in an effort to provide reasonable accommodation, auxiliary aids, or academic adjustments.

Complainant. An individual who makes a complaint under the Complaint Investigation and Resolution Procedures at Appendix 4 of the EO Plan. The Complainant may also be the University under certain circumstances.

Respondent. An individual who is accused of violating the EO Plan.

Day. As used in the Complaint Investigation and Resolution Procedures at Appendix 4 of the EO Plan, a day shall mean a calendar day, except where otherwise noted.

Timeframes. While the Universities encourage prompt reporting of incidents of discrimination, discriminatory harassment, sexual violence, sexual or gender-based harassment, domestic violence, dating violence, stalking and retaliation, they do not limit the timeframe for filing a complaint under this Plan.

Complaints may be filed at any time, but the University's ability to take action may be limited by the matriculation or employment status of respondents or witnesses. A prompt report will enable the University to most effectively respond to a complaint.

The process for resolving a complaint consists of three major stages: the investigation, the administrative review, and a possible appeal. Every effort will be made to investigate a complaint within sixty (60) calendar days after its receipt. Extenuating circumstances, including the complexity or severity of a complaint, breaks in the academic calendar or exam periods, may require that the investigation process be extended beyond 60 days. Every effort will be made to conclude the administrative review within fourteen (14) calendar days after the receipt of the investigation report and, where practicable, the appeal process will be concluded within thirty (30) days of receipt of the appeal.

In the event that good cause prevents the investigation and resolution process from being concluded in this time frame, the University will notify in writing all parties of the need for additional time and best efforts will be made to complete the process as expeditiously as possible. As a matter of course, parties can expect to receive status updates at reasonable intervals until the matter is resolved.

Standard of Review. All complaints pursued under the Complaint Investigation and Resolution Procedures will be evaluated under a "preponderance of the evidence" standard. Under this standard, conclusions must be "more likely than not." Accordingly, the fact-finder must find that it is more likely than not that the respondent violated the University's EO Plan, Student Code of Conduct or other relevant University policy.

Advisors. Each party to an investigation initiated under the Complaint Investigation and Resolution Procedures is entitled to have an advisor present during any meetings regarding the process (other than meetings between a party and University officials regarding accommodations or protective interim measures). Except as otherwise required by law, the advisor may observe, but may not participate in any way whatsoever, including, without limitation, by asking questions or speaking during the meeting or proceeding. The advisor's role is to provide support and/or advice to the party. During meetings and

proceedings, the advisor may speak with the party or pass notes in a non-disruptive manner. The Universities reserve the right to remove from the meeting or proceeding any advisor who disrupts the process, or who does not abide by the restrictions on their participation. In addition, please note that the University does not need to cancel or delay a meeting or proceeding simply because an advisor cannot be present. Further, the advisor is not permitted to attend a meeting or proceeding without the advisee.

The personal advisor for a complainant, a student respondent or a non-unit employee respondent can be any person, including an attorney.

Respondents who are unit members may elect to have a union representative (or other University employee) present during any meeting that the unit member reasonably believes may result in discipline pursuant to the unit member's Weingarten rights. A respondent unit member who invokes their Weingarten right to a union representative or other University employee is not also permitted an advisor.

If a party's advisor is an attorney, the University's legal counsel may also attend the meeting or proceeding.

Discipline or Sanctions. For the purposes of the investigation and resolution procedures, the terms may be used interchangeably.

V. POLICY AGAINST DISCRIMINATION, DISCRIMINATORY HARASSMENT AND RETALIATION

PROHIBITED CONDUCT

The Policy prohibits all conditions and all actions or omissions, including all acts of discrimination, discriminatory harassment and retaliation, which deny or have the effect of denying to any person their rights to equity and security on the basis of their membership in or association with a member(s) of any protected class. This Policy reaffirms the values of civility, pluralism and pre-eminence of individual human dignity as preconditions to the achievement of an academic community, which recognizes and utilizes the resources of all people.

The prohibited conduct contained in this Policy shall apply to and be enforced against all members of the University community, including, but not limited to, faculty, librarians, administrators, staff, students, vendors, contractors and all others having dealings with the institution.

Examples of discrimination, all of which are prohibited by this Policy, include, but are not limited to:

- Differences in terms, conditions and privileges of employment (including, but not limited to hiring, promotion, reassignment, termination, salary, salary increases, discipline, granting of tenure, selection for awards, etc.) on a prohibited basis.
- Disparity of treatment in educational programs and related support services on the basis of membership in a protected class.
- Differences in salaries or other benefits that are paid to one or more men or women if the differences are not based on a bona fide occupational qualification.

- Developing position descriptions or qualifications, which, without lawful justification, are so specific as to have a disparate exclusionary impact on a group of individuals because of their membership in a protected class.

- Limiting access to housing, or participation in athletic, social, cultural or other activities to students because of membership in a protected class not based on a bona fide requirement or distinction.

- Failing or refusing to hire or promote a person because of their age.

- Classifying a position or positions as unsuitable for persons of certain religions.

- Excluding members of a certain race or national origin from a category of positions or from a department or division.

- Restricting the number of veterans or qualified persons with disabilities in a category of positions or in a department or division.

- Using information on marital or parental status for employment decisions where the use of such information has a disparate impact on persons of one gender or sexual orientation.

- Advising students of similar interests and backgrounds differently because of their gender or gender identity.

- Forcing female students to sit in the back of the class on the stereotyped assumption that each of them has a lower aptitude for learning that particular subject than male students.

- Placing unreasonable expectations upon students of particular races or national origins based on stereotyped assumptions that members of those protected classes have a better aptitude for certain academic subjects than students not of those protected classes.

Examples of discriminatory harassment, all of which are prohibited by this Policy, include, but are not limited to:

- Physically harassing another individual or group because of that person's or persons' membership in a protected class by assaulting, touching, patting, pinching, grabbing, staring, leering at them, making lewd gestures, invading their personal space, blocking their normal movement, or other physical interference.

- Encouraging others to physically or verbally abuse an individual (or group of individuals) because of that person or persons' membership in a protected class.

- Threatening to harm an individual or group because of that person or persons' membership in a protected class.

- Directing epithets, slurs, derogatory comments, unwelcome jokes or stories at an individual or group because of that person or persons' membership in a protected class.

- Displaying hostile, derogatory and/or intimidating symbols/objects, such as posters, cartoons, bulletins, drawings, photographs, magazines, written articles or stories, screen

savers, or electronic communications, to an individual or group because of that person or persons' membership in a protected class.

Examples of retaliation, all of which are prohibited by this Policy, include, but are not limited to:

- Terminating an employee for stating an intention to file a complaint of discrimination or for assisting another employee in filing a discrimination complaint.
- Refusing to hire an employee because the employee pursued an age discrimination charge against a former employer.
- Denying a promotion to an employee for complaining about alleged sexual orientation harassment.
- Refusing tenure to a faculty member for filing a complaint of sexual harassment pursuant to the Complaint Investigation and Resolution Procedures.
- Issuing an unjustified negative evaluation to an employee for testifying in a legal proceeding concerning a complaint of discrimination or harassment.
- Assigning a student an unearned poor grade for requesting a reasonable academic accommodation based on religion.
- Assigning a student an unearned failing grade for cooperating with an internal investigation of alleged discriminatory practices or a complaint of discrimination or harassment.
- Refusing to admit a student for requesting a reasonable accommodation based on disability in the admission process.

Members of the academic community should not assume that any of the forms of speech described above are protected by the principles of academic freedom or the First Amendment to the United States Constitution.

CONDUCT THAT IS NOT PROHIBITED

The Universities are committed to protecting, maintaining and encouraging both freedom of expression and full academic freedom of inquiry, teaching, service, and research. Nothing in this Policy shall be construed to penalize a member of the University community for expressing an opinion, theory, or idea in the process of responsible teaching and learning. Accordingly, any form of speech or conduct that is protected by the principles of academic freedom or the First Amendment to the United States Constitution is not subject to this Policy.

COMPLAINT INVESTIGATION AND RESOLUTION PROCEDURES

The Universities have established specific Complaint Investigation and Resolution Procedures to review and resolve allegations of discrimination, discriminatory harassment and retaliation on their campuses. Any member of the University community or any applicant for admission or employment who believes that he or she has been a victim of such conduct in violation of this Plan may initiate a complaint as outlined in these procedures, which are set forth at Appendix 4.

Further advice or information about Universities' Complaint Investigation and Resolution Procedures may be obtained by contacting the EO Officer on each campus.

Duty to Cooperate

Every faculty member, librarian, administrator, staff member and University employee has a duty to cooperate fully and unconditionally in an investigation conducted pursuant to the Complaint Investigation and Resolution Procedures, subject to the provisions of any relevant collective bargaining agreements. This duty includes, among other things, speaking with the EO Officer, Administrative Investigator, reviewing or appellate body, and voluntarily providing all documentation that relates to the claim being investigated. The failure and/or refusal of any employee, other than an employee subject to criminal charges or who invokes a Fifth Amendment privilege, to cooperate in an investigation may result in a separate disciplinary action up to and including termination.

Duty to Report Discrimination, Discriminatory Harassment or Retaliation

No member of the University community, including a faculty member, can ignore a report of discrimination, discriminatory harassment or retaliation.[3] He or she should provide the reporter as much assistance in bringing it to the attention of the EO Officer as is reasonably appropriate given his or her position at the University and relationship with the reporter.

In terms of reports of discrimination, discriminatory harassment or retaliation, any trustee, administrator, department chair, program coordinator, manager or supervisor who receives such a complaint from a student or other member of the University community is obligated to report the complaint to the EO Officer as soon as he or she becomes aware of it. Likewise, any member of the campus community is encouraged to report to the EO Officer any conduct of which they have direct knowledge and which they in good faith believe constitutes discrimination, discriminatory harassment or retaliation in violation of this Policy.

Any member of the University community who has a question about his or her responsibilities under this Policy Against Discrimination, Discriminatory Harassment and Retaliation should contact the EO Officer.

False Charges

Filing a false charge of discrimination, discriminatory harassment or retaliation is a serious offense. If an investigation reveals that a person knowingly filed false charges, the University shall take appropriate actions and issue sanctions, up to and including termination or expulsion, pursuant to other applicable University policies, including any applicable collective bargaining agreement. The imposition of such sanctions does not constitute retaliation under this Plan.

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[3] In terms of reports of complaints of sexual violence, sexual or gender-based harassment, domestic or dating violence, or stalking, those community members designated as Responsible Employees for the purposes of Title IX or Campus Security Authorities for the purposes of the Clery Act must act in accordance with their specific reporting obligations. All other community members are encouraged, in accordance with the level of confidentiality requested by the complainant, to report reliable knowledge of an incident(s) of such conduct to the Title IX Coordinator. See the Sexual Violence Policy at Section E for more information on employees' duty to report conduct prohibited by that Policy.

VI. SEXUAL VIOLENCE POLICY

Numbered pages 13-45, formerly the Sexual Violence Policy, have been removed from this document without change to page numbering in other sections. Appendix 7: Title IX Sexual Harassment Policy, replaces and supersedes the previous Sexual Violence Policy and can be found at the end of this EO Plan.

VII. POLICIES FOR REASONABLE ACCOMMODATIONS FOR PERSONS WITH DISABILITIES

The Universities are committed to providing equal access to otherwise qualified persons with disabilities. The Universities recognize that individuals with disabilities may need reasonable accommodations to have equally effective opportunities to participate in or benefit from educational programs, services, activities and employment.

EDUCATION OF PERSONS WITH DISABILITIES

The Universities will examine all existing admissions, student support and other student life policies, practices and facilities to assure that they do not disparately treat or impact otherwise qualified persons with disabilities. Where such disparity is found, it will be corrected as quickly and completely as is reasonable under existing financial constraints.

In accordance with state and federal requirements, the Universities will provide necessary reasonable accommodations, auxiliary aids and academic adjustments (including support services) to otherwise qualified students with disabilities to assure equal access to its programs, facilities and services. Reasonable accommodations will also be afforded to applicants for admission who have disabilities to enable them to adequately pursue all opportunities for enrollment in the programs of study.

EMPLOYMENT OF PERSONS WITH DISABILITIES

The Universities will examine all existing employment policies, practices and facilities to assure that they do not disparately treat or adversely impact otherwise qualified persons with disabilities. Where such disparity is found, it will be corrected as quickly and completely as is reasonable under existing operational constraints.

In accordance with the requirements of state and federal law, and through the interactive process, the Universities will afford reasonable accommodations to any otherwise qualified employee with a disability to enable the employee to perform the essential functions of the job. Reasonable accommodations will also be afforded to applicants for employment who have disabilities to enable them to adequately pursue a candidacy for any available positions.

PROCESS BY WHICH TO REQUEST ACCOMMODATIONS

Any member of the University community who seeks reasonable accommodation for a disability may contact the EO Officer and/or the Title II/Section 504 Coordinator for more information. Similarly, any applicant for employment or admission who seeks assistance in the application process may contact the EO Officer and/or the Title II/Section 504 Coordinator.

Additionally, a student seeking reasonable accommodations, auxiliary aids and/or academic adjustments for a disability must contact the appropriate Office of Disability Services on the student's campus to obtain such services.

COMPLAINT INVESTIGATION AND RESOLUTION PROCEDURES

Any member of the University community or any applicant for admission or employment who believes that he or she has been a victim of disability discrimination or harassment, or who alleges that the University has failed to provide reasonable accommodations, appropriate auxiliary aids and/or academic adjustments, may initiate a claim as outlined in the Universities' Complaint Investigation and Resolution Procedures located at Appendix 4.

Further advice or information may be obtained by contacting the EO Officer and/or the Title II/Section 504 Coordinator of each University.

VIII. POLICY AGAINST DISCRIMINATION IN EMPLOYMENT BASED ON PREGNANCY AND PREGNANCY-RELATED CONDITIONS AND REQUIREMENT TO PROVIDE REASONABLE ACCOMMODATIONS

The Universities are committed to providing equal access to employment for all current and prospective employees. The Universities recognize that employees and job applicants may not be treated less favorably because of pregnancy or pregnancy-related conditions and that employees and job applicants may need reasonable accommodations for pregnancy or pregnancy-related conditions to allow them to have effective opportunities to participate in or benefit from employment.

In accordance with the requirements of state law, and through the interactive process, the Universities will provide necessary, reasonable accommodations that will allow an employee to perform the essential functions of the job while pregnant or experiencing pregnancy-related conditions that exist during and/or after pregnancy (*e.g.*, morning sickness, lactation, or the need to express milk), unless doing so would impose an undue hardship on the University. The Universities recognize that they cannot make an employee accept a particular accommodation if another reasonable accommodation would allow the employee to perform the essential functions of the job, or require an employee to take a leave if another reasonable accommodation may be provided without an undue hardship.

Reasonable accommodations may include, but are not limited to, the following:

- more frequent or longer paid or unpaid breaks;
- time off to attend to a pregnancy complication or recover from childbirth with or without pay;
- acquisition or modification of equipment or seating;
- temporary transfer to a less strenuous or hazardous position;
- job restructuring;
- light duty;
- private non-bathroom space for expressing breast milk;
- assistance with manual labor; and/or
- modified work schedule.

Upon the request from the employee or prospective employee, the Universities will engage in a timely, good faith and interactive process to determine an effective, reasonable accommodation to enable the employee to perform the essential functions of the position.

The Universities recognize that they may require documentation regarding the need for an accommodation from a healthcare professional that explains what accommodation(s) the employee needs, but that they cannot require documentation for the following accommodations: (1) more frequent restroom, food, or water breaks; (2) seating; (3) limits on lifting more than 20 pounds; and (4) private, non-bathroom space for expressing breast milk.

PROCESS BY WHICH TO REQUEST ACCOMMODATIONS

University employees who seek an accommodation for pregnancy or a pregnancy-related condition may contact the EO Officer and/or the Title II/Section 504 Coordinator for more information.

COMPLAINT INVESTIGATION AND RESOLUTION PROCEDURES

Employees or job applicants who believe that they have been a victim of discrimination as a result of pregnancy or a pregnancy-related condition, or who allege that the University has failed to provide

reasonable accommodations, may initiate a claim as outlined in the Universities' Complaint Investigation and Resolution procedures located in Appendix 4.

Further advice or information may be obtained by contacting the EO Officer and/or the Title II/Section 504 Coordinator at each University.

IX. Mandatory Child Abuse Reporting Policy

Persons under 18 may be students or may be engaged in activities sponsored by the Universities or by third parties utilizing University facilities. Where an employee has reasonable cause to believe that a child is suffering injury from sexual abuse on campus or on University owned or controlled property, the employee and/or the University *may* be obligated to comply with the mandatory child abuse reporting requirements established at M.G.L. c. 119, §§ 51A-E. In such cases, the employee must immediately report the matter to Campus Police, who, in consultation with other officials, shall contact the Department of Children and Families ("DCF") and/or outside law enforcement. An employee may also directly contact law enforcement or DCF in cases of suspected abuse or neglect. Massachusetts law also has mandatory reporting requirements for certain occupations where elderly and disabled abuse or neglect is suspected. For more information, please contact the Campus Police.

X. Contracting and Purchasing

Equal Opportunity Vendors

When selecting contractors, suppliers, and vendors of goods and services, including goods and services secured in connection with construction projects, the Universities will offer equal opportunity to all qualified persons and entities and will not discriminate on the basis of race, color, religion, national origin, age, disability, gender, sexual orientation, gender identity, gender expression, genetic information, marital or parental status, or veteran status.

The Universities shall seek to locate and shall encourage the use of minority and female contractors, subcontractors, vendors, and suppliers. The Universities will identify businesses primarily operated by members of such protected classes with the help of agencies such as the State Office of Minority Business Assistance in order to encourage bids and proposals from potential contractors, vendors and suppliers.

Equal Employment Opportunity

The Universities require that all persons and entities with which they contract for the provision of goods and services shall provide equal opportunity for all persons without regard to race, color, religion, national origin, age, disability, gender, sexual orientation, gender identity, gender expression, genetic information, marital or parental status, or veteran status.

Contractor Compliance

Prior to the awarding of any contract, the Universities shall require that the contractor provide written assurance of its compliance with applicable state and federal laws and regulations, including the provisions of this Policy, prohibiting discrimination in employment.

The Universities shall require that every contract made on or after July 1, 1996, for the purchase of goods and services contain the following provisions.

> "During the performance of this Agreement, the Contractor agrees as follows:

1. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, national origin, age, disability, gender, sexual orientation, gender identity, gender expression, genetic information, marital or parental status, or veteran status.
2. The Contractor will comply with the provisions of the Governor's Code of Fair Practices, with Chapter 151B of the General Laws of Massachusetts, with the Americans with Disabilities Act and with all other applicable state and federal laws barring discrimination in employment, and with Section IV of the Massachusetts State Universities' Equal Opportunity, Diversity and Affirmative Action Plan.
3. In the performance of this Agreement, the Contractor shall take affirmative action to employ minority and female subcontractors, vendors and suppliers.
4. The University may at any time require the Contractor to supply it with such data, as it shall reasonably require for purposes of determining whether the Contractor is adhering to the above-described prohibitions against discrimination in employment.
5. In the event that the Contractor shall have failed to comply with the requirements contained in any of foregoing clauses 1, 2, 3 and 4, the University may enforce such compliance by withholding part or all of any payment then due until such time as the Contractor complies with any such requirement, and/or by cancelling, terminating or suspending the whole or any part of this Agreement. Nothing herein contained shall bar the University from pursuing such other lawful recourse as it may have to enforce compliance with the above-described requirements and to recover damages for their breach."

The Universities reserve the right to disqualify as a contractor any person or entity that fails to adhere to the prohibitions against the discrimination, discriminatory harassment and retaliation in employment that are contained in Section IV of this Plan.

CONTRACTOR CONDUCT

All contractors, vendors, consultants and suppliers of goods and services shall be required, during any period when they or their agents or employees are present at the Universities, to adhere to standards of conduct that are consistent with this Policy, and all such contractors, vendors and suppliers, their agents and employees shall refrain from acts or conduct that constitute harassment of any person by reason of such person's race, color, religion, national origin, age, disability, gender, sexual orientation, gender identity, gender expression, genetic information, marital or parental status, or veteran status. The Universities shall require every contractor, vendor, consultant, and supplier to instruct its agents and employees concerning the requirements of this paragraph, and to take actions including disciplinary actions, to correct any violation thereof.

COMPLAINT INVESTIGATION AND RESOLUTION PROCEDURES

Any member or the University community or any applicant for employment or admission who believes that he or she has been a victim of discrimination, discriminatory harassment, sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking or retaliation by a vendor or contractor may initiate a complaint pursuant to the Universities' Complaint Investigation and

Resolution Procedures located at Appendix 4. Further advice or information may be obtained by contacting the EO Officer and/or Title IX Coordinator on each University campus.

XI. MONITORING AND GOALS

By and through this Plan, the Universities commit themselves to a policy of equal opportunity, diversity, affirmative action and non-discrimination in all aspects of campus life.

The Universities shall endeavor to increase the representation of qualified women, veterans, persons with disabilities and minorities in their workforces. To this end, the Universities shall continually examine and monitor their affirmative action and equal opportunity policies, procedures and practices for the purpose of determining the degree to which their workforces are reflective of the demographics of the Commonwealth's labor market. To the extent that this review reveals areas of deficiency or shortcomings, the Universities will make reasonable and good faith efforts, consistent with requirements of the law, to address and improve such deficiencies or shortcomings.

The Universities realize that the development and implementation of specific policy and programmatic efforts is essential to the establishment of a pro-active, system-wide Plan. The Universities further realize, however, that policies and programs of equal opportunity, diversity, affirmative action and non-discrimination are only as effective as the commitment to them at the local level. Accordingly, each University shall determine and implement for itself the projects, programs, defined strategies, structured activities or other tactical steps to achieve the equal opportunity, diversity, affirmative action and non-discrimination goals of this Plan on its individual campus.

On an annual basis, each University will review the progress being made toward the achievement of its compliance with this Plan and its equal opportunity, diversity, affirmative action and non-discrimination goals.

XII. AFFIRMATIVE ACTION HIRING PROCEDURES

The procedures set forth in this Plan take into consideration both organizational limitations and opportunities with respect to current and future employees. The Plan calls upon all staff to engage in a major effort in order to fulfill the objectives of equal opportunity for all persons at all levels of employment, in compliance with all applicable collective bargaining agreements. Each EO Officer will monitor the employment policies of the University with respect to the areas of recruitment and appointment to vacant positions to assure compliance with the objectives of this Plan. The areas to be monitored should include, but not be limited to, pre-recruitment procedures, recruitment, selection, appointments (permanent, acting, emergency and temporary), salary and benefits, and shall include employees of continuing education, grant funded programs and other appropriate areas.

COMPLAINT INVESTIGATION AND RESOLUTION PROCEDURES

The Universities have established specific internal Complaint Investigation and Resolution Procedures to help resolve claims and complaints of discrimination, discriminatory harassment and retaliation on their campuses. The Universities' Complaint Investigation and Resolution Procedures also serve as a system of review and resolution for claims of discrimination in hiring. Any applicant for employment who believes that he or she has been a victim of discrimination in hiring may initiate a claim as outlined in the Universities' Complaint Investigation and Resolution Procedures located at Appendix 4. Further

advice or information regarding these complaint procedures may be obtained by contacting the EO Officer of any University.

XIII. Responsibility for the Implementation of The Equal Opportunity Diversity and Affirmative Action Plan and Related Programs, Policies and Procedures

The final authority and ultimate responsibility for the implementation of this Plan rests with the Presidents of the State Universities. The EO Officer on each campus, however, has the responsibility for the overall development, administration and monitoring of all policies, procedures and programs pertinent to the implementation of this Plan. The EO Officer commonly reports to the President and bears the responsibility for the preparation and execution of all affirmative action policies and programs. Details regarding the EO Officer's specific duties and responsibilities can be found at Appendix 1.

All Vice Presidents, Deans, Directors, Program Coordinators, Department Chairs, and other supervisory personnel will be accountable for ensuring that equal opportunity, non-discrimination, diversity and affirmative action are integrally tied to all actions and decisions for which they are responsible and which fall within the scope of the Plan. A statement concerning such accountability will be added to all appropriate position descriptions. It shall be considered a regular function of faculty, librarians, administrators and supervisory staff that they are aware of goals and consult with the EO Officer prior to and in the course of those actions that may have an impact on the implementation of this Plan. In the event that a supervisor and/or the EO Officer identify problem areas that are impeding a University's efforts to meet its goals, they shall develop an action plan designed to move the University toward successful attainment of it objectives.

XIV. Policy Awareness Procedures

Dissemination

At the commencement of each academic year, all policy statements regarding equal opportunity, non-discrimination, diversity and affirmative action at the State Universities will be distributed, either electronically or in hard copy or in both formats, as follows:

- to every office at each University, including the Human Resources Office and the Office of the Equal Opportunity Officer;
- to each University's Library;
- to all students, either in the relevant Student Handbook, Course Catalog or by e-mail;
- to all employees, either in a relevant publication or by e-mail;
- posted to all relevant sections of the Universities' websites;
- copies will be made available to the campus community and to the public upon request; and
- copies will also be made available in accessible formats upon request.

Periodic meetings and workshops will be held with various segments of the campus community to assist their understanding of the Universities' commitment to equal opportunity, non-discrimination, diversity and affirmative action.

Copies of all policy statements regarding equal opportunity, non-discrimination, diversity and affirmative action will also be provided to students who enroll mid-year and to all new employees upon their hire.

Posting

The Universities' Policy Statement on Non-Discrimination, Diversity and Affirmative Action will be posted in areas customarily used for public announcements and on the Universities' websites. Prospective employees and applicants for admission will be informed of this Policy Statement in all advertisements posted both on and off campus.

Recruiting

All employment recruiting sources used by the Universities will be informed of their commitment to equal opportunity, non-discrimination, diversity and affirmative action. Listings of current openings will be sent on a regular basis to appropriate sources for the recruitment and referral of applicants who are persons of color, women, veterans, persons with disabilities, and persons of diverse religions and national origins.

In addition, notices of position openings will be posted on campus and on the Human Resources sections of the Universities' individual websites, so that all current employees are aware of opportunities for promotion or transfer.

Contractors and Vendors

The Universities will notify all contractors, sub-contractors and vendors of the Universities' responsibilities and commitments to equal opportunity, non-discrimination, diversity and affirmative action.

Advertising

Selection for and participation in the State Universities' employment is without regard to race, color, religion, national origin, age, disability, gender, sexual orientation, gender identity, gender expression, genetic information, marital or parental status, or veteran status. An Affirmative Action, Equal Opportunity and Non-Discrimination/Diversity statement will be placed in all appropriate University operational publications and advertisements.

Community Relations

The State Universities will cooperate and work with local, state and federal government agencies and community groups, as well as national minority, multicultural, multiracial, disability, women's and veteran's organizations and other national groups that have equal employment opportunity objectives, for the purpose of developing significant access to equal opportunity for persons of color, women, veterans, persons with disabilities, and persons of diverse religions and national origins.

XV. Conclusion

In developing and presenting this Plan for approval to the BHE, the State Universities have committed themselves to institutional change in order to provide maximum access to a university education and university experience that equips all of our students to live and work in our diverse world. The State Universities believe that access to affordable higher education is an integral part of their mission.

With this Plan, the State Universities commit themselves not only to providing each student and employee a safe, yet exciting academic and living environment, where each member of the community is valued as an individual, whose racial, cultural, religious, gender, orientation, age, disability or socioeconomic status make her or him a valued member of a diverse community of pluralism, but in doing so, to fully prepare our students for the great diversity of the larger world. If this Plan is fully implemented, we will have moved beyond merely prohibiting the violation of human dignity and civility

to the fulfillment of our mission of providing accessible higher education to the increasingly diverse population of the Commonwealth.

We commit ourselves to this effort.

APPENDIX 1: POSITION DESCRIPTION - EO OFFICER

The Equal Opportunity Officer ("EO Officer") provides campus-wide leadership to promote equal opportunity, diversity and affirmative action on campus. The EO Officer works closely with the President, Vice Presidents, Department Chairs, Program Coordinators and Directors in the implementation, monitoring and evaluation of the Universities' Equal Opportunity, Diversity and Affirmative Action Plan. The EO Officer works with faculty and student organizations to introduce a variety of multicultural issues across the curriculum and across the campus. The EO Officer is the ombudsman for all issues of discrimination, including discriminatory harassment, and retaliation.

The EO Officer may also serve as the Title II/Section 504 Coordinator. Similarly, the EO Officer may be the primary Title IX Coordinator for each University, although the individual campuses may designate one or more additional Deputy Coordinators to assist with Title IX compliance.

SUPERVISION: Reports directly to the President or the President's designee.

SUPERVISION EXERCISED: Over assigned professional and non-professional staff.

DUTIES AND RESPONSIBILITIES: Include, without limitation:

- Provides leadership in planning and organizing events and programs to increase the awareness of diversity on campus.
- Develops plans and policies to recruit and employ members of protected classes through affirmative action and equal employment opportunity programs.
- Responsible for monitoring, implementing and evaluating recruitment to insure a policy of non-discrimination, affirmative action, equal employment/educational opportunity and diversity.
- Serves as an ex-officio member of faculty hiring committees.
- Works closely with the Vice Presidents, Directors, Program Coordinators and Department Heads to develop and implement program initiatives designed to increase diversity among faculty, staff and students.
- Plans and develops policies and procedures regarding the implementation of the ADA and the Rehabilitation Act.
- Responsible for overseeing investigations of all complaints of discrimination, discriminatory harassment, and retaliation filed pursuant to the Universities' Discrimination Complaint Investigation and Resolution Procedures. Responsible for communicating all relevant information to appropriate persons on campus regarding the investigation process.
- May act as a representative of the University on claims presented to state/federal agencies.
- Reviews all University policies for potential discriminatory impact.
- Communicates information on laws, regulations and policies on affirmative action and equal opportunity to members of the University community.
- Exercises sign-off authority on all personnel actions.
- Assumes additional support duties assigned by the President.

*This Position Description is illustrative and not necessarily exhaustive.

APPENDIX 2: POSITION DESCRIPTION - TITLE IX COORDINATOR

The Title IX Coordinator has primary responsibility for managing the day-to-day responsibilities associated with the University's compliance obligations pursuant to Title IX.

The Title IX Coordinator may also serve as the EO Officer and/or the Title II/Section 504 Coordinator. Additionally, the individual Universities may designate one or more additional Deputy Coordinators to assist the lead Title IX Coordinator with Title IX compliance.

SUPERVISION: Reports directly to the President or the President's designee.

SUPERVISION EXERCISED: Over assigned professional and non-professional staff.

DUTIES AND RESPONSIBILITIES: Include, without limitation:

- Serving as the University's central resource on issues related to sexual violence, sexual and gender-based harassment, domestic and dating violence, stalking and retaliation.
- Implementing and managing the University's Sexual Violence Policy.
- Ensuring that community members know their options and resources concerning the reporting of sexual violence, sexual and gender-based harassment, domestic and dating violence, stalking and retaliation.
- Evaluating and implementing of requests for accommodations or interim protective measures.
- Overseeing the receipt, investigation and resolution of complaints of sexual violence, sexual and gender-based harassment, domestic and dating violence, stalking and retaliation by employees, students and others protected under state/federal laws/regulations and/or the University EO Plan. Where appropriate, conducting complaint investigations.
- Maintaining investigation files; maintaining a University-wide reporting system for complaints and investigation findings; identifying patterns and making recommendations.
- Developing and implementing long-term goals for programming, services, education and assessment of Title IX compliance efforts, including but not limited to sexual violence, sexual and gender-based harassment, domestic and dating violence, stalking and retaliation; providing leadership for University-wide initiatives to increase gender equity on campus.
- Overseeing education, training, and outreach programming concerning awareness and prevention of sexual violence, sexual and gender-based harassment, domestic and dating violence, stalking and retaliation.
- Providing or recommending training to Deputy Title IX Coordinators, complaint Mediators and Administrative Investigators, and other campus officials with Title IX responsibilities.
- Maintaining current knowledge of the laws, policies, procedures and best practices with regard to sexual violence, sexual and gender-based harassment, domestic and dating violence, stalking and retaliation; attending trainings, workshops, conferences to augment knowledge.

ACTING AS THE UNIVERSITY'S REPRESENTATIVE WHEN ATTENDING CONFERENCES AND COMMUNICATING WITH GOVERNMENT COMPLIANCE OR INVESTIGATION OFFICERS; PROCESSING INQUIRIES FROM THIRD PARTIES. ASSUMING ADDITIONAL SUPPORT DUTIES ASSIGNED BY THE PRESIDENT.

MINIMUM QUALIFICATIONS:

1. J.D. with at least one year of coordinator's experience OR Master's Degree with at least 3 year's coordinator's experience.
2. Demonstrated knowledge of and ability to interpret federal and state discrimination, harassment and equal opportunity laws, including Title IX, Title VII, VAWA and Clery.
3. Exceptional communication, organizational and interpersonal skills.
4. Demonstrated ability to maintain a high level of collegiality with different campus constituencies.
5. Experience with sexual violence prevention programming and training.
6. Experience designing and implementing training for difference campus constituencies.
7. Experience with reporting software and databases.

PREFERRED QUALIFICATIONS:

1. At least 3 years' experience conducting Title IX investigations in higher education.
2. At least 3 years' experience interpreting federal and state discrimination, harassment and equal opportunity laws.
3. Experience participating in administrative hearings and proceedings.
4. Experience with and understanding of mental health/counseling issues in higher education.

*This Position Description is illustrative and not necessarily exhaustive.

APPENDIX 3: POSITION DESCRIPTION - EQUAL OPPORTUNITY INVESTIGATOR

The EO Investigator is responsible for investigating alleged incidents of discrimination, harassment, retaliation and sexual violence, including domestic/dating violence and stalking, as defined in the University's Equal Opportunity, Diversity and Affirmative Plan ("EO Plan"). The EO Investigator is responsible for gathering, preserving and analyzing evidence/information to determine the outcome of the investigation and recommended corrective action and/or resolution.

SUPERVISION: Reports directly to the EO Officer.

SUPERVISION EXERCISED: Over assigned professional and non-professional staff.

DUTIES AND RESPONSIBILITIES: Include, without limitation:

- Conduct investigations of complaints of discrimination, harassment, retaliation and sexual violence in a timely, fair, impartial and thorough manner.
- Prepare comprehensive investigation reports, including factual findings, conclusions, and recommendations for discipline and/or other corrective action.
- Serve as the contact for all parties to an investigation and manage communications regarding the investigation process.
- Assist the EO Officer and/or Title IX Coordinator in the evaluation and implementation of requests for accommodations or interim protective measures.
- Assist the EO Officer and/or Title IX Coordinator in the development of training programs for faculty, staff and students on equal opportunity, discrimination, harassment, retaliation, sexual violence, Title IX, and other related topics.
- Provide information to the campus community regarding the EO Plan and the Complaint Investigation and Resolution Procedures.
- Remain abreast of University, state and federal policies, statutes, regulations and guidance documents in the areas of discrimination, harassment, retaliation and sexual violence. Participate in professional forums, conferences, training and/or seminars. Continuously identify and integrate best practices in the equal opportunity investigation field into knowledge base and practice.
- Identify systemic problems in the investigation process and make recommendations to the EO Officer and/or Title IX Coordinator concerning appropriate changes to the EO Plan and/or the Complaint Investigation and Resolution Procedures.
- Perform other duties as required or assigned which are reasonably within the scope of the duties enumerated above.

MINIMUM QUALIFICATIONS:

1. Master's Degree, OR Bachelor's Degree in related field with equivalent combination of relevant education and experience (degrees in psychology, counseling, social work and criminal justice are favored).
2. At least 3 years' experience investigating complaints and/or grievance investigation and resolution.
3. Knowledge of state and federal laws regarding discrimination, harassment, retaliation and equal opportunity.
4. Exceptional communication and organizational skills.

5. Demonstrated ability and to project neutrality and to appropriately handle confidential and sensitive information.
6. Demonstrated ability to maintain a high level of collegiality with different campus constituencies.

PREFERRED QUALIFICATIONS:

1. J.D. or Master's Degree.
2. Experience in higher education.
3. Experience and training in human resources, student conduct, civil rights and/or diversity programming.
4. Knowledge of investigation techniques and best practices.
5. Experience with Title IX, VAWA, Clery Act and Title VII.

*This Position Description applies to a dedicated EO Investigator position; it is illustrative and not necessarily exhaustive.

APPENDIX 4: INVESTIGATION AND RESOLUTION PROCEDURES

FOR COMPLAINTS OF DISCRIMINATION, DISCRIMINATORY HARASSMENT, SEXUAL VIOLENCE, SEXUAL HARASSMENT, GENDER-BASED HARASSMENT, DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING AND RETALIATION

I. INTRODUCTION AND APPLICATION

It is the policy of the Universities to provide each student, employee, and other person having dealings with the institutions an environment free from all forms of discrimination, discriminatory harassment, sexual violence, sexual and gender-based harassment, domestic and dating violence, stalking and retaliation as defined in the Universities' Equal Opportunity, Diversity and Affirmative Action Plan ("EO Plan") and/or each University's Student Code of Conduct.

These Procedures are intended to provide a mechanism to investigate and resolve complaints of discrimination, discriminatory harassment, sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation. These Procedures are available and applicable to all students, faculty, librarians, staff, visitors, contractors, applicants for employment or admission, and others having dealings with the Universities.

No community member may retaliate, harass, intimidate, threaten, coerce or otherwise discriminate against any individual for filing a complaint under these Procedures or for otherwise exercising his or her rights or responsibilities under the EO Plan or the Student Code of Conduct.

Complaints of the following prohibited behaviors may be made under these Procedures:

Discrimination or discriminatory harassment on the basis of:

- race
- color
- religion
- national origin
- age
- disability/failure to accommodate
- sex/gender
- sexual orientation
- gender identity
- gender expression
- genetic information
- marital/parental status
- veteran status

Any form of the following prohibited conduct:

- sexual violence
  - rape
  - sexual assault
  - sexual exploitation
  - incest
  - statutory rape
  - aiding in the commission of sexual violence
- sexual harassment
- gender-based harassment
- domestic violence
- dating violence
- stalking

II. INVESTIGATION AND RESOLUTION PROCEDURES

Investigations of complaints are necessary to determine:

- whether a complaint alleges a violation of the EO Plan or the Student Code of Conduct;
- whether prohibited conduct has occurred;
- whether there is an ongoing risk of harm for further prohibited conduct and, if so, what steps must be taken to prevent its recurrence;

- whether interim protective measures should be in place for the safety of the complainant or the community, or to redress the effects of prohibited conduct;
- whether the conduct warrants disciplinary action; and
- whether local or system-wide changes to policies, practices or training should be considered and implemented by the Universities.

These Procedures have been designed to provide prompt, thorough, fair and impartial processes from investigation to final result. The proceedings pursuant to these Procedures will be conducted transparently and consistently with the Universities' policies. The formal rules of process or evidence, such as those applied in criminal or civil courts, are not used under these Procedures.

All investigations of alleged sexual harassment, sexual violence, dating violence, domestic violence and stalking under these Procedures will be conducted using a trauma-informed approach to support complainants, while ensuring that appropriate support and due process protections are provided to all parties.

The trauma-informed approach is based on scientific evidence that a person who is subjected to a traumatic situation experiences a change in brain function that can materially affect the person's response to the situation and how memories of the event may be stored and recalled. A trauma-informed approach acknowledges that a complainant in a sexual harassment, sexual violence, dating violence, domestic violence or stalking case may have suffered a traumatic incident that may affect their participation during an investigation. A trauma-informed approach is also consistent with the provision of a fair and equitable process for the respondent.

The complaint investigation and resolution process is comprised of two processes, the **Informal Resolution Procedure** and the **Formal Investigation Procedure**, which are detailed below.

Deviations from the Informal Resolution Procedure or Formal Investigation Procedure shall not necessarily invalidate a decision, unless significant prejudice may result to a party or the University.

Note: While these Procedures identify certain University officers and employees who have particular roles and duties, the Universities may designate other officers or employees to perform specific roles and/or duties set forth in these Procedures.

A. **Informal Resolution Procedure**

After full disclosure of the allegations and the parties' option for formal resolution, and if the University determines that a particular complaint is appropriate for such process, the parties to a dispute may attempt to reach an informal resolution of the potential violation. The Universities encourage involved parties to request the intervention of the University to assist in an informal resolution by contacting the EO Officer.

In conference with the Title IX Coordinator and/or others as necessary, the EO Officer or the EO Officer's designee will assess the request for informal resolution against the severity of allegations and the potential risk of a hostile environment or safety concern for other campus community members. If an informal resolution is appropriate, the EO Officer will notify the parties. The University will not ask a complainant to resolve a problem with a respondent without the involvement of the EO Officer or designee.

The EO Officer or designee will facilitate a dialogue with the parties in an attempt to reach a resolution.

At no time prior to the resolution of the matter shall either party question or confront the other, or engage a third party to do so, outside the presence of the EO Officer or designee.

The matter will be deemed resolved when all parties expressly agree to an outcome that is acceptable to them and to the University. Every attempt will be made to conclude the Informal Resolution Process within sixty (60) days of the date of the complainant's request.

A complainant is not required to use the Informal Resolution Procedure before initiating the Formal Investigation Procedure. A party may withdraw from the Informal Resolution Procedure and initiate the Formal Investigation Procedure at any time.

B. **Formal Investigation Procedure**

Submission of Complaint and Initial Review

When a person believes that s/he has been harassed, discriminated or retaliated against, stalked or subjected to violence in violation of the EO Plan and/or the Student Code of Conduct, s/he may file a written complaint, preferably using the Complaint Form attached to these Procedures.[4] Individuals are encouraged to file complaints directly with the EO Officer, but complaints may also be filed with other offices, such as the Title IX Coordinator, Student Conduct, Human Resources, Residence Life or Campus Police. Any complaint that is initially filed with other offices will be reported to the EO Officer.

In certain circumstances, the University may initiate the Complaint Investigation and Resolution Procedures without the filing of a written complaint or the active participation of a complainant. Complaints may be generated upon receipt of a report by a complainant or by a third-party reporter, such as, but not limited to, a friend, spouse, family member, advisor, parent or coworker.

A complaint must be filed by the complainant or a University official, and the complaint must be in the words of the complainant or the University official. Complaints should contain all known facts pertaining to the alleged violation, the names of any known witnesses and others with knowledge of the allegations, and an identification of any documents or other evidence.

The EO Officer or designee will determine if the complaint falls within the jurisdiction of these Procedures. When complaints allege sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and/or retaliation, the EO Officer or designee will refer them to the Title IX Coordinator for jurisdictional evaluation and review. At this point, the University will implement any necessary and/or appropriate interim protective measures, or monitor and/or revise any measures already in place. If the University determines that the complaint is not properly filed pursuant to these Procedures, it will provide written notice to the complainant (or third party reporter).

Investigation Process

1. Complaints and the Respondent's Response

[4] Individuals who believe they have been subjected to conduct prohibited by the Sexual Violence Policy also have options to report such incidents confidentially; victims are encouraged, but not required, to file complaints pursuant to these Procedures. Please see Section E of the Sexual Violence Policy for more information on reporting options.

If a complaint has been properly filed, or the University otherwise determines that an investigation is necessary, the University will assign the matter to an Administrative Investigator. The University may also designate other trained and knowledgeable University officials to assist with the investigation. Under circumstances where the University deems it necessary or appropriate, the University may also appoint an external investigator.

The Administrative Investigator will notify the respondent of the complaint, provide him or her with a copy of the complaint, and invite the respondent to submit a written response. See the model Notice to Respondent attached to these Procedures. If the respondent does not respond, or otherwise fails to participate in the investigation, the Administrative Investigator will complete the investigation on the basis of the other information obtained.

Where a complaint is brought by a third party reporter, the Administrative Investigator shall attempt to meet with the potential complainant to discuss his/her participation in the investigation, and to gain additional information.

2. Counterclaims

At times a Respondent may assert a counterclaim against the Complainant in which the Respondent alleges that the Complainant has engaged in conduct that violates the EO Plan. Such counterclaims are treated as separate complaints under the EO Plan.

Under such circumstances, the Investigator will notify and/or provide a copy of the Respondent's complaint to the Complainant for his or her response in the same manner that the initial complaint is provided to the Respondent.

The University has the discretion to consolidate into one investigation all complaints between a Complainant and a Respondent (or among multiple parties), if the evidence related to each incident would be relevant and probative in reaching a determination on the other incident(s).

Any complaint by a Respondent against a Complainant that is frivolous, knowingly false, or asserted in bad faith will be considered retaliation against the Complainant who filed the original complaint, and will become a separate violation of the EO Plan for which the Respondent may be subject to potential sanctions.

3. Investigation

The investigation shall include, but is not limited to: an analysis of the allegations and defenses presented using the preponderance of the evidence (more likely than not) standard; consideration of all relevant documents, including written statements and other materials presented by the parties; interviews of the parties and other individuals and/or witnesses; and/or reviewing certain documents or materials in the possession of either party that the Administrative Investigator has deemed relevant. The Administrative Investigator may also review any available campus police investigation reports or the investigation reports of local law enforcement authorities.

In regards to complaints alleging sexual violence, domestic violence, dating violence or stalking, questions, statements, or information about the sexual activity of alleged victim with any person other than the other party(ies) to the investigation is not relevant and will not be considered. Parties to such complaints are permitted to submit questions for the Administrative Investigator to ask of the other

parties and witnesses, but the questions must be specifically about the allegations of the present complaint.

At the conclusion of the investigation of the complaint, the Administrative Investigator shall prepare an Investigation Report for an administrative review. The Investigation Report shall: outline the investigatory steps undertaken; summarize the factual findings; state whether any policy violations have occurred based on the preponderance of the evidence; explain the rationale for each violation determination; and, if applicable, recommend a sanction(s).

Both parties shall be provided with an opportunity to review the Investigation Report and an opportunity to respond in writing in advance of a decision of responsibility and before the Investigation Report is submitted for administrative review.

In providing both parties with the opportunity to review the Investigation Report before a decision of responsibility is made, both parties should be afforded the opportunity to come to campus with his/her advisor (or, if a respondent is a unit member, a Weingarten representative) to review the Investigative Report. To minimize the risk of compromising the investigation and to protect the sensitivity of the information contained in the Investigation Report, the parties should be given as much time as they need to review the Investigative Report, but should not be provided with a hard or electronic copy of the Investigative Report to take with them. Both parties shall then be afforded seven (7) to ten (10) business days to respond in writing to the Investigative Report. The Investigator should follow-up on any material comments made by either party that have not already been given appropriate consideration. Subsequently, the Investigative Report should be finalized by the Investigator to include a decision of responsibility and then submitted for administrative review.

A person making a complaint of sexual violence, domestic violence, dating violence or stalking may submit an impact statement during the Investigation Process. A respondent to such a complaint may submit a statement of mitigation or extenuation during the Investigation Process. At any point during the investigation, a respondent to any complaint may agree to the allegations and the recommended sanction.

Administrative Review

The EO Officer, Title IX Coordinator or other designated University official(s) (the "reviewing body") will conduct an administrative review of the Investigation. The purpose of the administrative review is to determine whether the investigation is prompt, fair, impartial and thorough. If the reviewing body determines the investigation is deficient, the reviewing body shall remand the matter back to an Administrative Investigator for further investigation.

If the reviewing body determines that the investigation is prompt, fair, impartial and thorough, the reviewing body will then consider whether the recommended discipline or sanction for each violation is consistent with University policy and practice. In determining discipline, the Administrative Investigator and the reviewing body may consider the disciplinary history, if one exists, of the party found responsible. The Administrative Investigator and/or reviewing body may discuss sanctions with other University personnel as necessary, such as Human Resources, Student Conduct or upper-level administrators.

At any point during the administrative review, a respondent to any complaint may agree to the allegations and the recommended sanction.

Notice of Outcome

At the completion of the administrative review, the University will notify the party found responsible of all sanctions imposed. If the sanctions imposed include a separation from the residence halls or the University, and, in the opinion of the Administrative Investigator and/or reviewing body, the party poses a continued threat to the safety of the campus community, the sanctions may take effect immediately, and while an appeal is pending.

At the completion of the administrative review, the University will also contemporaneously issue a written Notice of Outcome to all parties. The Notice of Outcome shall include the following:

1. the factual findings of the investigation;
2. the policy violation determination and the rationale for the determination;
3. all sanctions that result from an allegation of sexual violence or other crime of violence;
4. the sanctions that directly relate to the complaining party that arise from an allegation of discrimination, discriminatory harassment, non-violent sexual or gender-based harassment, and/or retaliation; and
5. the parties' appeal rights.

If no appeal is filed by either party within ten (10) business days of their receipt of the Notice of Outcome, the results will become final and the University will proceed with the imposition of the recommended sanction(s).

Option for Mediation of Formal Complaints

During a formal investigation, at any time prior to the issuance of the Notice of Outcome, either party may request mediation of the complaint by contacting the EO Officer or Title IX Coordinator. All parties must agree to mediation for this option to be used.

The purpose of mediation is to resolve the dispute to the satisfaction of all parties. When mediation is appropriate, the EO Officer shall designate an impartial Mediator, who shall be mutually agreed upon and not unreasonably refused by the parties, and inform the parties in writing of the mediation process and schedule. Where practicable, a mediation session shall be conducted no later than thirty (30) days after agreed to by the parties. The timelines presented under these Complaint Investigation and Resolution Procedures shall be tolled pending the outcome of mediation. If successful in resolving the complaint, the Mediator shall reduce to writing the terms of the mediated resolution, which shall be signed by the parties. If mediation does not result in a resolution, all mediation discussions shall remain confidential and may not be used or introduced in this process or any other forum.

Timeframe

The University will make every attempt to investigate a complaint within sixty (60) days of the date of its submission. If, for good cause, an investigation cannot be completed within 60 days, the University will provide the parties status updates at reasonable intervals until the investigation is completed. The University will make every effort to conclude the administrative review within fourteen (14) calendar days of receipt of the Investigation Report.

C. **Appeals**

Either party may appeal the results of an investigation under these Procedures by submitting a written letter of appeal to the EO Officer or designee within ten (10) business days of the party's receipt of the Notice of Outcome. An appeal may be transmitted electronically to the EO Officer or designee. Appeals may be submitted on the following grounds:

1. to allege a material procedural error within the investigation and resolution process that would substantially change the outcome; or
2. to consider new evidence that was not known at the time of the investigation that would substantially change the outcome.

Appeals will not be considered on any other basis.

Upon timely receipt of the appeal letter, the EO Officer shall transmit the Investigation Report and the appeal letter to the appropriate appellate officer or body for review. If the appealing party has presented an appeal on the basis of the grounds set forth above, the appellate officer or body, who shall not have participated in the investigation or administrative review, will review the appeal and make a determination to uphold, reverse or modify the decision. When necessary, the appellate officer or body may seek additional information and/or refer the matter back to the Administrative Investigator, prior to making an appellate determination.

Where practicable, within thirty (30) days of receiving the appeal, the appellate officer or body shall contemporaneously issue a written decision to the parties in which it may uphold, reverse or modify the decision. All appellate decisions are final, provided that any corrective action and/or discipline imposed upon a unit member is subject to applicable collective bargaining agreements.

Under limited, exceptional circumstances, and in compliance with the principles of due process, the University reserves the right to correct, amend, supplement or modify a finding, conclusion or sanction to ensure that an investigation has been prompt, fair, impartial and thorough.

D. **Possible Sanctions And Additional Remedies**

For Employee Respondents. Disciplinary action taken against an employee shall be regarded as an administrative action, up to and including termination, subject to all provisions of applicable collective bargaining agreements or personnel policies.

Additional disciplinary action, subject to all provisions of applicable collective bargaining agreements or personnel policies, shall also be taken against an employee who violates a sanction or sanctions imposed pursuant to this Plan.

For Student Respondents. A student who has been found to have violated the EO Plan and/or Student Code of Conduct may be subject to sanctions including, but not limited to:

- reprimand
- warning
- disciplinary probation
- loss of privileges
- relocation of residence
- restriction from facilities or activities
- temporary or permanent residence hall suspension
- fines and/or restitution
- disciplinary hold
- assessment
- educational program or project
- revocation of admission or degree
- withholding of degree
- suspension
- expulsion

In general, the sanction typically imposed for students for rape or non-consensual sexual intercourse is expulsion. The sanction typically imposed for students for non-consensual sexual contact, sexual exploitation, domestic violence, dating violence and stalking is suspension or expulsion. All student sanctions, however, are determined on a case-by-case basis in consideration of: the seriousness of the violation; sanctions typically imposed for similar violations; prior disciplinary history; and any other circumstances indicating that the sanction should be more or less severe.

Additional disciplinary action shall also be taken against a student who violates a sanction or sanctions imposed pursuant to this Plan. Depending on the nature of the violation, such discipline may be imposed pursuant to the provisions of this Plan or pursuant to the applicable provision of the Student Code of Conduct. Additional Remedies Following Finding of a Violation.

Where necessary, the Universities will provide additional measures to remedy the effects of a violation. These remedies are separate from, and in addition to, any protective interim measures that may have been provided or sanctions that have been imposed. If the complainant declined or did not take advantage of a specific service or resource previously offered as a protective interim measure, such as counseling, the University will re-offer those services to the complainant as applicable or necessary.

In addition, the University will consider broader remedial action for the campus community, such as increased monitoring, supervision, or security at locations where the incidents occurred, increased or targeted education and prevention efforts, climate assessments/victimization surveys, and/or revisiting its policies and Procedures.

III. RELATED INFORMATION AND DEFINITIONS

For the purposes of these Procedures, the following terms are defined and used as follows:

Complainant. An individual who makes a complaint under these Procedures. The Complainant may also be the University under certain circumstances.

Respondent. An individual who is accused of violating the EO Plan.

Day. A day shall mean a calendar day, unless otherwise specified herein.

Discipline or Sanctions. The terms may be used interchangeably.

Advisors.

Each party to an investigation initiated under the Complaint Investigation and Resolution Procedures is entitled to have an advisor present during any meetings regarding the process (other than meetings between a party and University officials regarding accommodations or protective interim measures). Except as otherwise required by law, the advisor may observe, but may not participate in any way whatsoever, including, without limitation, by asking questions or speaking during the meeting or proceeding. The advisor's role is to provide support and/or advice to the party. During meetings and proceedings, the advisor may speak with the party or pass notes in a non-disruptive manner. The Universities reserve the right to remove from the meeting or proceeding any advisor who disrupts process, or who does not abide by the restrictions on their participation. In addition, please note that the University does not need to cancel or delay a meeting or proceeding simply because an advisor cannot be present. Further, the advisor is not permitted to attend a meeting or proceeding without the advisee.

The personal advisor for a complainant, a student respondent or a non-unit employee respondent can be any person, including an attorney.

Respondents who are unit members may elect to have a union representative (or other University employee) present during any meeting which the unit member reasonably believes may result in discipline pursuant to the unit member's Weingarten rights A respondent unit member who invokes their Weingarten right to a union representative or other University employee is not also permitted an advisor.

If a party's advisor is an attorney, the University's legal counsel may also attend the meeting or proceeding.

Referrals to Title IX Coordinator. Complaints of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation will be referred to the Title IX Coordinator for evaluation. Before starting an administrative investigation, the Title IX Coordinator or his/her designee will determine whether the reported facts, if true, would violate the Sexual Violence Policy and/or the Student Code of Conduct, and may consult with the complainant to obtain more information and discuss his/her options.

Interim Protective Measures. Upon review of a complaint, the University may determine that interim protective measures are necessary or appropriate for either party, making every effort to avoid depriving any student of access to the student's education. The Universities will implement interim measures on a case-by-case as described in Section H of the Sexual Violence Policy. Interim measures may also be instituted and/or modified at any point during the investigation and resolution process.

Off Campus Behavior. The Universities may investigate off-campus conduct alleged to violate the EO Plan and/or Student Code of Conduct when such conduct involves behavior by or toward a community member, which (1) occurs during University-sponsored events or the events of organizations affiliated with the University, including study abroad and outside internships; (2) negatively impacts an alleged victim's access to education programs and activities; (3) adversely affects or disrupts the campus community; and/or (4) poses a threat of harm to the campus community.

Grade Disputes. While grade changes must generally be pursued through the academic grade change procedure, a complaint may proceed under these Procedures when a student alleges that a grade was improper because of discrimination, discriminatory harassment, sexual violence, sexual or gender-harassment, domestic or dating violence, stalking or retaliation. The remedy for policy violations in cases pursued under these Procedures may be determined and/or implemented in conjunction with Academic Affairs.

Amnesty. Students may be hesitant to report sexual violence, sexual or gender-harassment, domestic or dating violence, stalking or retaliation out of concern that they, or witnesses, might be charged with violations of the Universities' drug/alcohol policies. While the Universities do not condone such behavior, they place a priority on the need to address sexual violence and other conduct prohibited by the Sexual Violence Policy. Accordingly, a University may elect not to pursue discipline against a student who, in good faith, reports, witnesses, or participates in an investigation of sexual violence, sexual or gender-harassment, domestic or dating violence, stalking or retaliation.

Conflicts of Interest. If any University official involved in the investigation, resolution or appeal process believes there is a potential or actual conflict of interest regarding their role, they must disclose this

conflict in advance to the EO Officer, Title IX Coordinator (where applicable) or designee. Likewise, if a complainant or respondent believes there is a conflict of interest present regarding any University official involved in the investigation, resolution or appeal process, s/he must disclose the conflict in advance to the EO Officer, Title IX Coordinator (where applicable) or designee. If a valid conflict of interest exists, the University will take steps to remedy or eliminate the conflict.

Confidentiality of Process. These Procedures will be conducted as confidentially as reasonably possible to protect the privacy of all involved. The Universities may share information about the allegations with parties, witnesses or others on a need-to-know basis, and shall share information with union representatives pursuant to M.G.L. Chapter 150E, or as otherwise required by law. All with whom information is shared shall be advised of the confidential nature of the information and directed not to discuss it with anyone except an advisor or union representative. See Section VI of the Sexual Violence Policy for more information about confidential reporting options.

Joint Investigation. In some circumstances, a respondent's conduct may constitute a potential violation of other University conduct policies in addition to the EO Plan and/or the Student Code of Conduct. To avoid duplicative efforts, the University may undertake a joint investigation of the conduct under these Procedures. Based on the findings of the joint investigation, the respondent may be subject to disciplinary action for violations of the EO Plan and/or the Student Code of Conduct, as well as other policy violations.

Preponderance of the Evidence. The standard of review used to evaluate all complaints. Under this standard, conclusions must be "more likely than not." Accordingly, the fact-finder must find that it is more likely than not that the respondent violated the University's EO Plan, Student Code of Conduct or other relevant University policy.

Notice of Meetings and Access to Information. Each party to an investigation will be provided timely notice of meetings at which such party or both parties may be present. The parties will be afforded the same and timely access to any information that the University is aware will be used at any meeting or hearing. Where appropriate or required by law, the University may redact the complainant's name and other identifying information from any information provided to the respondent, including the specific charge and the complaint or related materials.

Training of Officials Who Participate in the Investigation and Resolution Process. Proceedings pursuant to these Procedures are conducted by officials who receive annual training on the issues of discrimination, discriminatory harassment and retaliation. Officials also receive training specific to matters of sexual and gender-based harassment, domestic violence, dating violence, stalking, as well as how to conduct an investigation that protects the safety of complainants, promotes accountability, and provides all parties with the same opportunities to be accompanied to meetings or proceedings by an advisor of their choice.

Refusal of Participation. In cases where a complainant or respondent (or both) refuses or fails to participate in the investigation and resolution process, the University may continue the process without the complainant and/or respondent's participation. The failure of the respondent to participate in the investigation and resolution process will not prevent the University from imposing discipline or other sanctions when a violation is found.

Right to File an Outside Complaint. Individuals have the right to file charges of discrimination, discriminatory harassment, sexual violence, sexual or gender-harassment, domestic or dating violence,

stalking or retaliation at any time with the appropriate government agency, with or without utilizing these Procedures. More information about filing an outside complaint can be found in the Non-Discrimination and Harassment Policy and the Sexual Violence Policy, both of which are contained in the EO Plan.

Concurrent Criminal or Civil Proceedings. Persons may be accountable to both the Universities and the state for conduct that constitutes potential violations of the EO Plan and/or Student Code of Conduct and state or federal law. University investigations may be conducted before, after or simultaneously with civil or criminal proceedings, and University investigations are not subject to challenge on the grounds that civil or criminal charges involving the same conduct have been dismissed or reduced. When a person has been charged with a crime or a violation of civil law, the Universities will neither request nor agree to special consideration for the individual solely because of his/her student status. Persons subject to parallel criminal charges shall be instructed that their statements and/or other information supplied by them may be subject to subpoena.

When a criminal investigation of an incident of sexual violence, sexual or gender-based harassment, domestic or dating violence, stalking or retaliation is also occurring, the University will not delay its investigation due to the criminal investigation, unless law enforcement requests to gather evidence. When law enforcement makes such a request, the University will typically resume its investigation within three to ten days.

Withdrawal of Complaint. The complainant may withdraw a complaint at any point during the investigation. The EO Officer, Title IX Coordinator, or designee, however, may determine, in their discretion, that the allegations raised in the complaint warrant further investigation despite the complainant's desire to withdraw the complaint. See Section VII(A) of the Sexual Violence Policy for more information on the circumstances under which the University may elect to proceed with an investigation of alleged sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking or retaliation.

IV. MODEL COMPLAINT FORM

COMPLAINT FORM

This form is used to report information necessary to initiate an investigation of alleged discrimination, harassment, sexual or gender-harassment, domestic or dating violence, stalking or retaliation pursuant to the Universities' Equal Opportunity, Diversity and Affirmative Action Plan ("EO Plan") and/or the Student Code of Conduct. All reasonable efforts will be made to maintain the involved parties' confidentiality during the investigation and resolution procedure.

It is a violation of University Policy to retaliate against a student, employee or any other person affiliated with the University for filing a complaint or for cooperating in an investigation of a complaint.

All parties to a complaint may have a personal advisor assist them throughout the process, in accordance with Sexual Violence Policy, Student Code of Conduct and applicable collective bargaining agreements. Pursuant to Weingarten, respondents who are unit members may have a union representative or other University employee present at any meeting which the unit member reasonably believes may result in discipline.

Date Filed:_____ Date(s) of Alleged Incident(s):_____

A. Name (Print):_____

B. Check One: Student:_____ Employee:_____

Other: _____(describe relationship to University)

C. Type of alleged discrimination or discriminatory harassment:

◯ Race ◯ Color ◯ Religion
◯ National Origin ◯ Age ◯ Disability
◯ Sex/Gender ◯ Sexual Orientation ◯ Gender Identity
◯ Gender Expression ◯ Marital Status ◯ Veteran Status
◯ Genetic Information ◯ Other:_____

D. Type of alleged sexual violence or other prohibited conduct:

◯ Rape ◯ Sexual Exploitation ◯ Incest
◯ Statutory Rape ◯ Aiding in the Violence ◯ Stalking
◯ Sexual Assault ◯ Domestic Violence ◯ Dating Violence
◯ Sexual Harassment ◯ Gender-Based Harassment
◯ Other _____

E. ◯Retaliation

F. Name of individual(s) you believe harassed you, discriminated or retaliated against you, or engaged in violence toward you: _____

_____

_____

_____

_____

COMPLAINT FORM – PAGE 2

G. List any witnesses: _____

H. List any others with knowledge of the incident(s): _____

I. Description of Complaint - please list the sequence of events, including dates, if possible, and any relevant facts, statements and/or evidence currently known to you:

(If additional writing space is needed, please attach additional sheets)

To the best of my knowledge and belief, the above information is complete, true and accurate and not a "false charge" as defined under the EO Plan, and I hereby submit this complaint under the University's Complaint Investigation and Resolution Procedure.

_____

Signature of Complainant

Received by _____ on: _____

V. MODEL NOTICE TO RESPONDENT

NOTICE TO RESPONDENT

Date: _____

To: _____, Responding Party

From: _____, Administrative Investigator

Subject: Complaint of Discrimination, Discriminatory Harassment, Sexual Violence, Sexual Harassment, Gender-Based Harassment, Domestic Violence, Dating Violence, Stalking and/or Retaliation

This is to notify you that on _____ a complaint alleging a violation of the University's Equal Opportunity, Diversity and Affirmative Action Plan ("EO Plan") and/or the Student Code of Conduct was filed against you with the University. A copy of the complaint is attached, as is a copy of the complaint investigation and resolution procedure. Please submit to me a written response to the complaint.

An Administrative Investigator will be contacting you to schedule an appointment to discuss this matter. Please be advised that it is a violation of University Policy to retaliate against a student, employee or any other person for filing a complaint or for cooperating in an investigation related thereto.

All reasonable efforts will be made to maintain confidentiality during the complaint procedure.

If you are an employee, any disciplinary sanctions imposed as a result of this investigation shall be regarded as an administrative action subject to all terms and conditions of applicable collective bargaining agreements or personnel policies.

All questions concerning this matter should be addressed to the Equal Opportunity Officer, Title IX Coordinator or Administrative Investigator at _____.

Finally, all parties to a complaint may have a personal advisor assist them throughout the process, in accordance with Sexual Violence Policy, Student Code of Conduct and applicable collective bargaining agreements. Pursuant to Weingarten, respondents who are unit members may have a union representative or other University employee present at any meeting that the unit member reasonably believes may result in discipline.

APPENDIX 5: GUIDELINES FOR CAMPUS POLICIES AGAINST DISCRIMINATION, DISCRIMINATORY HARASSMENT AND RETALIATION

The State Universities have promulgated a policy prohibiting discrimination and harassment based on race, color, religion, national origin, age, disability, gender, sexual orientation, gender identity, gender expression, genetic information, marital or parental status, or veteran status, and affirming their collective commitment to a diverse learning and living environment where intolerance and bigotry are looked upon with disfavor. With this Policy, the Universities call upon the individual campuses to develop environments that embrace the accords of civility and human dignity as preconditions to the establishment of a community and that achieve optimum utilization of its human and intellectual resources.

These Guidelines are established in order to provide guidance to the individual campuses in their effort to develop and implement a campus policy consistent with the State Universities' policy. The Guidelines consist of two components, required elements and suggested activities.

REQUIRED ELEMENTS

All individual University policies against discrimination and discriminatory harassment on the basis of membership in a protected class, particularly including those policies addressing discrimination and/or discriminatory harassment based on race, religion, and national origin, must contain certain elements, including:

1. A firm, unequivocal statement condemning discrimination and embracing multicultural/multiracial pluralism.
2. Procedures for the periodic and wide dissemination and publicity of the written policy.
3. A program of educational activities designed to enlighten faculty, librarians, administrators, staff and students with regard to:
   - developing an appreciation for diversity and pluralism;
   - developing greater awareness of the multiple ways in which racial, religious or cultural insensitivity and hostility may be manifested;
   - understanding ways in which the dominant society manifests and perpetuates racism; and
   - learning ways in which to prevent and combat racial, religious and cultural insensitivity and intolerance.
4. Determination of strategies and efforts to be undertaken for the purpose of institutional analysis to reveal institutional factors which give rise to racism and other forms of intolerance, insensitivity and discriminatory actions against members of protected classes. Remedial actions will be developed for all revealed institutional factors.
5. Incorporation of the spirit of this Policy into the official campus code of conduct for students.
6. Specific procedures of recording reported incidents of racial, cultural or religious harassment or violence, events and related confrontations. Confidentiality will be afforded to any reporting individual wishing to remain anonymous, but will be offered only insofar as it does not violate the rights of the respondents or charged parties.

SUGGESTED ACTIVITIES

Each University must determine the specific programs and activities it will carry out in the process of implementing the policy objectives. These activities should include those that would address deterrence, education, institutional analysis, monitoring, resource development, counseling, and sanctions for prohibited behavior. What follows below represents many suggested activities, which the Universities might consider undertaking in addition to those required above. This list is not intended to represent an exhaustive set of activities.

1. Develop approaches to incorporate racial and cultural sensitivity training as a component of staff and faculty development efforts;
2. Apprise incoming students of the policy and expected standards of behavior during orientation sessions;
3. Include a synopsis of the policy with all letters of acceptance sent to students;
4. Incorporate information on the policy during all student and employee recruitment efforts - these activities help make a college more attractive to students and employees interested in a safe environment;
5. Encourage and support research and scholarly activity which examines cultural diversity, racism, and strategies for combating racism;
6. Develop residential unit programs for promoting living and learning environments that foster interracial and intercultural awareness and sensitivity - films, speakers, workshops and forums within the dormitories help facilitate these promotions; and
7. Develop mechanisms to assist the institution in monitoring the racial climate at the University and identify areas needing remedial attention.

APPENDIX 6: ADVISORY COMMITTEE FOR EQUAL OPPORTUNITY, DIVERSITY AND AFFIRMATIVE ACTION

The President of each University shall appoint an Equal Opportunity, Diversity and Affirmative Action Advisory Committee. This Committee shall consist of members representing the respective campus constituencies of administration, faculty and librarians, and staff, and should attempt to include student(s). The Committee shall include appropriate representation of persons of color, women and persons with disabilities. Each President shall consult with his or her EO Officer with respect to these appointments. The EO Officer of each University shall be an ex-officio member of the Committee.

PURPOSE

The purposes of the Advisory Committee are:

1. to serve as an advisory group to the President;
2. to make recommendations to the President as well as to respective campus and governance committees concerning effective implementation of the Universities' Equal Opportunity, Diversity and Affirmative Action Plan;
3. to evaluate institutional compliance with respect to all equal opportunity, diversity, and affirmative action programs and to recommend appropriate strategies to the President; and
4. to keep informed as to federal and state laws and regulations as well as institutional policies impacting equal opportunity, diversity, and affirmative action.

RESPONSIBILITIES

The responsibilities of the Advisory Committee include, but are not limited to, the following:

1. to establish its own rules of order with respect to election of officers, meeting times, quorum restrictions, etc.;
2. to furnish a report of its activities and recommendations to the President upon her/his request, but at least annually;
3. if the EO Officer deems it appropriate, to appoint a member to sit on a search committee as a non-voting member to assure that the search committee complies with affirmative action/equal opportunity policies and regulations; and
4. each University will develop its own policies with respect to additional functions or tasks which may be assigned to this Committee and with respect to Committee members sitting on search committees.

APPENDIX 7: TITLE IX SEXUAL HARASSMENT POLICY

POLICY APPLICATION NOTE: The Massachusetts State Universities have established the practice of applying the sexual harassment policies and procedures in effect on the date of alleged incident and not the date that a report or formal complaint is made to the University. Where alleged prohibited behaviors occurred over multiple dates, the latest date shall be used to determine policy application. For copies of past policies and procedures, please contact the Title IX Coordinator at your institution.

MA State Universities
Title IX Sexual Harassment Policy

BRIDGEWATER STATE UNIVERSITY

FITCHBURG STATE UNIVERSITY

FRAMINGHAM STATE UNIVERSITY

MASSACHUSETTS COLLEGE OF ART AND DESIGN

MASSACHUSETTS COLLEGE OF LIBERAL ARTS

MASSACHUSETTS MARITIME ACADEMY

SALEM STATE UNIVERSITY

WESTFIELD STATE UNIVERSITY

WORCESTER STATE UNIVERSITY

Effective Date: August 14, 2020

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Contents

Article I. Policy Introduction 3

Article II. Policy Definitions 4

Article III. Policy Application 8

Article IV. Policy Dissemination 8

Article V. Policy Offenses 9

Section V.1 Title IX Prohibited Sexual Harassment 9

Section V.2 Retaliation 10

Section V.3 Conduct That Is Not Prohibited 11

Article VI. Consensual Relationships 11

Section VI.1 Faculty/Administrator/Staff Member Relationships with Students 11

Section VI.2 Relationships Between Supervisors and Subordinates or Between Co-Workers 11

Article VII. Making a Report 12

Section VII.1 Title IX Coordinator 12

Section VII.2 Law Enforcement 13

Section VII.3 Confidential Reports 13

Article VIII. Resources 14

Section VIII.1 Immediate Needs 14

Section VIII.2 Confidential Medical Attention 15

Section VIII.3 Community Counseling and Support Resources 16

Section VIII.4 Private Non-Confidential Campus Resources 18

Article IX. Employees' Duty to Report 18

Section IX.1 Campus Security Authorities (CSA) 18

Section IX.2 Employees' Duty to Report Discrimination, Discriminatory Harassment, and Retaliation 19

Section IX.3 Mandatory Reports Involving Minors and Vulnerable Adult Populations 19

Article X. Employees' Duty to Cooperate 19

Article XI. Amnesty 20

Article XII. False Reporting 20

Article XIII. University Response to Sexual Harassment 20

Section XIII.1 Emergency Removal of Respondent 21
Section XIII.2 Administrative Leave of Employee 21
Section XIII.3 Response to a Formal Complaint 21
Article XIV. Written Notification of Rights 21
Article XV. Training 24
Article XVI. Recordkeeping 24
Article XVII. Statistical Reporting and Timely Warnings under The Clery Act 25
Article XVIII. Compliance Concerns 25
Article XIX. Title IX Complaint and Resolution Procedures 26
Section XIX.1 Freedom from Bias and Conflict of Interest 26
Section XIX.2 Parties to a Complaint 26
Section XIX.3 Making a Formal Complaint 27
Section XIX.4 Notice of Allegations 28
Section XIX.5 Resolution Options 29
Section XIX.6 Formal Resolution Process 31
Section XIX.7 Formal Complaint Resolution Timeline 336

Article I. Policy Introduction

Together, Bridgewater State University, Fitchburg State University, Framingham State University, Massachusetts College of Art and Design, Massachusetts College of Liberal Arts, Massachusetts Maritime Academy, Salem State University, Westfield State University, and Worcester State University (collectively, "the Universities") are committed to maintaining safe and healthy learning, living, and working environments that are free from all forms of discrimination and harassment.

Consistent with their commitment, the Universities do not discriminate on the basis of sex in the education program or activity that they operate, and are required by Title IX of the Education Amendments of 1972 ("Title IX") to not discriminate in such a manner. The requirement not to discriminate in the education program or activity extends to admission and employment. Inquiries about the application of Title IX to the Universities may be referred to each respective institution's Title IX Coordinator, to the Assistant Secretary of the Office for Civil Rights, or both.

This Title IX Sexual Harassment Policy ("Policy") prohibits sexual harassment, sexual assault, dating violence, domestic violence, stalking, and retaliation as defined under Title IX and outlines the procedures for resolution of reports of these behaviors. The Universities provide educational

and prevention programs, services for individuals who have been affected by discrimination and harassment on the basis of sex, and accessible, timely and equitable methods of investigation and resolution of complaints.

Previously known as the "Sexual Violence Policy," the Title IX Sexual Harassment Policy has been amended, and renamed, to be consistent with the Title IX Regulations that became effective August 14, 2020. Additionally, this policy is intended to comply with the reauthorized Violence Against Women Reauthorized Act of 2018 ("VAWA"), including the Campus SaVE Act, and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"). The Title IX Sexual Harassment Policy replaces and supersedes the "Sexual Violence Policy" previously contained on pages 13-45 of the Equal Opportunity, Diversity and Affirmative Action Plan ("EO Plan").

The Universities prohibit all forms of discrimination, harassment, and sexual misconduct. These behaviors are antithetical to the mission of the Universities and, if not covered by this Policy, the Universities ensure that such conduct is prohibited and addressed through the Policy Against Discrimination, Discriminatory Harassment, and Retaliation contained in the EO Plan, Student Code of Conduct and/or employee handbooks and collective bargaining agreements.

Article II. Policy Definitions

Actual Knowledge

Notice of sexual harassment or allegations of sexual harassment to the University's Title IX Coordinator or any official of the University who has authority to institute corrective measures on behalf of the University. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the University. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the University with actual knowledge is the Respondent.

Administrative Investigator

The Administrative Investigator is an impartial fact finder who investigates alleged violations of this Policy by interviewing parties and witnesses, collecting and reviewing statements and other relevant evidence, and providing a detailed, unbiased report regarding the findings of the investigation.

Advisor

A single person of the party's choice, who may be, but is not required to be, an attorney, who may be present in any meeting or grievance proceeding, and who may inspect and review evidence. It is the advisor's responsibility to conduct cross-examination during the live hearing.

The advisor's role is otherwise strictly limited to providing direct and non-disruptive assistance to the party.

Appellate Administrator/Body

The Appellate Administrator/Body is annually trained and authorized by the Title IX Coordinator or designee to conduct a review of a decision made regarding an emergency removal, dismissal of a complaint, or decision reached by a Decision Maker(s)**.**

Coercion

Unreasonable pressure or emotional manipulation to persuade another to engage in sexual activity. When someone makes it clear that they do not want to engage in sexual behavior, or they do not want to go beyond a certain point of sexual activity, continued pressure beyond that point can be considered coercive. Being coerced into sexual activity is not consent to that activity.

Complainant

An individual who is alleged to be the victim of conduct that could constitute sexual harassment under this Policy. At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the University with which the formal complaint is filed.

Consent

An understandable exchange of affirmative words or actions, which indicates a willingness by all parties to participate in mutually agreed upon sexual activity. Consent must be informed and freely and actively given. It is the responsibility of the initiator to obtain clear and affirmative responses at each stage of sexual involvement. Consent to sexual activity may be withdrawn at any time, as long as the withdrawal is communicated clearly.

Whether an individual has taken advantage of a position of influence over a Complainant may be a factor in determining consent. A position of influence could include supervisory or disciplinary authority.

Silence, previous sexual relationships or experiences, and/or a current relationship may not, in themselves, be taken to imply consent. While nonverbal consent is possible (through active participation), it is best to obtain verbal consent. Similarly, consent to one form of sexual activity does not imply consent to other forms of sexual activity.

Day

Day may refer to a calendar day or business day and will be specified in each instance in the Policy. A calendar day is any 24-hour period including weekends and holidays. A business day is a weekday, Monday through Friday, on which the Universities are open. Business days explicitly

exclude Saturdays, Sundays, and holidays on which the Universities are closed for regular business.

Decision Maker

The Decision Maker is trained to participate in the hearing process and private deliberations. Decision Makers determine the relevance of proposed questions during hearings, and issue written determinations of responsibility that include all findings, sanctions, and remedies.

Education Program or Activity

All operations of the University including locations, events, or circumstances at or in which the University exercises substantial control over both the Respondent and the context in which the sexual harassment occurs, including any building owned or controlled by a student organization that is officially recognized by the University. Additionally, education programs and activities include:

- Operations on campus or on other property owned or controlled by the University, including networks, digital platforms, social media accounts, and computer hardware or software owned or operated by, or used by the University; or
- off-campus incidents in which the University exercised substantial control over both the Respondent and the context in which the behavior occurred.

Evidence

Information that is presented to establish whether a fact is more or less true. The type and extent of evidence available will differ based on the facts of each incident, but explicitly includes the parties' own statements and statements of witnesses. Evidence may be inculpatory or exculpatory.

Exculpatory evidence is evidence that is favorable to the Respondent in that it exonerates or tends to exonerate the Respondent of responsibility.

Inculpatory evidence is evidence that shows, or tends to show, a person's involvement in an act, or evidence that can establish responsibility.

Evidence must be relevant, according to the ordinary meaning of the word.

Information or evidence protected by a legally recognized privilege (e.g., attorney/client, doctor/patient) is excluded from consideration unless the holder of the privilege has waived the privilege in writing to the Title IX Coordinator.

In addition, in accordance with Title IX regulations and the Massachusetts Rape Shield Law (Mass. G.L. c. 233, § 21B) the Respondent or their Advisor are prohibited from asking questions related to the Complainant's alleged prior sexual behavior or alleged sexual reputation unless 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. Outside of the specific allowable exceptions, such information is not considered relevant.

Force

The use of physical strength or action (no matter how slight), violence, threats of violence or intimidation (implied threats of violence) as a means to engage in sexual activity. A person who is the object of actual or threatened force is not required to physically, verbally or otherwise resist the aggressor, and lack of such resistance cannot be relied upon as the sole indicator of consent.

Formal Complaint

A document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the University investigate the allegation of sexual harassment.

Incapacitation

An individual who is incapacitated by alcohol and/or drugs, whether voluntarily or involuntarily consumed, may not give consent. Alcohol or drug related incapacitation is more severe than impairment, being under the influence, or intoxication. Evidence of incapacity may be detected from context clues, such as slurred speech, bloodshot eyes, the smell of alcohol on the breath, shaky equilibrium, vomiting, unusual behavior or unconsciousness. While context clues are important in determining incapacitation, they alone do not necessarily indicate incapacitation.

Persons unable to consent due to incapacitation also include, but are not limited to: persons under age sixteen (16); persons who are intellectually incapable of understanding the implications and consequences of the act or actions in question; and persons who are physically helpless. A physically helpless person is one who is asleep, blacked out, involuntarily physically restrained, unconscious, or, for any other reason, unable to communicate unwillingness to engage in any act. The use of alcohol or drugs to render another person mentally or physically incapacitated as a precursor to or part of a sexual assault is prohibited.

The use of alcohol, medications or other drugs by the Respondent or accused does not excuse a violation of this Policy.

Preponderance of Evidence

Preponderance of evidence is a standard of review. Under this standard, conclusions by the Decision Maker must be based on what "more likely than not" occurred, based on available information and evidence. Accordingly, the Decision Maker must determine whether it is more likely than not that the Respondent violated this Policy.

Respondent

An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. A Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Supportive Measures

Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment, or deter sexual harassment. Supportive measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules or dining arrangements, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, restrictions from areas of campus, leaves of absence, increased security and monitoring of certain areas of the campus, statutorily provided leave to employees, and other similar measures.

The University will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures.

The Title IX Coordinator, or designee, is responsible for coordinating the effective implementation of supportive measures.

Article III. Policy Application

The Policy applies to all members of the campus communities, including, but not limited to, students, faculty, librarians, staff, visitors, contractors, and applicants for employment or admission, or any other person participating in an education program or activity of the University. The Policy applies to on-campus and off-campus conduct, including online and virtual, that takes place in the United States within an education program or activity.

The Universities prohibit all forms of discrimination, harassment, and sexual misconduct. These behaviors are antithetical to the mission of the Universities and, if not covered by this Policy, the Universities ensure that such conduct is prohibited and addressed through the Policy Against Discrimination, Discriminatory Harassment, and Retaliation contained in the EO Plan, Student Code of Conduct and/or employee handbooks and collective bargaining agreements.

Article IV. Policy Dissemination

Each University will prominently display the contact information for the institution's Title IX Coordinator, including the name or title, office address, electronic mail address, and telephone number of the employee or employees designated as the Title IX Coordinator(s).

Each University will further prominently display the Title IX policy statement on its website and in each handbook or catalog that it makes available to applicants for admission and employment, students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the University.

Article V. Policy Offenses

Section V.1 Title IX Prohibited Sexual Harassment

(a) Sexual Harassment

The Universities prohibit, under this Policy, conduct on the basis of sex that satisfies one or more of the following conditions:

1. 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; or,
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity.

Additionally, the behaviors as outlined in subsections (b) through (e) of this section constitute sexual harassment under this Policy.

(b) Sexual Assault

An offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Attempts to commit any of these acts are also prohibited.

(i) Sexual Assault – Rape

The penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person without the consent of the victim (or attempts to commit the same). This includes any gender of victim or Respondent.

(ii) Sexual Assault – Fondling

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 in which the victim is incapable of giving consent because of age and/or because of temporary or permanent mental incapacity

(iii) Statutory Rape

Sexual intercourse with a person who is under the statutory age of consent, which is 16 years old in Massachusetts.

(iv) Incest

Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

(c) Dating Violence

Any act of violence or threatened violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; 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, and (iii) the frequency of interaction between the persons involved in the relationship. This includes, but is not limited to, sexual, emotional or physical abuse, or the threat of such abuse.

(d) 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.

(e) Stalking

Engaging in a course of conduct directed (directly, indirectly, through a third party or other means) 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 Policy, the behaviors must be directly related to that person's sex.

Section V.2 Retaliation

Neither the Universities nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX or this policy.

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sexual harassment, but arise out of the same facts or circumstances as a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this policy, constitutes retaliation.

The Universities will keep confidential the identity of any individual who has made a report or complaint of sexual harassment, any Complainant, any individual who has been reported to be the perpetrator of sexual harassment, any Respondent, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g; or FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of Title IX and this policy, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Exercise of rights protected under the First Amendment does not constitute retaliation. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy does not constitute retaliation; however, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Section V.3 Conduct That Is Not Prohibited

The Universities are committed to protecting, maintaining and encouraging both freedom of expression and full academic freedom of inquiry, teaching, service and research. Nothing in this Policy shall be construed to penalize a member of the University community for expressing an opinion, theory, or idea in the process of responsible teaching and learning. Any form of speech or conduct, no matter how offensive, unpleasant or even hateful, which is protected by the principles of academic freedom or the U.S. Constitution, is not subject to this policy.

Article VI. Consensual Relationships

Consensual romantic and/or sexual relationships in which one party retains a direct supervisory or evaluative role over the other party are unethical and create a risk for real or perceived coercion. The Universities do not intrude upon private choices regarding personal relationships when these relationships do not violate the Universities' policies, or cause harm or increase the risk of harm to the safety and wellbeing of members of the campus community.

Section VI.1 Faculty/Administrator/Staff Member Relationships with Students

No faculty member shall have a romantic and/or sexual relationship, consensual or otherwise, with a student who is being taught or advised by the faculty member or whose academic work is being supervised or evaluated, directly or indirectly, by the faculty member. No administrator or staff member shall have a romantic and/or sexual relationship, consensual or otherwise, with a student who the administrator or staff member supervises, evaluates, advises, or provides other professional advice or services as part of a University program or activity. A romantic and/or sexual relationship, consensual or otherwise, between a faculty member, administrator or staff member and a student is looked upon with disfavor and is strongly discouraged.

Section VI.2 Relationships Between Supervisors and Subordinates or Between Co-Workers

A consenting romantic and/or sexual relationship between a supervisor and subordinate or co-workers may interfere with or impair the performance of professional duties and responsibilities and/or create an appearance of bias or favoritism. Further, such relationships could implicate state ethics laws and/or result in claims of discrimination, sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation. Therefore, such workplace relationships are strongly discouraged.

Article VII. Making a Report

Complainants have the right to not make a complaint to anyone. A number of reporting options are available and the Universities strongly encourage seeking support from medical, counseling, and other support services.

Section VII.1 Title IX Coordinator

Each University has designated and authorized at least one employee to coordinate its efforts to comply with its responsibilities under Title IX, who is referred to as the "Title IX Coordinator."

Any person may report sex discrimination, including sexual harassment, whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment. Reports may be made in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, electronic form (if available), or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the reporting options available at the time of the report. Reports may also be made anonymously; in such case, the person making the report shall not disclose their name or other identifying information, such as an ID number, and shall submit a written report using any of the previously identified written reporting means in a manner that would not reveal the identity of the reporter. The University may also provide specific anonymous reporting options such as a hot line, tip line, or online web form. A University's ability to respond to an anonymous report may be limited about the level of information about the incident and/or individuals involved. Reports do not constitute a formal complaint under this Policy unless they meet the criteria specified in the Title IX Complaint and Resolution Procedures.

The Title IX Coordinator will assist Complainants in notifying law enforcement, if requested by the Complainant.

The Title IX Coordinator, or designee, is responsible for coordinating the effective implementation of supportive measures and is responsible for receiving and responding to requests for disability accommodations related to supportive measures and participation in the grievance process. The Title IX Coordinator may collaborate with other appropriate offices on campus to provide necessary accommodations under this policy.

The Title IX Coordinator for Bridgewater State University is:

Name or Title: Chris McMillan, Esq.

Office Address: Office of Equal Opportunity, Boyden Hall, room 206

Email: c2mcmillan@bridgew.edu or titleix@bridgew.edu

Phone: 508-531-2744

External Website: https://www.bridgew.edu/office/titleix
Internal Website: https://studentbridgew.sharepoint.com/sites/OfficeofEqualOpportunity

Report Form: https://cm.maxient.com/reportingform.php?BridgewaterStateUniv&layout_id=17

Title IX Complaint: https://cm.maxient.com/reportingform.php?BridgewaterStateUniv&layout_id=25

Section VII.2 Law Enforcement

Complainants may file a criminal complaint with Campus Police/Public Safety, the local police department where the incident occurred, and/or other state and federal law enforcement agencies. Complainants can make both a criminal report and a report to the University and do not have to choose one or the other. The Universities encourage victims of crimes to report incidents to the police so that the police can take appropriate measures to help victims and prevent future crimes. In addition to the Title IX Coordinator, Campus Police/Public Safety will help in filing a report with local law enforcement, should the Complainant request assistance.

Complainants are never required, however, to report an incident to Campus Police/Public Safety or local law enforcement. If a Complainant elects not to make a criminal report, the Universities will respect that decision; however, the Universities may have an obligation under the Clery Act to inform Campus Police/ Public Safety of an alleged crime, but will not disclose the Complainant's name.

If a Complainant chooses to make a report to Campus Police/Public Safety, an investigation will be conducted and, if the Complainant so requests, they will receive assistance in filing criminal charges against the Respondent. Campus Police/Public Safety can also assist a Complainant in the process of obtaining protective restraining orders and abuse prevention orders for sexual harassment, sexual assault, dating violence, domestic violence, and stalking.

Campus Police/Public Safety have specially trained officers to respond to complaints of sexual assault and dating/domestic violence. Whenever possible, Campus Police/Public Safety will make every effort to offer female Complainants/victims an opportunity to have a female officer present during all interviews.

Reports to law enforcement and/or criminal complaints do not constitute a formal complaint to the University under this Policy unless they meet the criteria specified in the Title IX Complaint and Resolution Procedures.

Section VII.3 Confidential Reports

Persons who have experienced prohibited forms of sexual harassment under this policy may share information confidentially with designated employees (“Confidential Employees”) who cannot reveal identifying information to any third party unless one or more of the following conditions is present:

- the individual has provided written consent to disclose information;
- there is a concern about imminent harm to self or others;
- the information concerns the neglect or abuse of someone who is a minor, elderly, or disabled; or
- an employee has been charged with providing non-identifiable information for purposes of the Clery Act.

“Confidential Employees” include:

- licensed mental health counselors,
- licensed health care personnel,
- pastoral counselors,
- clergy who work for the Universities, or
- additional designated individual(s) on campus.

Employees may also report such misconduct in strict confidence through the Employee Assistance Program.

Please bear in mind, however, that if one requests certain supportive measures from the University (e.g., extension for academic work or changing classes, residence halls or work locations), the Dean of Students and/or other University officials as necessary may be contacted only for the purpose of providing the requested measures. In such cases, one's privacy will be maintained to the extent that respecting confidentiality will not impair the University's ability to provide the requested measures. One may also confidentially report sexual harassment, sexual assault, domestic violence, dating violence, stalking, and/or retaliation as well as other forms of sexual violence and gender-based harassment to community support resources, which are not required to share information with the Universities.

Article VIII. Resources

The safety, health and well-being of the campus communities are of paramount importance to the Universities. Any person who experiences any form of sexual assault, sexual harassment, domestic violence, dating violence, stalking, or retaliation, or similar harmful behaviors regardless of whether they are expressly prohibited by this Policy, is strongly urged to speak with someone to get the support they need, no matter when or where the incident occurred. For information on the location, phone numbers, hours and services provided for the campus and community resources listed below, please contact the Title IX Coordinator or Deputy Title IX Coordinator, the EO Officer, Human Resources, Student Life or Student Conduct, Residence Life, Health Services, the Counseling Center and/or Campus Police/Public Safety. The information is also listed on each University's website.

Section VIII.1 Immediate Needs

(a) Assuring One's Safety

If an incident occurs, the Universities encourage one to report the incident and seek both police and medical assistance. Seeking police or medical assistance does not obligate one to make a complaint or take any further action, but the decision to seek medical help and gather evidence allows one to preserve the full range of available options. The Universities will assist any community member to get to a safe place, provide transportation for medical help and, if requested, contact law enforcement. For help at any time, contact Campus Police/Public Safety or, during regular University business hours, contact the Title IX Coordinator.

(b) Preserving Evidence

Any person who has experienced sexual violence is encouraged to take steps to preserve evidence of the incident, as doing so may be necessary to prove that a crime occurred, or to obtain a protection order from the court. After an incident occurs, one should try to refrain from bathing, showering, brushing teeth, drinking, eating, douching or changing clothes until the evidence can be collected. If one changes clothes, one should place each garment in a separate paper (not plastic) bag. If the incident involves any written or electronic communications (e.g., pictures/videos, texts, social media posts, etc.), care should be taken to preserve copies and not delete the original communication.

Section VIII.2 Confidential Medical Attention

Medical attention is strongly encouraged to treat any possible injuries, including internal injuries, or infections. Please note that there are some medical actions that are more effective if taken within a few days after an offense, such as preventative treatment for pregnancy and sexually transmitted infections, evidence collection, and toxicology testing, if there are signs that drugs or alcohol facilitated the offense. One may generally discuss the incident with licensed medical personnel confidentially.

(a) Confidential Medical Resources on Campus

Students may access the services of the Student Health Center on a confidential basis. Employees may seek confidential counseling and referral services from the Employee Assistance Program ("EAP").

(b) Confidential Community Medical Resources

Sexual Assault Nurse Examiners (SANEs) are specially trained, certified professionals skilled in performing quality forensic medical-legal exams. One may find more information about SANE services and where to obtain them here: https://www.mass.gov/ma-sexual-assault-nurse-examiner-sane-program.

(c) Confidential Counseling and Support

Generally, one may discuss the incident with a licensed mental health counselor or a counselor recognized by a religious order or denomination on a confidential basis. These counselors are good options if one wishes to discuss one's situation with someone who can keep information about an incident as confidential as possible while assisting in determining next steps, such as obtaining further counseling, seeking medical attention, preserving evidence, and/or reporting to University or law enforcement authorities then or at a later time.

(d) Confidential Counseling and Support Resources on Campus

Students may access Counseling Services on a confidential basis. Employees may seek the confidential services of the EAP. All community members may access the confidential services of religious/pastoral counselors on campus, if any.

Section VIII.3 Community Counseling and Support Resources

Many off-campus counseling resources are available. These service providers are not required to report any information to the University and will generally maintain one's confidentiality.

(a) National and State Organizations

- The National Stalking Resource Center: https://victimsofcrime.org/stalking-resource-center/
- Stalking, Prevention, Awareness, and Resource Center (SPARC): https://www.stalkingawareness.org/
- National Sexual Assault Hotline: 800-656-4673 (24 hour) https://www.rainn.org/about-national-sexual-assault-telephone-hotline
- RAINN [Rape Abuse & Incest National Network]: 800-656-4673 (Hotline) www.rainn.org (On-Line Live Chat)
- Safelink MA Hotline: 877.785.2020 (24/7)
- MA Spanish Language Rape Crisis Center Hotline (Llamanos): 800-223-5001(Hotline)
- National Domestic Violence Hotline: 800-799-7233 (24 hour)
- Healing Abuse Working for Change (HAWC): 800.547.1649 (24/7)
- Victim Rights Law Center: 115 Broad Street, 3rd Floor Boston, MA 02110 Phone: 617-399-6720 (legal services for victims of sexual assault) https://www.victimrights.org/
- Crisis Text Line for People of Color: Text STEVE to 741741
- The Trevor Project (LGBTQ Suicide Hotline): 866-488-7386
- Trans Lifeline: 877-565-8860
- Our Deaf Survivors Center: VP 978-451-7225, Text 978-473-2678
- MaleSurvivor: https://malesurvivor.org
- National Suicide Prevention Lifeline: 800-273-8255 (Hotline)

(b) Massachusetts Office for Victim Assistance (MOVA)

MOVA upholds and advances the rights of crime victims and witnesses by providing outreach and education, policy advocacy, policy and program development, legislative advocacy, grants management, and service referrals.

(i) Sexual Assault and Rape Services

MOVA supports free services throughout Massachusetts to help victims and survivors of sexual assault and rape. These services provide a range of options to support an individual's specific needs, including:

- 24/7 hotline counseling, information, and referral;
- will go with victims to hospitals and/or police stations 24/7;
- will go with a victim to court;
- provide one-to-one counseling and support group counseling; and
- provide primary prevention education, professional training and outreach.

https://www.mass.gov/sexual-assault-and-rape-services

Greater Boston Area Boston Area

- Rape Crisis Center, Cambridge (BARCC): 800-841-8371 (24-hour hotline) 617-492-6434 TTY https://barcc.org/,

Northeastern Massachusetts

- YWCA North Shore Rape Crisis Center, Lynn/Lawrence/Haverhill: 877-509-YWCA (9922), Spanish: 800-223-5001
- Center for Hope and Healing, Lowell: 800-542-5212 Hotline, 978-452-8723 TTY

Central Massachusetts

- Pathways for Change, Inc., Worcester: 800-870-5905 Hotline, 888-877-7130
- Pathways for Change, Inc., Fitchburg: 800-870-5905
- Wayside Trauma Intervention Services, Milford: 800-511-5070 Hotline, 508-478-4205 TTY
- Voices Against Violence, Framingham: 800-593-1125 Support line, 508-626-8686 TTY

Southeastern Massachusetts

- A Safe Place, Nantucket: 508-228-2111 Hotline, 508-228-7095 TTY
- Cape Cod Shelter & Domestic Violence Services (508) 564-7233
- Independence House, Hyannis: (508) 771-6702 or Hotline 800-439-6507
- Independence House, Falmouth: (508) 548-0533 or Hotline 800-439-6507
- Martha's Vineyard Community Services, Oak Bluffs: (508) 693-0032 Hotline or (774) 549-9659 TTY
- The Women's Center, Greater New Bedford: Hotline (508)999-6636 or (508) 996-1177 TTY
- The Women's Center, Fall River: Hotline (508) 996-3343 or (508) 996-1177 TTY
- New Hope, Attleboro: 800-323-4673 Hotline/TTY
- The Women's Center, Fall River: 508-672-1222 Hotline, 508-999-6636; TTY 508-996-1177
- A New Day, Brockton: 508-588-8255 Hotline, 508-588-8255 or toll free at 888-293-7273

Western Massachusetts

- Elizabeth Freeman Center, Pittsfield: 866-401-2425 Hotline, 413-499-2425 TTY Center for Women and Community, Amherst: 413-545-0800 Hotline, 413-577-0940 TTY
- NELCWIT, Greenfield: 413-772-0806 Hotline; 413-772-0815 TTY
- YWCA of Western Mass, Springfield: 800-796-8711 (24/7) Hotline and TTY; 800-223-5001 Spanish
- YWCA of Western Mass, Westfield: 800-796-8711 (24/7) Hotline and TTY

(ii) Domestic Violence Services

MOVA supports free services throughout Massachusetts to help victims and survivors of domestic violence. These services provide a range of options to support an individual's specific needs.

https://www.mass.gov/domestic-violence-services

Section VIII.4 Private Non-Confidential Campus Resources

The Universities offer a variety of resources to those community members who have experienced or been affected by sexual harassment, sexual assault, domestic violence, dating violence, stalking, and retaliation. While the following resources are not bound by confidentiality, they will seek to keep information as confidential as possible and will only share information within the limited group of University personnel necessary to address the issues of prohibited conduct presented.

- Title IX Coordinator (and any Deputies)
- EO Officer
- Campus Police/Public Safety
- Human Resources
- Housing/Residence Life
- Student Life/Student Affairs
- Student Conduct
- Disability Services

Article IX. Employees' Duty to Report

Employees of the Universities have reporting obligations, as outlined below.

Reports are not required if knowledge of the potential violations is obtained at public awareness events, in approved research projects, and as part of coursework assignments.

Reports are also not required if made to "Confidential Employees" except where one or more of the following conditions are met:

- the reporting party has provided written consent to disclose information;
- there is a concern about imminent harm to self or others;
- the information concerns the neglect or abuse of someone who is a minor, elderly, or disabled; or
- an employee has been charged with providing non-identifiable information for purposes of the Clery Act.

Section IX.1 Campus Security Authorities (CSA)

Campus Security Authorities (CSAs) are individuals who by virtue of their University responsibilities, and under the Clery Act, are designated to receive and report criminal incidents

to Campus Police/Public Safety so that they may be included and published in the University's Annual Security and Fire Safety Report (Clery Report). All Employees who are designated as CSAs for the purposes of the Clery Act must immediately provide Campus Police/Public Safety with non-identifying statistical information regarding all reported incidents of sexual assault, dating violence, domestic violence, and stalking. For a list of CSAs, please contact BSUPD at 508-531-1212 or visit https://www.bsupolice.com/.

Section IX.2 Employees' Duty to Report Discrimination, Discriminatory Harassment, and Retaliation

Behavior prohibited under this Policy may also be prohibited under the Policy Against Discrimination, Discriminatory Harassment, and Retaliation. In terms of reports of discrimination, discriminatory harassment, or retaliation, any trustee, administrator, department chair, program coordinator, manager or supervisor who has knowledge of or receives such a report from a student or other member of the University community is obligated to report the information to the EO Officer or Title IX Coordinator as soon as the employee becomes aware of it. Likewise, any member of the campus community is encouraged to report to the EO Officer or the Title IX Coordinator any conduct of which they have direct knowledge and which they in good faith believe constitutes discrimination, discriminatory harassment, or retaliation. Any member of the University community who has a question about their reporting responsibilities should contact the Title IX Coordinator or EO Officer.

Section IX.3 Mandatory Reports Involving Minors and Vulnerable Adult Populations

Persons under 18 ("minors") may be students or may be engaged in activities sponsored by the Universities or by third parties utilizing University facilities. Where an employee has reasonable cause to believe that a minor is suffering from abuse, sexual abuse or neglect, including the sexual misconduct prohibited by this Policy, the employee and/or the University may be obligated to comply with the mandatory child abuse reporting requirements established at Mass. G.L. c. 119, §§ 51A-E. In such cases, the employee must immediately report the matter to Campus Police/Public Safety, who, in consultation with other officials, shall contact the Department of Children and Families ("DCF") and/or outside law enforcement. An employee may also directly contact law enforcement or DCF in cases of suspected abuse or neglect.

Massachusetts law also imposes mandatory reporting requirements for certain occupations where abuse or neglect of individuals with disabilities or who are over age 60 is suspected. For more information, please contact the Title IX Coordinator or Campus Police/Public Safety.

Article X. Employees' Duty to Cooperate

Every faculty member, librarian, administrator, staff member and University employee has a duty to cooperate fully and unconditionally in an investigation conducted pursuant to the Title IX Complaint and Resolution Procedures of this Policy and of the EO Plan, subject to the provisions of any applicable collective bargaining agreements. This duty includes, among other things, speaking with the EO Officer, Title IX Coordinator, Administrative Investigator, Decision Maker,

or Appellate Body, and voluntarily providing all documentation that relates to the claim being investigated. The failure and/or refusal of any employee, other than an employee subject to criminal charges or who invokes a Fifth Amendment privilege, to cooperate in an investigation may result in a separate disciplinary action up to and including termination. Such disciplinary action does not constitute retaliation under this Policy.

Article XI. Amnesty

Students may be hesitant to report sexual harassment, sexual assault, domestic or dating violence, stalking, or retaliation out of concern that they, or witnesses, might be charged with violations of the Universities' drug/alcohol policies or other student conduct policy violations. While the Universities do not condone such behavior, they place a priority on the need to address sexual harassment and other conduct prohibited by this Policy. Accordingly, the University shall not pursue discipline against a student who, in good faith, reports, witnesses, or participates in an investigation of sexual harassment, sexual assault, domestic or dating violence, stalking, or retaliation, unless such violation was egregious. An egregious violation shall include, but not be limited to, taking an action that places the health and safety of another person at serious and imminent risk.

Article XII. False Reporting

The initiation of a knowingly false report of sexual harassment, domestic violence, dating violence, stalking, or retaliation is a serious offense prohibited by this Policy. A report made in good faith, however, is not considered false merely because the evidence does not ultimately support the allegation of prohibited conduct. If an investigation reveals that a Complainant knowingly filed false charges, the University shall take appropriate actions and issue sanctions pursuant to other applicable University policies, including any applicable collective bargaining agreement. The imposition of such sanctions does not constitute retaliation under this Policy.

Article XIII. University Response to Sexual Harassment

When the University has actual knowledge of sexual harassment in an education program or activity of that University against a person in the United States, it will respond promptly in a manner that is not deliberately indifferent.

The University is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

The University's response will treat Complainants and Respondents equitably by offering supportive measures to a Complainant, and by following a grievance process that complies with those outlined in the Title IX Complaint and Resolution Procedures section of this document before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a Respondent.

Upon actual notice, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of supportive measures, consider the Complainant's wishes with respect to supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the Complainant the process for filing a formal complaint.

Section XIII.1 Emergency Removal of Respondent

The University may remove a Respondent from the University's education program or activity on an emergency basis, provided that the University undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

Section XIII.2 Administrative Leave of Employee

The University may place an employee on paid administrative leave during the pendency of a grievance process under this Policy when it reasonably concludes that the employee: (a) poses a threat to health or safety; (b) poses a threat to University property or equipment; (c) is disruptive or interferes with an investigation under this Policy or the normal operations of the University; or (d) is charged with a serious violation of state or federal law. The University shall provide the employee the specific reason(s) for the paid administrative leave. During the paid administrative leave, the University reserves the right to prohibit the employee from entering upon the University's property or participating in any University activities absent written authorization from an appropriate University official. The status of the paid administrative leave may change over time as determined to be appropriate and effective. The failure of an employee to comply with the paid administrative leave terms may result in further action or discipline consistent with applicable collective bargaining agreements or employee handbooks.

Section XIII.3 Response to a Formal Complaint

In response to a formal complaint, the University must follow a grievance process that complies with the Title IX Complaint and Resolution Procedures section of this document.

Article XIV. Written Notification of Rights

The Universities will notify Complainants alleging sexual harassment, sexual assault, domestic violence, dating violence, and stalking under this Policy in writing that they have the following rights to:

- an explanation of the options available;
- referrals to confidential assistance and support services from both on- and off-campus resources, including 24-hour services;
- a change in on-campus residence and/or an adjustment to their academic schedule if such changes are reasonably available;

- request that the University impose no contact/communication orders or other supportive measures;
- choose whether or not to make a formal complaint, which would initiate a formal investigation, unless the University deems it necessary to investigate to protect the safety of the community or in compliance with applicable law;
- file no complaint with the University, but receive supportive measures from the University;
- a prompt, thorough, and equitable investigation and resolution of a complaint;
- the confidentiality of the investigation process to the extent possible (reference to confidentiality section);
- know, in advance, the names of all persons known to be involved;
- an advisor of their choice who can be present at any time during the complaint resolution proceedings, including the Administrative Investigation. In addition, this Advisor will participate in the live hearing as the representative of the Complainant who shall cross-examine the Respondent and any witnesses, but whose participation in the process is otherwise limited as outlined in this Policy;
- an advisor provided by the University during the live hearing if you do not have one;
- reasonable accommodations for a documented disability during the process;
- not to have irrelevant sexual history discussed;
- be present at certain meetings and inspect, review and respond to evidence before completion of the investigative report;
- speak and present information on their own behalf, including inculpatory and exculpatory evidence;
- provide witnesses, including fact and expert witnesses;
- submit questions for the Administrative Investigator to ask witnesses;
- know the status of the case at any point during the process;
- be provided with a copy of the Investigative Report and an opportunity to respond to the report in advance of the live hearing;
- be informed of the outcome of the process in a timely manner;
- an appeal from the outcome of the process (if proper grounds for appeal exist);
- file a police report and/or take legal action separate from and/or in addition to the University discipline process;
- seek and enforce a harassment prevention order, restraining or similar court order;
- be notified of the procedure for informing the University that a protective order has been issued under federal or state law and the university's responsibilities upon receipt of such notice;
- be assisted by the University in seeking assistance from or filing a complaint with local law enforcement;
- not file a complaint or seek assistance from local law enforcement, but receive supportive measures from the University;

- be free from any behavior that may be construed by the University to be intimidating, harassing or, retaliatory; and
- have the matter handled in accordance with University policy.

The Universities will notify parties who are Respondents to claims of sexual harassment, sexual assault, domestic violence, dating violence, and stalking under this Policy in writing that they have the following rights to:

- an explanation of the allegation(s) against them, including sufficient details known at the time;
- sufficient time to prepare a response to the allegation(s) before any initial interview;
- referrals to confidential assistance and support measures from both on- and off-campus resources, including 24-hour services;
- request that the University impose no contact/no communication orders or other supportive measures;
- receive a copy of the complaint filed against them;
- know, in advance, the names of all persons known to be involved;
- be presumed not in violation of University Policy and that a determination of responsibility is made at the conclusion of the grievance process;
- the confidentiality of the investigation process to the extent possible (reference to confidentiality section);
- an advisor of their choice who can be present at any time during the complaint resolution proceedings, including the Administrative Investigation. In addition, this Advisor will participate in the live hearing as the representative of the Respondent who shall cross-examine the Complainant and any witnesses, but whose participation in the process is otherwise limited as outlined in this Policy. Pursuant to Weingarten, Respondent unit members may exercise their right to a union representative or other University employee at meetings which the unit member reasonably believes may result in discipline, in addition to an advisor of their choice unless such advisor is also the Weingarten representative;
- an advisor provided by the University during the live hearing if you do not have one;
- reasonable accommodations for a documented disability during the process;
- not to have irrelevant sexual history discussed;
- be present at certain meetings and inspect, review and respond to evidence before completion of the investigative report;
- speak and present information on their own behalf, including evidence inculpatory and exculpatory evidence;
- provide witnesses, including fact and expert witnesses;
- submit questions for the Administrative Investigator to ask witnesses;
- know the status of the case at any point during the investigation and resolution process;

- be provided with a copy of the Investigative Report and an opportunity to respond to the report in advance of the live hearing;
- be informed of the outcome of the process in a timely manner;
- an appeal from the outcome of the process (if proper grounds for appeal exist);
- be free from any behavior that may be construed by the University to be intimidating, harassing, or retaliatory; and
- have the matter handled in accordance with University policy.

Article XV. Training

The University ensures that Title IX Coordinators, Administrative Investigators, Decision Makers, Appellate Administrators, and any person who facilitates an informal resolution process receive annual training on:

- the definition of sexual harassment under this policy,
- the scope of the University's education program or activity,
- the Title IX Complaint Resolution Procedures, including how to conduct investigations, hearings, appeals, and informal resolution processes, as applicable, and
- how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Each University ensures that investigators receive training on issues of relevance to create an Investigative Report that fairly summarizes relevant evidence.

The University ensures that Decision Makers receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant.

All available materials used to train Title IX Coordinators, Administrative Investigators, Decision Makers, Appellate Administrators, and any person who facilitates an informal resolution process will be made publicly accessible on the University's website.

Article XVI. Recordkeeping

The University will create, and maintain for a period of not less than seven years, unless a longer period of retention is required by law, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the University will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the University's education program or activity.

If the University does not provide a Complainant with supportive measures, then the University will document the reasons why the University did not provide such measures. The

documentation of certain bases of measures does not limit the University in the future from providing additional explanations or detailing additional measures taken.

Furthermore, the University will maintain for a period of not less than seven years, unless a longer period of retention is required by law, records of:

- each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript of the hearing, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to the University's education program or activity;
- any appeal and the result therefrom;
- any informal resolution and the result therefrom.

Article XVII. Statistical Reporting and Timely Warnings under The Clery Act

The Clery Act requires the Universities to maintain a daily log of reports of crimes that occurred on campus, University-controlled property or public property immediately adjacent to campus, including reports of sexual assault, domestic or dating violence and stalking. The Universities must also publish an Annual Campus Crime Report concerning reported incidents. The Universities do not include names or other personally identifying information in the daily logs or the Annual Security Reports. Additionally, when the University becomes aware that an incident of sexual misconduct or violence occurred, and there is a potential for bodily harm or danger to members of the campus community, the University will issue a timely warning to the campus. While the University will provide enough information to safeguard the campus community, a victim's name or other personally identifying information will not be disclosed in the timely warning.

Article XVIII. Compliance Concerns

Persons concerned about the University's handling of a Title IX report or investigation, may bring their concerns to the attention of the University's Title IX Coordinator. Concerns may also be reported to:

U.S. Department of Education, Office for Civil Rights
33 Arch Street, 9th Floor Boston, MA 02119-1424
Telephone: (617) 289-0111; FAX: (617) 289-0150; TDD (877) 521-2172
Email: OCR.Boston@ed.gov

Article XIX. Title IX Complaint and Resolution Procedures

The Universities have adopted the following grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by this policy.

Unless otherwise specified, the provisions, rules, or practices in this grievance process for handling formal complaints of sexual harassment under Title IX apply equally to both parties.

Proceedings under the Title IX Complaint and Resolution Procedures shall be prompt, fair, and impartial, and be conducted by officials who receive annual training, as addressed in Article XV.

The Title IX Complaint and Resolution Procedures treat Complainants and Respondents equitably by:

- providing remedies to a Complainant where a determination of responsibility for sexual harassment has been made against the Respondent; and
- following an investigation and hearing process that complies with this section before imposing any disciplinary sanctions or other actions that are not supportive measures against a Respondent.

Remedies are designed to restore or preserve equal access to the University's education program or activity. Such remedies may include the same individualized services described as "supportive measures"; however, remedies may be disciplinary or punitive and place burden on the Respondent.

The Title IX Complaint and Resolution Procedures include an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence, and provides for credibility determinations that are not based on a person's status as a Complainant, Respondent, or witness.

Section XIX.1 Freedom from Bias and Conflict of Interest

The University requires that any individual designated as a Title IX Coordinator, investigator, Decision Maker, or any person designated to facilitate an informal resolution process not have a conflict of interest or bias for or against Complainants or Respondents generally, or an individual Complainant or Respondent.

Section XIX.2 Parties to a Complaint

The parties to a complaint are the Complainant, who is the alleged victim of conduct that could constitute sexual harassment; and the Respondent, who is the alleged perpetrator of conduct that could constitute sexual harassment.

A Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Title IX Complaint and Resolution Procedures.

Section XIX.3 Making a Formal Complaint

A formal complaint is a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the University formally investigate.

At the time of filing a formal complaint, a Complainant must be participating in, or attempting to participate in, the education program or activity of the University with which the formal complaint is filed. Formal complaints may be made in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, electronic form (if available), or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

The "document filed by a Complainant" may be a document or electronic submission (such as by electronic mail) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the formal complaint.

Reports made to University employees, including the Title IX Coordinator and campus law enforcement, do not constitute a formal complaint under this Policy unless they meet the aforementioned criteria in this section.

Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a Complainant or otherwise a party in the Title IX Complaint and Resolution Procedures.

While the Universities encourage prompt reporting of incidents of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, as well as retaliation, they do not limit the timeframe for filing a complaint under this Policy. Complaints may be filed at any time, but the University's ability to take action may be limited by the matriculation or employment status of Complainants, Respondents, or witnesses. A prompt report will enable the University to most effectively respond to a complaint.

(a) Dismissal of a Formal Complaint

The University must investigate the allegations in a formal complaint. However, if the conduct alleged in the formal complaint would not constitute sexual harassment as defined by this Policy even if proved, did not occur in the University's education program or activity, or did not occur against a person in the United States, then the University must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX and this Policy. A dismissal of a formal complaint under this Policy for one of the aforementioned reasons does not preclude action under another University policy or its Code of Conduct.

The University may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing: a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; the Respondent is no longer enrolled or employed by the University; or specific circumstances

prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal required or permitted pursuant to this section, the University will promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties. Any party may appeal the dismissal of a formal complaint, in accordance with the appeal process described in Section XIX.6(j).

(b) Consolidation of Formal Complaints

The University may consolidate formal complaints of sexual harassment allegations against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

Where the formal complaint process involves more than one Complainant or more than one Respondent, references in this policy to the singular "party," "Complainant," or "Respondent" include the plural, as applicable.

(c) Concurrent Investigations

In some circumstances, the Respondent's alleged conduct violating this Policy may constitute a potential violation of other University conduct policies such as the Policy Against Discrimination, Discriminatory Harassment, and Retaliation and/or the Student Code of Conduct. To avoid duplicative efforts, the University may undertake a concurrent investigation of the alleged conduct. Where such concurrent investigation takes place, the University will use the Title IX Complaint and Resolution Procedures, provided however that cross-examination in the live hearing may be restricted to only questions relevant to allegations of violations of the Title IX Sexual Harassment Policy. Based on the findings of the concurrent investigation, the Respondent may be subject to disciplinary action for violations of this Policy as well as the Policy Against Discrimination, Discriminatory Harassment, and Retaliation and/or the Student Code of Conduct, as well as other policy violations. If a formal complaint is dismissed in accordance with Article XIX, Section XIX.3 (a), an investigation may continue under other University conduct policies and the procedures prescribed for alleged violations of those policies.

Section XIX.4 Notice of Allegations

Upon receipt of a formal complaint in writing, the University will promptly provide the following written notice to the parties who are known:

- Notice of the allegations of behavior potentially constituting sexual harassment as defined in this Policy, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known; the conduct allegedly constituting sexual harassment under this Policy; and the date and location of the alleged incident, if known.

- To a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews, other meetings, or hearings with sufficient time for the party to prepare to participate.
- Notice of the Title IX Complaint and Resolution Procedures, including any potential informal resolution process.
- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Title IX Complaint Resolution Procedures.
- A statement to the parties that they may have an advisor of their choice.
- A statement to the parties that they may inspect and review evidence.
- A statement informing the parties of any provision in this Policy or the University's Code of Conduct that prohibits knowingly making false statements or knowingly submitting false information during the Title IX Complaint and Resolution Procedures.

A Respondent has ten (10) calendar days in which to respond to the complaint after the Notification of Allegations. In cases where a Respondent refuses or fails to participate in the investigation and resolution process, the University may continue the process without the Respondent's participation. The failure of the Respondent to participate in the investigation and resolution process will not prevent the University from imposing discipline or other sanctions when a violation is found.

At any point after receiving the notice of allegations, including during the investigation and live hearing, a Respondent to any formal complaint may agree to the allegations and the recommended sanction(s).

(a) Amending Allegations

If, in the course of an investigation, the University decides to investigate allegations about the Respondent or Complainant that are not included in the original notice of complaint, the University will provide notice of the additional allegations to the parties whose identities are known.

Section XIX.5 Resolution Options

The Title IX Complaint and Resolution Procedures offer two options, the Informal Resolution Option and the Formal Resolution Option**.**

(a) Informal Resolution Option

Parties may have the option to request to resolve their formal complaint through a voluntary informal resolution process offered by the University (such as mediation) that does not involve a full investigation and adjudication. If the University offers it, the option to participate in an informal resolution process can be chosen when the formal complaint is filed or at any time prior to reaching a determination regarding responsibility. The University can facilitate an informal resolution process, provided that the University has:

- Provided to the parties a written notice disclosing:
    - the allegations;
    - the requirements of the informal resolution process including:
        - the parties' inability to resume a formal investigation arising from the same alleged conduct once a mutually agreed upon resolution is reached through the informal process, and
        - the parties' right, at any time prior to agreeing to a resolution through the informal resolution process, to withdraw and resume the formal investigation procedures with respect to the formal complaint;
    - any consequences resulting from participating in the informal resolution process, including the records that will be maintained;
    - information on the records that will be maintained or could be shared as a result of participation in the informal resolution process, as required or allowable under FERPA, collective bargaining agreements, employee handbooks, or applicable regulations; as required by law; or as otherwise deemed appropriate;
- Obtained the parties' voluntary, written consent to the informal resolution process.

The University will not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student. Similarly, the University does not require the parties to participate in an informal resolution process.

The matter will be deemed resolved when all parties expressly agree to an outcome that is acceptable to them and to the University. The University will create a written record of any such agreement. The University will also ensure a reasonably prompt time frame for an informal resolution process, if it is offered and utilized. Every attempt will be made to conclude the Informal Resolution Option within sixty (60) calendar days of the date of the request.

(b) Formal Resolution Option

The process for resolving a formal complaint through the formal resolution option consists of three major stages: the investigation, the live hearing, and a possible appeal.

If a complaint has been properly filed, either by a Complainant or signed by the Title IX Coordinator, the University will assign the matter to an Administrative Investigator. The University may also designate other trained and knowledgeable University officials to assist with the investigation. Under circumstances where the University deems it necessary or appropriate, the University may also appoint an external investigator.

Following the investigation, a live hearing will be held and presided over by a Decision Maker who is neither the Investigator nor the Title IX Coordinator. All complaints pursued under the Title IX Complaint and Resolution Procedures will be evaluated under a "preponderance of the evidence" standard. Under this standard, conclusions must be based on what "more likely than not" occurred.

A written determination is issued after the live hearing and parties have the right to appeal the decision on specific permissible grounds, as outlined in Section XIX.6 j.

Section XIX.6 Formal Resolution Process

(a) Timeframe

The University will attempt to investigate a complaint within sixty (60) calendar days after the notification of allegations. If, for good cause, an investigation is temporarily delayed, the University will provide the parties written status updates at reasonable intervals until the investigation is completed that explains the reason for the delay or extension. Good cause for limited delays may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; the need for language assistance or accommodation of disabilities; the complexity or severity of a complaint; and breaks in the academic calendar or exam periods. While the University will make reasonable efforts to accommodate the availability of parties, their advisors, and witnesses, a party, their advisor, or a witness may not delay the process indefinitely by refusing to attend or otherwise participate in the process.

The University will attempt to conclude the hearing within fifteen (15) business days of receipt of the Investigation Report.

The University will attempt to conclude the appeal process within thirty (30) business days of receipt of the appeal.

(b) Investigation

The investigation may include, but is not limited to:

- interviews of the parties and other individuals and/or witnesses; and/or reviewing certain documents or materials in the possession of either party or any witness that the Administrative Investigator has deemed relevant;
- consideration of all relevant documents, including written statements and other materials presented by the parties and witnesses;
- evidence collection, including but not limited to, documents, text messages, emails, social media posts and messages, photographs, surveillance camera footage, door lock interrogations, card access records, guest sign-in logs, academic records, employee records and personnel documentation, and law enforcement reports;
- the Administrative Investigator's findings of fact based on the preponderance of the evidence standard;
- the Administrative Investigator's analysis of allegations, defenses, and evidence presented in order to make the factual findings.

(c) Burden of Proof

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the University and not on the parties. The University cannot

access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent to do so for a formal investigation.

(d) Right to an Advisor of Choice

The Complainant and Respondent have an equal opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice. The University does not limit the choice or presence of an advisor for either the Complainant or Respondent in any meeting or grievance proceeding; however, the University may establish restrictions regarding the extent to which the advisor may participate in the proceedings. The University maintains the right to remove an advisor from any meeting or proceeding if the advisor is disruptive. The meeting or proceeding may then be delayed to allow the party to secure another advisor.

(e) Equal Opportunity to Present, Review, and Respond to Evidence

Both parties are afforded an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. The University does not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

So that each party can meaningfully respond to the evidence prior to conclusion of the investigation, both parties are provided an equal opportunity to review:

- any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint;
- the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility; and
- inculpatory or exculpatory evidence whether obtained from a party or other source.

The University will provide each party and the party's advisor, if any, any evidence subject to review in an electronic format or a hard copy. The parties will have ten (10) calendar days to review the evidence and submit a written response, which the investigator will consider prior to completion of the Investigative Report. Where new substantive evidence becomes available through written response to the review of evidence, the University will provide each party and the party's advisor an opportunity to review and respond to that new substantive evidence.

The Administrative Investigator will review the written responses to the evidence, if any, and, based on the information provided, conduct any additional investigation that may be necessary prior to the completion of the Investigative Report. The University will make all such evidence subject to the parties' review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

(f) Investigative Report

Following the opportunity for the parties to review the evidence and respond in writing, the Administrative Investigator will create an Investigative Report that fairly summarizes relevant evidence, the Administrative Investigator's findings of fact based on the preponderance of the evidence standard and the Administrative Investigator's analysis of allegations, defenses, and evidence presented in order to make the factual findings.

At least ten (10) calendar days prior to a hearing the investigator will send each party and the party's advisor, if any, the Investigative Report in an electronic format or a hard copy, for their review and written response. The parties have five (5) calendar days to submit a written response to the Administrative Investigator. The Investigative Report and written responses, if submitted, will be forwarded by the Administrative Investigator to the Decision Maker promptly upon receipt of the written responses or upon the response deadline.

(g) Live Hearing

The Title IX Complaint and Resolution Procedures include a live hearing presided over by a Decision Maker.

Parties are requested to give the University five (5) business days of advance notice of the advisor who will accompany them to the live hearing. If a party does not have an advisor, they are requested to notify the University five (5) business days in advance of the hearing so the University is able to provide them with an advisor.

At the University's discretion, live hearings may be conducted in-person or virtually where the parties, witnesses, and other participants are able to simultaneously see and hear each other with enabling technology.

At the request of either party, the University will provide for the live hearing to occur with the parties located in separate rooms with technology enabling the Decision Maker(s) and parties to simultaneously see and hear the party or the witness answering questions.

The University will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for review upon request.

(i) Cross-Examination

At the live hearing, the Decision Maker(s) will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.

Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor and never by a party personally.

Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Decision Maker(s) must first determine whether the question is relevant and explain any decision

to exclude a question as not relevant. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless:

- 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.

If a party does not have an advisor present at the live hearing, the University will provide that party an advisor of the University's choice to conduct cross-examination on the party's behalf.

(h) Determination Regarding Responsibility

The Decision Maker(s) will make every reasonable effort to submit a written determination regarding responsibility to the Title IX Coordinator within seven (7) business days after the conclusion of the live hearing, unless good cause for additional time is shown.

To reach this determination, the Decision Maker(s) will apply the preponderance of evidence standard in all formal complaints of sexual harassment against students, faculty, and staff.

The written determination will include:

- identification of the allegations potentially constituting sexual harassment;
- a description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding the application of the Title IX Sexual Harassment Policy to the facts;
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the University imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant; and
- the University's procedures and permissible bases for the Complainant and Respondent to appeal.

The Title IX Coordinator will provide the written determination to the parties simultaneously.

The determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator is responsible for effective implementation of any remedies.

(i) Possible Sanctions and Remedies

(i) For Faculty and Staff (employee) Respondents

Disciplinary action taken against an employee shall be regarded as an administrative action, up to and including termination.

Additional disciplinary action shall also be taken against an employee who violates a sanction or sanctions imposed pursuant to this Policy.

(ii) For Student Respondents

A student who has been found to have violated the Sexual Harassment Policy may be subject to sanctions including, but not limited to:

- reprimand
- fines and/or restitution
- warning
- disciplinary hold
- disciplinary probation
- assessment
- loss of privileges
- educational program or project
- relocation of residence
- revocation of admission or degree
- restriction from facilities or activities
- withholding of degree
- temporary or permanent residence hall suspension
- suspension
- expulsion

In general, the sanction typically imposed for students for rape is expulsion. The sanction typically imposed for students for other forms of sexual assault, domestic violence, dating violence, and stalking is suspension or expulsion. All student sanctions, however, are determined on a case-by-case basis in consideration of: the seriousness of the violation; sanctions typically imposed for similar violations; prior disciplinary history; and any other circumstances indicating that the sanction should be more or less severe.

Additional disciplinary action shall also be taken against a student who violates a sanction or sanctions imposed pursuant to this Policy. Depending on the nature of the violation, such discipline may be imposed pursuant to the provisions of this Policy or pursuant to the applicable provision of the Student Code of Conduct.

(iii) Additional Remedies Following Finding of a Violation

Where necessary, the University will provide additional measures to remedy the effects of a violation. These remedies are separate from, and in addition to, any supportive measures that

may have been provided or sanctions that have been imposed. If the Complainant declined or did not take advantage of a specific service or resource previously offered as a supportive measure, such as counseling, the University will re-offer those services to the Complainant as applicable or necessary.

In addition, the University will consider broader remedial action for the campus community, such as increased monitoring, supervision, or security at locations where the incidents occurred, increased or targeted education and prevention efforts, climate assessments/victimization surveys, and/or revisiting its policies and procedures.

(j) Appeals

Either party may appeal a determination regarding responsibility, a dismissal of a formal complaint, or any allegations therein, on the following bases:

- procedural irregularity that affected the outcome of the matter;
- new evidence that could affect the outcome of the matter was not reasonably available at the time the determination regarding responsibility or dismissal was made; and
- the Title IX Coordinator, investigator(s), or Decision Maker(s) had a conflict of interest or bias for or against either Complainants or Respondents generally, or the individual Complainant or Respondent, which affected the outcome of the matter.

Appeals of the written determination made by the Decision Maker(s) must be submitted within ten (10) calendar days of receipt of the written determination. Appeals of the dismissal of a formal complaint, or any allegations therein, must be submitted within ten (10) calendar days of receipt of the written notification of such action.

The University will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties. The Appellate Administrator/Body will not be the same person as the Decision Maker(s) who reached the determination regarding responsibility or dismissal, the Administrative Investigator(s), or the Title IX Coordinator.

The Appellate Administrator/Body will issue a written decision describing the result of the appeal and the rationale for the result, and provide the written decision simultaneously to both parties.

Where practicable, the appeal process will be concluded within thirty (30) business days of receipt of the appeal.

Section XIX.7 Formal Complaint Resolution Timeline

The timeline maybe adjusted based upon the considerations set forth in the Title IX Complaint and Resolution Procedures, but no party will be deprived of the minimum review periods provided for in this Policy.

Formal Complaint Investigation Steps	**Timeframe**
Complaint Received and Notification of Allegations sent to the Respondent	Promptly after formal complaint received

Formal Complaint Investigation Steps	**Timeframe**
Respondent's Response	Written response, if any, due 10 calendar days after notice of allegations
Investigation	To be concluded, where practicable, within 60 calendar days of notice of allegations
Evidence Review & Response	Parties have 10 calendar days to review evidence and submit written response
Investigative Report	Provided to parties at least 10 calendar days prior to live hearing
Investigative Report Review & Response	Written response must be submitted by parties at least 5 calendar days before live hearing
Live Hearing	Within 15 business days of receipt of written responses to Investigative Report
Determination of Responsibility	Within 7 business days of conclusion of the live hearing
Appeal Submittal	Due within 10 calendar days of written determination
Appeal Response	To be concluded, where practicable, within 30 calendar days of receipt of written appeal