

**UNIVERSITY OF MASSACHUSETTS**  
**SEXUAL HARASSMENT POLICY**

Sexual harassment is sex discrimination and, therefore, a violation of federal and state law. It is the policy of the University of Massachusetts that no member of the University community may sexually harass another. For purposes of this policy and consistent with federal regulations, sexual harassment is defined as follows:

Unwelcomed sexual advances, requests for sexual favors and other verbal or physical conduct of sexual nature constitute sexual harassment when: 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic work, 2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working or academic environment.

It is the policy of the University of Massachusetts to protect the rights of all persons within the University community by providing fair and impartial investigations of all complaints brought to the attention of appropriate officials. Any member of the University community found to have violated this sexual harassment policy will be subject to disciplinary action.

Chancellors are directed to take appropriate measures to inform each member of the University community of this policy statement and to develop procedures, in conjunction with the President's Office, for filing, hearing and resolving complaints.

**UNIVERSITY OF MASSACHUSETTS AMHERST  
SEXUAL HARASSMENT POLICY AND PROCEDURES  
(Doc. T92-037)**

**POLICY**

The University of Massachusetts is committed to providing faculty, staff and students with an environment where they may pursue their careers or studies without being sexually harassed. Sexual harassment of or by any member of the University community is unacceptable and will not be tolerated. It is illegal and constitutes a violation of Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and Massachusetts G.L.c.151B and 151C.

For the purposes of this policy, it is defined as follows:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when: 1) submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic work; or 2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual; or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's performance or creating an intimidating, hostile or sexually offensive working or academic environment.

Examples of sexual harassment include, but are not limited to the following:

- repeated unwanted sexual flirtations, advances or propositions;
- continued or repeated verbal abuse or innuendo of a sexual nature;
- uninvited physical contact such as touching, hugging, patting, brushing, or pinching;
- verbal comments of a sexual nature about an individual's body or sexual terms used to describe and individual;
- display of pictures, posters or cartoons that a reasonable person would find offensive or sexually suggestive;
- continued or repeated jokes, language, epithets or remarks of a sexual nature;
- prolonged staring or leering
- making obscene gestures or suggestive or insulting sounds;
- demand for sexual favors accompanied by an implied or overt threat concerning an individual's employment or academic status or promises of preferential treatment;
- incident exposure.

In determining whether an alleged incident constitutes sexual harassment, those entrusted with administering this policy will look at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The final decision regarding a suitable penalty will be made from the finding of fact on a case-by-case basis and from any record of previous sexual harassment by the Respondent.

The Equal Opportunity and Diversity Office, 305 Whitmore Building (413-545-3464) will be responsible for administering this policy and its procedures. The Associate Chancellor of Equal Opportunity and Diversity or his/her designee will serve as Chair of the Sexual Harassment Board (see Section VIII,A for a description of this Board and its responsibilities). The Equal Opportunity and Diversity Office, in concert with the Chancellor, the Deputy Chancellor, and Vice Chancellors will see that all supervisors on the Amherst campus receive information and training concerning sexual harassment and the responsibilities of supervisors when complaints are received.

## **I. PURPOSE AND SCOPE**

This grievance procedure is intended to provide a fair, prompt and reliable determination about whether the University's sexual harassment policy has been violated. Anyone who, at the time of the alleged harassment, was either employed by or enrolled at the University of Massachusetts Amherst may file a complaint alleging violation of this policy. Specific procedures for compliant processing will be determined consistent with the exceptions noted in the last paragraph of this section. No University employee or student is exempt from the jurisdiction of this policy.

In most instances, complaints will be initiated by the target of the alleged harassment. However, the University reserves the right to initiate a formal grievance (or to continue processing a complaint even after a request to withdraw has been submitted by the Complainant in accordance with Section IV) when, in the opinion of the Chair of the Sexual Harassment Board, it is appropriate to do so. In such instances the Chair of the Sexual Harassment Board, in consultation with the Chancellor, will designate who will present the University's case.

As in any grievance procedure justice requires that the legal rights, as well as the right to academic freedom, of the Complainant and the Respondent be fully assured. The University will make every effort to protect these rights and will knowingly undertake no action that threatens or compromises them. Notwithstanding, nothing in these procedures is intended to prevent the University administration from taking appropriate interim measures to protect one or more of the parties until such time final adjudication regarding the complaint has been reached.

This procedure is not intended to impair or limit the right of anyone to seek a remedy available under state or federal law. A complainant may file a complaint with an external agency to meet state and federal agency deadlines without jeopardizing his or her right to a University hearing (see Section XI). Upon official notification that an individual has filed with an external agency, the University will inquire if the Complainant wishes to continue with the internal grievance process. Should the Complainant seek to discontinue the internal process, the University will nonetheless continue to fact find and take appropriate measures.

If the Respondent is a member of the Chancellor's staff, the Deputy Chancellor will serve the role described for the Respondent's Vice Chancellor in this procedure. If the Respondent is the Deputy Chancellor, the Chancellor will serve the role described for the Respondent's Vice Chancellor. If the Respondent is the Chancellor, the matter shall be referred to the President's Office. [Note: In all instances throughout this document where the term Vice Chancellor is

used, it will be understood that the term also refers to the Deputy Chancellor or Chancellor, whichever is appropriate.]

When the Respondent in a formal grievance is an undergraduate student, the complainant should contact the Dean of Students Office, 227 Whitmore Building (413-545-2684); all such complaints will be handled in accordance with procedures as described in the *Code of Student Conduct*. When the Respondent is a graduate student, the Complainant will be referred to the Dean of the Graduate School (or his or her designee), 514 Goodell Building (413-545-5271) who has analogous procedures. (In instances in which a Respondent is both a student and an employee, the Chair of the Sexual Harassment Board shall review the circumstances of the case and determine which grievance procedure is appropriate).

## **II. CONFIDENTIALITY**

All parties involved in any aspect of this process will act at all times to preserve the confidentiality of these proceedings. Information will be shared with those individuals who have a legitimate and operational need to be informed, and to the extent that it is necessary to maintain the effectiveness of this process. Individuals found to have violated the confidentiality of this process may be subject to disciplinary proceedings consistent with the provisions of their collective bargaining agreement or other applicable administrative rules and regulations.

## **III. DEADLINES**

A Complainant will have twelve months following an incident to initiate a complaint under this policy and procedures unless he or she can show good reason for having that deadline waived. Requests for exceptions to the filing deadline must be made in writing to the Chair of the Sexual Harassment Board who will render a decision in writing following his or her review of the request. Legal Counsel may be consulted in making this determination.

In some instances, particularly when a pattern of behavior is the subject of the complaint, supporting evidence may include reports of behavior that occurred outside of the twelve month filing deadline. Such evidence is not subject to the exception requirement.

Failure to meet any of the deadlines stipulated in this procedure will not result in a decision by default or prevent the process from continuing.

## **IV. REQUIREMENTS FOR PARTICIPATION AND WITHDRAWALS**

If a Respondent fails to answer a charge or to participate in this process, the Chair of the Sexual Harassment Board will notify his or her Vice Chancellor of that fact. Failure to respond to a claim or to appear at a hearing will be considered a breach of responsibility and could result in disciplinary action. Furthermore, a Respondent will not prevent this process from proceeding by his or her silence or absence; failure to appear may result in the hearing proceeding solely on the basis of the Complainant's testimony and evidence.

A complainant may request to withdraw a formal grievance after it has been filed by submitting written reasons for the withdrawal to the Chair of the Sexual Harassment Board. The

Respondent must provide written agreement to the withdrawal before the charges are dropped. A Respondent who does not agree to the withdrawal request must provide written reasons to the Chair of the Sexual Harassment Board who, after consultation with appropriate administrators including, where necessary, legal counsel, will issue a written determination to the parties regarding the status of the claim. A complainant may not interrupt the process simply by failing to appear at the hearing or other required meetings. Failure to appear may result in the hearing proceeding solely on the basis of the Respondent's testimony and evidence.

None of the above actions should be construed to impinge upon the right of the University to initiate or continue a claim in spite of a request to withdraw when, in the opinion of the Chair of the Sexual Harassment Board, the allegations are sufficiently egregious to merit further action on the part of the University. The alleged victim will be relied upon to serve as a witness under these circumstances.

## **V. RETALIATION**

No individual shall be retaliated or discriminated against for participating in these procedures. Any act of retaliation directed against person(s) participating in these procedures is illegal. Complaints of retaliation should be addressed to the Associate Vice Chancellor for Equal Opportunity and Diversity who will determine the appropriate action.

## **VI. PENALTIES**

The penalties for those found to have violated this policy may include, but will not be limited to, any one or combination of the following: verbal admonition, written warning placed in the personnel file, probation, suspension without pay, demotion, removal from administrative duties, or dismissal. Any disciplinary measures imposed will be consistent with applicable union contractual provisions.

## **VII. FILING SEXUAL HARASSMENT COMPLAINTS**

The University recognizes that it has a responsibility to provide a procedure for rapid and equitable resolution of all sexual harassment complaints. In many instances, resolution can be reached without the need for formal measures. The goal in all instances is to ensure that inappropriate and offensive behavior is stopped. To assist Complainants in resolving sexual harassment complaints, the University has established both informal and formal procedures, and has identified a well trained cadre of individuals, "Complaint Handlers", (see Appendix A) who can advise parties of appropriate options and procedures. In addition, the University's Equal Opportunity and Diversity Office (EO&D) can provide the names of volunteers from the University community who are willing to serve as "Support and Referral Contacts" (see Appendix B); Support and Referral contacts, who can serve the needs of either Complainants or Respondents, are available to accompany participants to meetings or formal hearings and provide support throughout the process.

### **VII.A. INITIATING A COMPLAINT**

Complainants may initially consult with a Support and Referral Contact (see Appendix B) who can provide information about the complaint handling system and options available for resolution. Individuals may alternatively initiate discussions regarding a potential complaint directly with their departmental supervisor; department head or chair; or similarly situated administrator with line authority (these individuals may collectively be referred to as “Complaint Handlers”; see Appendix A of this document); or Complainants may directly contact the Equal Opportunity and Diversity Office (EO&D). [Note: The Appendices referred to in this paragraph will be updated annually and widely published.] All of the above-named individuals can provide advice regarding available options and procedures, and assist in determining how to proceed with the complaint (i.e. informally or formally).

The Complaint Handler (initial intake person as identified in the preceding paragraph) will assess the matter; determine what immediate action must be taken; and advise the Complainant about how to proceed – informally, using one of the methods described in Section VII.B.1-3 or formally, using the methods described in Section VII.C and VIII.

The Complaint Handler may also consult with the Chair of the Sexual Harassment Board to determine the appropriateness of proceeding under these procedures. The Chair of the Sexual Harassment Board has the authority to discontinue processing a complaint. This decision is final and not subject to appeal.

The Complaint Handler, in consultation with the Chair of the Sexual Harassment Board, will identify the appropriate fact finding mechanism. Fact-finding will be done either internally (by a University staff member) or externally (by a person whose services will be retained specifically for this purpose). When fact-finding results in a written report, this will be forwarded to the Chair of the Sexual Harassment Board and may later be introduced into the record during a formal hearing process.

Complaint Handlers must file a written report of all complaints, regardless of their disposition, with the Equal Opportunity and Diversity Office who will maintain a record of all informal complaints and formal grievances. Such record will include Complainants’ and Respondents’ names and the outcome of proceeding, including sanctions imposed if any. At the end of every academic year the EO&D Office will prepare an annual report of statistics and relevant commentary for the Chancellor. The annual report will be available to faculty, staff and students upon written request to the Equal Opportunity and Diversity Office. The annual report will not contain names, but may contain other relevant statistical data including, but not limited to, status of the parties (e.g. undergraduate or graduate student; classified or professional staff; or faculty); department or other campus affiliation; nature of the complaint; and outcome.

## **VII.B. INFORMAL RESOLUTION**

In some circumstances informal resolution of a complaint prior to or instead of initiating the formal process may be more satisfactory than directly proceeding to a formal grievance. Informal resolution options include, but are not limited to, self-help; consultation and action at the department level; or mediation through the Ombuds Office.

Further information regarding the informal resolution process may be obtained from Support and Referral Contacts (see Appendix B); Complaint Handlers (see Appendix A); or by contacting the Equal Opportunity and Diversity Office (EO&D).

### **VII.B.1. SELF HELP**

The goal in any compliant process is to stop the harassing behavior. If a Complainant believes they are experiencing inappropriate conduct and feels they can comfortably confront the individual responsible for the inappropriate conduct, they may do the following:

- confront the person(s) promptly;
- inform the person(s) that the conduct offends, intimidates, or embarrasses them;
- describe how this behavior is affecting them;
- request the behavior stop immediately.

It is helpful to have such a conversation with a witness present who can corroborate the exchange. If this is not possible or practical, the Complainant may write a letter incorporating the above points and give it to the person in front of a witness. The Complainant should retain a copy of this letter.

In all instances, the Complainant should document the event(s), including dates, times, places and witnesses.

If this action fails to provide the Complainant with the appropriate relief, or as an alternative to using this approach, the measures described below may be considered.

### **VII.B.2. CONSULTATION AND ACTION AT THE DEPARTMENT LEVEL**

When the Complainant cannot comfortably and directly confront the person who is being offensive, or the behavior has continued in spite of direct confrontation, it is advisable to report the behavior to someone in a position of authority who can intervene. Such persons include an immediate supervisor, department head or chair, or similarly situated supervisory personnel (see Section VII.A).

### **VII.B.3. MEDIATION**

It is sometimes the case that the issue under contention can be resolved through mediation. The Ombuds Office, located in Room 809, Campus Center, is available to provide mediation services. The Ombuds Office is also prepared to provide referrals for more formal measures when circumstances warrant it.

### **VII.C. FORMAL RESOLUTION (FILING A FORMAL GRIEVANCE)**

Complainants who are dissatisfied with or do not wish to utilize informal resolution should consult directly with the EO&D Office to determine the appropriateness of filing a formal grievance. Although informal resolution attempts are not required prior to filing a formal grievance, they are nonetheless encouraged.

Any individual who chooses to file a formal sexual harassment grievance may do so immediately following the incident giving rise to the complaint, or following efforts to reach an informal settlement. In no event will it be filed greater than twelve months following the incident which gave rise to the complaint unless the provision of Section III have been met. Staff from the EO&D Office will initially meet with the Complainant to assess the complaint, including the appropriateness of the complaint being filed under this Policy and Procedures; University Legal Counsel may be consulted on this subject (see Section VII.A). The EO&D Office will then advise the Complainant of appropriate next steps and will identify a fact-finder if one has not already been appointed.

### **VIII. FORMAL GRIEVANCE PROCEDURE**

Following appropriate initial consultation with the EO&D Office, the grievance must be submitted in writing on an official grievance form (obtainable from the EO&D Office); it must state clearly and concisely the Complainant's description of the incident; it may also indicate any remedy sought. The complaint must be signed and dated by the Complainant. The EO&D Office will provide the Respondent with a copy of the complaint in a timely manner. A copy of the complaint will also be sent to the Respondent's Vice Chancellor.

Prior to their participation in a hearing, the Chair of the Sexual Harassment Board will meet with each Hearing Panel to review sexual harassment issues and the hearing procedures.

Before the hearing is convened, the parties will receive written notification of the Panel's appointment from the Chair of the Sexual Harassment Board. Each party to the proceeding will have the right to object to the appointment of any panel member on the grounds that that member's participation would jeopardize the party's right to a fair and reliable hearing. All objections must be submitted in writing to the Chair of the Sexual Harassment Board. The Chair of the Sexual Harassment Board will determine whether objections have merit; will judge whether a panel member will be seated; and will notify the objecting party in writing. This decision will be final.

The Hearing Panel will hear testimony and consider evidence related to the complaint, including the written findings of fact as prepared by the fact-finder. (These findings will be provided to the Panel along with copies of the complaint and the response prior to the hearing). The Panel will, on the basis of all information and testimony before them, make a determination about whether the University Policy on Sexual Harassment has been violated and, if so, will submit a recommendation for appropriate penalty and relief to the Chair of the Sexual Harassment Board. The Chair will review the Panel's recommendation and forward it, along with appropriate commentary, to the Respondent's Vice Chancellor.

## **Duties and Powers of the Presiding Office and the Hearing Panel**

### **The Presiding Officer will:**

1. ensure an orderly presentation of all evidence;
2. ensure that the proceedings are accurately recorded; and
3. see that a fair and impartial decision based on the issues and evidence presented at the hearing is issued by the Hearing Panel.

### **The Hearing Panel will:**

1. define issues of contention;
2. conduct a fair and impartial hearing which ensures the rights of all parties involved;
3. receive and consider all relevant evidence which reasonable people customarily rely upon in the conduct of serious business;
4. ensure that the Complainant and Respondent have full opportunity to present their positions and to present witnesses and evidence which support their positions; further, the Hearing Panel, based upon their review of the case prior to the hearing, may also name individuals to appear as witnesses;
5. ask relevant questions of the Complainant, Respondent, and witnesses to elicit information which may assist the Hearing Panel in making a decision; members of the University community have a responsibility to fully cooperate with this process;
6. continue the hearing to a subsequent date if necessary to permit either party or the Panel to produce additional evidence, witnesses, or other relevant materials;
7. change the date, time or place of the hearing on its own motion or for good reason shown by either party, and with due notice to all parties;
8. permit both parties to submit written arguments within ten working days from the conclusion of the hearing;
9. rule by majority vote on all questions of fact, interpretations of rules, regulations and policies, recommendations for penalties and relief, and any requests that are made during the hearing.

The Hearing Panel may consult with University Legal Counsel or have his or her assistance at the hearing.

## **VIII.C. THE HEARING**

The Hearing is intended to provide a forum within which a panel of peers determines whether University policy has been violated. Both parties will be given a full and fair hearing. The proceedings, although formal, is not a court proceeding and the Hearing Panel will not be bound by the procedures and rules of evidence of a court of law. In most instances, Complainants and Respondents will be expected to speak for themselves. The Hearing Panel will hear and admit evidence which it believes is pertinent to the case.

**The Hearing Panel will conduct its hearings by the following procedures:**

1. The Chair of the Sexual Harassment Board will initially provide the Hearing Panel with copies of the complaint, the response, and the fact-finder's report; the Chair will also work with the Hearing Panel and the parties to coordinate the scheduling of the hearing. A closed hearing will be held as soon as possible following the appointment and acceptance of the Hearing Panel by the parties. The Complainant and the Respondent must submit all documents they intend to introduce at the hearing, as well as the names and affiliations of their witnesses and advocates (see Section VIII.C.5) in reasonable advance of the hearing date. Actual deadlines for submissions of these materials will be established once a hearing date has been set. The Chair of the Sexual Harassment Board will provide copies of all submitted materials to the Hearing Panel and to each of the parties. Documents not submitted in advance of the hearing may be introduced into the record on the day of the hearing provided all parties and the Panel are accorded sufficient time to review the documents and respond accordingly. In this case, the party submitting the documents must provide sufficient copies for all relevant parties.
2. The Hearing Panel will convene prior to the hearing date to review the complaint, the response, the fact-finder's report and all materials submitted by the parties. The Panel may, upon review of materials and witness lists submitted by the parties to date, identify additional witnesses they wish to call on the day of the hearing or request that the parties provide additional materials. The Presiding Officer will provide the parties with the names of additional witnesses being requested to appear by the Panel. The Presiding Officer will ensure that each party receives copies of any additional documents solicited at this stage of the proceedings. Names of additional witnesses as well as copies of all additional material will be provided to the parties in a timely manner in advance of the hearing.
3. The Presiding Officer will meet with the parties prior to the hearing to review hearing procedures and to respond to any procedural matters that have arisen.
4. The Complainant and Respondent will have the opportunity to hear and respond to all testimony, to examine all evidence, and to present evidence and witnesses which advance arguments relevant to the issues in contention.
5. Each party will have the right to be accompanied and advised by two people at any stage of the proceedings. Advisors will normally be members of the University community but are not restricted to those names appearing on Appendix B of this document. Neither one of the advisors may be an attorney, except that the Respondent may be accompanied and

advised by legal counsel when criminal charges involving the same issues as the sexual harassment charges are pending against the individual. In this circumstance, the Complainant may likewise be accompanied and advised by legal counsel. Legal counsel may not speak on behalf of either party. Advisors will not address the Hearing Panel directly except with the permission of the Panel. The Chair of the Sexual Harassment Board must be advised as soon as possible, but in no event less than five working days in advance of the hearing date if either party will be accompanied by an attorney.

6. Each of the parties is responsible for informing their respective advocates and witnesses of the date, time and place of the hearing.
7. If either party is a member of a collective bargaining unit, the advisors mentioned above may, upon the request of the party, be representatives of his or her union. However, neither party will be required to be advised by a union representative. When there is no request for union representation, the Chair of the Sexual Harassment Board will notify the appropriate union that a hearing has been scheduled; the union will be allowed to send an observer.
8. The hearing will be recorded on tape by the Hearing Panel and the tapes will become the property of the University. Following the completion of the hearing, either party may have supervised access to the tapes by submitting a written request to the Chair of the Sexual Harassment Board.

**The proceedings before the Hearing Panel will be as follows:**

Following opening remarks, the Presiding Officer will summarize the charge(s) and ask the Respondent to either admit or challenge the allegation(s).

The Complainant will present a brief opening statement, followed by the same from the Respondent. Each party will then present their evidence and witnesses, followed by witnesses called by the Hearing Panel. Questions may be posed at any stage of the proceedings. Each party may make a brief concluding statement to the Hearing Panel.

Either party may submit a written argument following the hearing, provided he or she notifies the Presiding Officer within two working days after the hearing. The written argument may not introduce new information, but rather must be a summary of the information already introduced and presented. The written argument will be submitted to the Presiding Officer within ten working days after the hearing's conclusion. Copies of written arguments will be sent to each party by the Presiding Officer.

A Hearing Panel, by a majority vote of its members, may make other rules concerning the procedure of a hearing which it deems appropriate and consistent with this Sexual Harassment Policy.

**VIII.D. DECISION OF THE HEARING PANEL**

Following the hearing and submission of written arguments, if any, the Hearing Panel will convene for private deliberations to determine whether the University's Policy on Sexual Harassment has been violated. The Panel will prepare a detailed report noting its conclusion; this report will clearly state the facts of the case and the supporting evidence; the conclusion must be fully supported by the evidence elicited at the hearing. The decision of the Hearing Panel will be submitted to the Chair of the Sexual Harassment Board immediately following the completion of the Panel's deliberations.

When the Panel finds no violation, the Chair of the Sexual Harassment Board will forward the Hearing Panel's report along with appropriate commentary to the Respondent's Vice Chancellor. The Vice Chancellor will review the materials and submit his or her final decision in a timely manner to the Complainant, the Respondent, and the Chair of the Sexual Harassment Board. The fact that there has been no violation will be registered in all University records pertaining to the case.

When the Panel finds a violation of the Sexual Harassment Policy has occurred, the Hearing Panel will recommend a penalty for the Respondent and relief for the Complainant. The Chair of the Sexual Harassment Board will review the Panel's decision and provide appropriate commentary to the Vice Chancellor. This commentary may include an adjustment to the recommended penalty if, upon review of University records, it is determined that there have been past violations of this Policy by the Respondent; specific written reasons for the adjusted penalty must be provided. The Chair will subsequently forward the Hearing Panel's report, the complete record of the hearing, and appropriate commentary to the Respondent's Vice Chancellor.

The Vice Chancellor will render his or her decision in writing directly to the Complainant, the Respondent, and the Chair of the Sexual Harassment Board immediately following his or her review of all of the materials noted above. When a violation has been found, the Vice Chancellor will be responsible for determining and implementing both the penalty and relief. The Vice Chancellor's determination of penalty and relief (including the dates by which each will be implemented) will be included in the written decision submitted to the Complainant, the Respondent, and the Chair of the Sexual Harassment Board. The Chair will notify the Hearing Panel of the final decision.

Following receipt of the Vice Chancellor's decision, the parties may request copies of any written record. Requests must be submitted in writing to the Chair of the Sexual Harassment Board.

## **VIII.E. REVIEW**

Within thirty days after receiving a written copy of the Vice Chancellor's decision, the Respondent, the Complainant, or the Chair of the Sexual Harassment Board may request a review by submitting a written petition to the Chancellor (who may appoint a designee to handle the review). The petition for review will set forth in detail the specific grounds upon which review is sought. The Chancellor will ensure that the Respondent's Vice Chancellor, Chair of the Sexual Harassment Board, the Hearing Panel, and both parties receive a copy of the petition. The Chancellor will review the record of the case, which includes the taped record of the hearing; documents considered by the Panel; the Panel's findings and recommendations; and any

record of previous offenses. Based upon this review, the Chancellor may modify or vacate a Vice Chancellor's decision. The Chancellor may, for example, decide that the Panel's findings are unsupported by a preponderance of evidence, or that some aspect of the process violated an individual's legal rights, academic freedom, or these procedures.

The Chancellor or designee may: a) affirm or revise the decision of the Vice Chancellor; b) request specific findings from the Panel; or c) remand the case to the Chair of the Sexual Harassment Board for a new hearing before a new Hearing Panel. In the course of review, the Chancellor may consult with University Legal Counsel who will have access to the complete record of the case.

The Chancellor or designee will render a written decision in as timely a manner as possible following receipt of the petition for review and all materials relating to the grievance. The Chancellor's decision will be sent to the Respondent's Vice Chancellor, the Complainant, the Respondent, the Hearing Panel, and the Chair of the Sexual Harassment Board. The Chancellor's decision will constitute final University disposition of the matter.

## **IX. RECORDS**

Records of all proceedings under this Policy will be kept by the Equal Opportunity and Diversity Office and may be accessible to authorized staff as necessary. For example, records may be accessed when determining an appropriate penalty for a subsequent sexual harassment complaint; when a complaint of retaliation is made; when a decision is reviewed; or when a Respondent is a candidate for a supervisory position.

The records will also be available to University Legal Counsel for any proceeding related to these policies or procedures, whether internal to University or in any judicial or administrative proceeding in which the University, its trustees, officers, employees or agents are a party.

## **X. STANDARD OF PROOF**

A violation of this Sexual Harassment Policy will be found only where there is a preponderance of evidence that a violation has occurred. The Hearing Panel, the Vice Chancellors, the Deputy Chancellor and the Chancellor will be found to make their determinations based on this standard of proof.

## **XI. STATE AND FEDERAL REMEDIES**

In addition, complaints of sexual harassment may be filed with one or more of the government agencies set forth below.

**1. Equal Employment Opportunity Commission (EEOC)**

One Congress Street, 10<sup>th</sup> Floor, Room 1001  
Boston, MA 02114  
(617) 565-3200

**2. Massachusetts Commission Against Discrimination (MCAD)**

**Boston Office**

One Ashburton Place, Room 601  
Boston, MA 02108  
(617) 727-3990

**Springfield Office**

436 Dwight Street, Room 220  
Springfield, MA 01103  
(413) 739-2145

**3. Office for Civil Rights, Region I (OCR)**

United States Department of Education  
Room 222  
Post Office Square  
Boston, MA 02109  
(617) 223-9667

## Appendix A

### Complaint Handlers

*Complaint Handlers* are those individuals who have been specially trained to receive complaints of sexual harassment and to advise Complainants about, and assist them in choosing, the appropriate option(s) for handling their complaint. Complaint Handlers are empowered to fact find or delegate fact-finding, and resolve complaints. Complaint Handlers will also provide information to all parties (i.e. Complainant(s) and Respondent(s)) regarding the availability of *Support and Referral Contacts* and will encourage their use.

Complaint Handlers include the following individuals: Department Heads and Chairs, Managers, Directors, Deans, Vice Chancellors and all other administrators with line authority.

Complaint Handlers will:

1. receive complaints;
2. advise Complainants about available options;
3. assist Complainants in implementing options;
4. consult with and report complaints to the EO&D Office;
5. identify and ensure the appropriate fact finding strategy;
6. make recommendations about or impose discipline as appropriate in informal cases;
7. provide recommendations to the parties about support and available resources, including the availability of Support and Referral Contacts;
8. do appropriate follow-up to ensure non-retaliation.

## Appendix B

### Support & Referral Contacts

*Support & Referral Contacts* are members of the University community who have either been nominated or volunteered to perform this function. They have been specially trained to be initial points of contact for individuals who have complaints of sexual harassment; to facilitate Complainants and Respondents in competently engaging the complaint handling system; and to provide information and advice about available resources when other areas of an individual's life have been affected by the existence of a complaint. **Support and Referral Contacts are NOT finders of fact or case managers.** The names of these individuals will be published regularly in a variety of places throughout the campus.

Support and Referral Contacts will:

1. serve as the first point of contact;
2. make appropriate referrals;
3. do appropriate follow-up;
4. serve as a resource;
5. be available throughout the entire process

These individuals are available to provide support and information to either Complainants and Respondents, although each party will have their own Support and Referral Contact. Support and Referral Contacts are available as *the first point of contact* whenever a complaint of sexual harassment arises and, as such, will be responsible for referring Complainants to the appropriate Complaint Handler. (Conversely, Complaint Handlers will be responsible for ensuring that the parties are aware of the support and referral services available through this group). It is intended that Support & Referral Contacts are available to the parties throughout the entire complaint resolution process, including when a formal grievance is initiated.

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**I. POLICY**

Sexual harassment is sex discrimination and, therefore, a violation of federal and state law. It is the policy of the University of Massachusetts that no member of the University community may sexually harass another. For purposes of this policy and consistent with federal regulations, sexual harassment is defined as follows:

Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of sexual nature constitute sexual harassment when: 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic work, 2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual, or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working or academic environment.

It is the policy of the University to protect the rights of all persons within the University community by providing fair and impartial investigations of all complaints brought to the attention of appropriate officials. Any member of the University community found to have violated this Sexual Harassment Policy will be subject to disciplinary action.

**II. PROCEDURES**

The University of Massachusetts at Boston will administer the Sexual Harassment Policy and Procedures under the Sexual Harassment Office.

These procedures are available to any person who, at the time of the acts complained of, was employed at or was enrolled as a student at the University of Massachusetts Boston. However, any person who files a complaint with any outside agency or court shall be deemed to have waived his/her rights to an internal University proceeding.

No individual shall be penalized by the University for participating in the procedures stipulated here, nor shall any retaliation be permitted. Complaints of retaliation should be addressed to the Sexual Harassment Office or, where formal proceedings have been initiated, to the respondent's Vice Chancellor, who, in consultation with the Sitting Panel, shall immediately attempt to address and resolve the issues (see section B.7).

**Informal Resolution**

Because of the emotional and moral complexities surrounding most sexual harassment incidents, every effort should be made to resolve the complaint on an informal basis.

- A. Complaints of sexual harassment should, whenever possible, be discussed informally in the first instance by the complainant with the respondent's department head or staff

supervisor, in hopes that the department head/supervisor may effect an informal resolution.

- B. If this approach is either unacceptable to the complainant or unavailing, the complaint should be reported to the Sexual Harassment Officer. The Sexual Harassment Officer will inform the complainant concerning the Sexual Harassment Policy and Procedures and will counsel him or her concerning options for proceeding.

The Sexual Harassment Officer may rule that a complaint is (a) frivolous, or (b) outside the purview of the Sexual Harassment Policy and Procedures and decline to pursue it further; such ruling is subject to appeal by the complainant to the Sexual Harassment Hearing Board, which is empowered to instruct the Sexual Harassment Officer to entertain the case.

Upon certification that a complaint is non-frivolous and within the purview of this Policy and Procedures, the complainant may elect to file a written Informal Complaint Form. Upon the filing of this form, the Sexual Harassment Officer shall **attempt** an informal resolution of any complaint of sexual harassment, provided it is brought **within 180 calendar days of the alleged act**. In his/her neutral capacity, the Sexual Harassment Officer shall inform the parties of all possible courses of action, such as informal resolution and formal hearing, and of campus support and counseling services.

#### **Steps of the Informal Resolution Process:**

1. The Sexual Harassment Officer will counsel the complainant concerning options for responding to the problem on his/her own initiative (e.g. through oral or written communication to the respondent). If the complainant expresses willingness to proceed in this fashion, the Sexual Harassment Officer shall provide guidance and support to the complainant, throughout the process.
2. If this approach is either unacceptable to the complainant or unavailing, the Sexual Harassment Officer will undertake an Informal Hearing Process, in an attempt to reach a disposition agreeable to both complainant and respondent, to include the following.
  - a. a private informal hearing with the complainant;
  - b. a private informal hearing with the respondent;
  - c. if deemed necessary, an informal hearing among the Sexual Harassment Officer, the complainant and the respondent.
  - d. The Sexual Harassment Officer shall normally complete his/her investigation and all efforts to arrive at an informal resolution within thirty (30) calendar days of receipt of the complaint, unless extraordinary circumstances dictate otherwise. When it is determined, as a result of the Sexual Harassment Officer's review, that an incident of sexual harassment has in fact occurred, the Sexual Harassment Officer's attempts to arrive at informal resolution shall be guided by concern to

provide appropriate relief to the aggrieved party while sensitizing the person at fault to the effects of such behavior.

- e. Upon completion of the review, the Sexual Harassment Officer shall send a confidential report to both parties and to the Chancellor, outlining his/her findings. If a resolution is reached that has been agreed to by both parties, the Sexual Harassment Officer shall include the terms of that resolution in the report. The Chancellor shall move to implement any sanctions called for by the terms of the resolution.

The Sexual Harassment Officer shall ensure that all communications shall be kept confidential. He/she may not be called to testify at any University hearing regarding these privileged communications unless otherwise agreed by both parties.

If no Informal Complaint Form is filed by the complainant, no written records shall be kept. Where an informal resolution process is initiated, written records indicating the nature of the complaint, the names of the parties, and a dated copy of the terms and the resolution (if any) shall be kept by the Sexual Harassment Officer for a period of eight years. Such records shall normally be available only to the complainant, the respondent, the Sexual Harassment Officer and the Chancellor; they shall be made available to the respondent's Vice Chancellor in the event that, in accordance with these procedure, this or any subsequent charge of sexual harassment against the respondent or any charge of retaliation by the respondent is brought before the Vice Chancellor for review. These records are also available pursuant to a judicial subpoena, subject to the provisions of the University's Fair Information Practices Regulations (Doc. T77-059).

In extraordinary circumstances and for good cause, the Sexual Harassment Officer may, at his or her discretion, rule that the Informal Resolution Process may be omitted, and a complainant may move directly to Formal Proceedings.

## **Formal Proceedings**

### **1. Hearing Process**

#### **a. Filing a Complaint**

If informal proceedings do not result in resolution, or if the resolution agreed upon is not carried out, or if the Sexual Harassment Officer rules that the Informal Resolution Process may be omitted, the Sexual Harassment Officer shall advise the complainant of his/her right to a formal hearing. The Sexual Harassment Officer shall review the formal procedures for both parties.

If the complainant decides to proceed with a formal hearing, a formal written complaint shall be filed with the respondent's Vice Chancellor. The complaint shall state, clearly and concisely, the facts which are the grounds for the proceeding and the relief sought. Within two (2) working days the complaint shall be forwarded by the Vice Chancellor to the Sexual Harassment Officer in his/her capacity as coordinator of the Sexual

Harassment Hearing Board and to the respondent, with notice that an answer must be filed with the Vice Chancellor within ten (10) calendar days.

The respondent's answer shall contain full, direct and specific responses to each claim in the complaint, admitting to, denying or explaining the material facts. The Vice Chancellor shall forward the answer to the complainant within two (2) working days of its filing.

It shall be the Sexual Harassment Officer's responsibility to appoint a Sitting Panel, schedule a hearing date, and notify the respective parties at least twenty-one (21) calendar days before the hearing. The hearing will be scheduled and held no later than forty-five (45) calendar days after the formal written complaint has been filed, unless continued by the Board pursuant to Section d, ii, 6 or 7 below.

b. Composition of the Hearing Board

The Chancellor, in consultation with the appropriate governing and administrative bodies, shall appoint a 12-member Sexual Harassment Hearing Board. The Sexual Harassment Officer shall act as the coordinator of the Board.

The Hearing Board shall be composed of 3 faculty members, 3 members of the professional staff, 3 classified employees and 3 students.

Appointments will be guided by consideration of continuity, experience, and sensitivity to the concerns of those most profoundly affected by sexual harassment. Insofar as possible the Board shall reflect the diversity of the campus community. The membership of each constituency shall include at least one woman and one man. Members are to serve for staggered terms of three years.

The members of the Board shall act at all times to preserve the confidentiality of complainants and respondents. Board members shall participate in sexual harassment training workshops designed to sensitize them to the issues encompassing sexual harassment, including confidentiality, and the hearing procedures herein.

c. The Sitting Panel

Upon notice of a formal complaint, the Sexual Harassment Officer shall designate 5 members of the Board to serve as Sitting Panel. The Sitting Panel shall normally include two Board members from the respondent's constituency (faculty, professional or classified staff, students), two from the complainant's, and a fifth drawn from a neutral constituency. In such case as the complainant and respondent come from the same constituency, or Board members disqualify themselves in sufficient numbers to make the normal configuration of the Panel impossible, the Sitting Panel shall normally include three Board members from that constituency, the remaining membership to be chosen by the Sexual Harassment Officer from neutral constituencies; but in no case shall a student

sit on a case which does not involve students. The Sitting Panel shall elect a Presiding Officer at its first meeting.

The function of a Sitting Panel is to hear and consider testimony and other relevant, reliable evidence, to make findings of fact, to determine whether the University Policy on Sexual Harassment has been violated, and, if so, to recommend appropriate penalties and relief.

d. Duties and Powers of the Presiding Officer and the Sitting Panel

The Presiding Officer shall have the following specific duties:

1. To ensure an orderly presentation of evidence and issues;
2. To ensure that a record is made of the proceedings; and
3. To ensure that a fair, independent, impartial decision based on the issues and evidence presented at the hearing is issued by the Sitting Panel no later than fourteen (14) calendar days, or thirty (30) calendar days when briefs are submitted, after the conclusion of the hearing.

The Sitting Panel shall have the following specific duties or prerogatives:

1. To conduct a fair hearing to ensure that all the rights of the parties are protected;
2. To define issues;
3. To receive and consider all relevant and reliable evidence of the kind which reasonable people are accustomed to rely upon in the conduct of serious business;
4. To assist all those present in making a full and free statement of the facts in order to bring out all the information necessary to decide the issues involved;
5. To ensure that all parties have full opportunity to represent their claims orally, or in writing, and to secure witnesses and evidence to establish their claims;
6. To continue the hearing to a subsequent date to permit either party to produce additional evidence, witnesses, and other material;
7. To change the date, time or place of the hearing on its own motion or upon request of any party, for good cause shown and upon due notice to the parties;

8. To permit the parties or their representatives to submit briefs within fourteen (14) calendar days of the conclusion of the hearing, on the condition that notification of intent to files is made to the Presiding Officer of the Panel within three (3) calendar days of the conclusion of the hearing;
9. By majority vote to rule on all questions of fact; interpretations of rules, regulations and policies; penalties and relief; and such requests as are made during the hearing.

b. Hearing Procedure

1. Unless otherwise agreed by a majority of the Sitting Panel (pursuant to Numbers 6, 7 or 9 of the preceding section), a closed hearing shall be held within forty-five (45) calendar days of the receipt of the formal complaint by the Sexual Harassment Officer.
2. Each party shall be afforded the opportunity to hear all the testimony; to examine all the evidence; to respond to any adverse testimony; to present evidence and witnesses; to advance any pertinent arguments on his/her own behalf; and to file a brief within fourteen (14) calendar days of the conclusion of the hearing, on the condition that notification of intent to file is made to the Presiding Officer of the Panel within three (3) calendar days of the conclusion of the hearing.
3. Each party shall have the right to be accompanied, advised and/or represented by up to two members of the campus community (not legal counsel) at any stage of the proceedings.<sup>1</sup>
4. The hearing shall be tape-recorded by the Sitting Panel, the tape to remain the property of the University. Subsequently, either party shall have supervised access to the tape through the Sexual Harassment Officer.
5. The proceedings before the Sitting Panel shall be as follows (unless waived or modified by the parties at such point as the respondent admits his/her guilt):
  - a. The Presiding Officer shall read the charge(s) and allow the respondent to either admit to or challenge the allegations;
  - b. First the complainant, then the respondent may present a brief opening statement;

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<sup>1</sup> N.B.: Each party is free to retain legal counsel for advise, but may not bring legal counsel to University proceedings.

- c. First the complainant, then the respondent will present any and all evidence and testimony germane to the allegations, with the following provisions:
  - i. each party may question evidence and testimony introduced by the other;
  - ii. each party may rebut any inferences drawn by the other
- d. First the complainant, then the respondent may briefly summarize his/her case to the Board.

c. Decision of the Sitting Panel

After the hearing and the filing of briefs (if any), the Sitting Panel shall convene for private deliberations to determine whether the University's Policy on Sexual Harassment has been violated. If so, the Panel will make findings of fact and propose penalties for the respondent and relief for the complainant.

The Panel's findings of fact and its proposal of penalty and relief shall be based solely on the testimony and evidence presented at the hearing and in the briefs (if any). In making its determination, the Panel will examine the totality of the circumstances, such as the nature of the sexual harassment and the context in which the alleged incident(s) occurred. Penalties should reflect the severity of the incident(s).

Possible penalties for employees shall include, but not limited to, oral admonition, written reprimand, to be included in the individual's personnel file, probation, suspension with or without pay, ineligibility to receive merit pay for a state period of time, involuntary demotion, removal from administrative duties within a department, required professional counseling, and dismissal.

Possible penalties for students shall include, but not be limited to, oral admonition, disciplinary reprimand, disciplinary probation, suspension from the University for a stated period of time, and expulsion from the University.

The Sexual Harassment Officer shall review the Panel's proposed penalty in conjunction with any records of previous sexual harassment violations by the respondent and, if evidence of recidivism is found, may adjust the severity of the Panel's proposal accordingly.

In cases (a) where the respondent has been found guilty of sexual harassment and (b) where the Panel finds substantial reason to believe that the complainant may have been unfairly treated with respect to a grade, the Panel shall have the power to mandate to the respondent's

department or program that the department or program appoint a committee of three faculty members to determine the student's grade. Unless extraordinary circumstances dictate otherwise, final determination of the student's grade by this committee shall be made within thirty (30) calendar days of the Panel's referral of the case to the department of program.

Within fourteen (14) calendar days, or, if briefs are to be submitted, within thirty (30) calendar days of the hearing, the Panel's written decision (including findings of fact and recommendations for penalty and relief, if any) shall be forwarded to the complainant, the respondent, and the appropriate Vice Chancellor.

The Sitting Panel's decision shall be implemented within ten (10) calendar days, unless a review at the Vice Chancellor's level is requested within that period.

## **2. Standard of Proof**

In cases where the allegations of sexual harassment are contested by the respondent, a violation of the Policy on Sexual Harassment shall be found only when there is a preponderance of evidence that a violation occurred. The Sitting Panel, the Vice Chancellors, and Chancellor shall be bound to make their determinations based on this standard of proof.

## **3. Vice Chancellor's Review**

Either party may request review within ten (10) calendar days of the date of the Panel's decision by filing a written petition with the respondent's Vice Chancellor. The petition shall set forth in detail the specific grounds upon which review is sought. The Vice Chancellor shall immediately forward a copy of the petition to the Sitting Panel and the other party. Upon review, the Vice Chancellor may affirm the decision of the Panel; request specific findings from the Panel; remand the matter for further hearing (either for reconsideration or because additional evidence has been presented which, for good reason, could not be presented at the hearing); or, following due consultation with the Sitting Panel, set aside or modify the decision, if he/she determines that the substantial rights of any party may have been prejudiced because the Panel's decision is:

- a. unsupported by substantial evidence; or
- b. in violation of constitutional provisions, academic freedom, or these procedures; or
- c. arbitrary, in abuse of discretion or in excess of the Panel's powers; or
- d. reflective of arbitrary or unreasonable adjustment in severity by the Sexual Harassment Officer on the basis of respondent recidivism.

The Vice Chancellor shall make his/her determination upon consideration of the entire record, indicating specific reasons for any change of the Panel's decision. Within twenty-one (21) calendar days of the request for review, his/her final written decision shall be sent to the complainant, the respondent and the Sitting Panel. This 21-day period shall include any time allotted to the Panel upon request of the Vice Chancellor for specific findings or further hearings. The final decision of the Vice Chancellor shall be implemented without delay.

#### **4. Reconsideration by the Chancellor**

Either party may request reconsideration within ten (10) calendar days of the date of the Vice Chancellor's decision by filing a written petition with the Chancellor. The provisions and procedures of the Vice Chancellor's review (see previous section) shall apply to the Chancellor's reconsideration. The decision of the Chancellor shall constitute final University disposition of the matter, and the parties shall, upon the rendering of the Chancellor's final decision, have exhausted their administrative remedies within the University.

#### **5. Retaliation**

No reprisal or retaliation of any kind shall be taken against any person participating in these procedures. Where there is an allegation that retaliatory action has been taken, immediate review of such allegation shall be granted by the respondent's Vice Chancellor. The person alleging retaliatory action shall set forth in detail, in a written petition, the facts which are the grounds for the allegation and the relief sought. The Vice Chancellor shall immediately notify the respondent of the charge and request a written response. If a case of retaliatory action is established to the satisfaction of the Vice Chancellor, in consultation with the Sitting Panel, the Vice Chancellor shall take immediate action to redress any and all negative consequences resulting from such retaliatory action.

#### **6. Retention of Records**

Records of the hearing process and any review or reconsideration shall be kept by the Affirmative Action Office for eight years. During that period, the records shall be available only to the Sexual Harassment Officer, the respondent's Vice Chancellor or the Chancellor. The records are also available pursuant to a judicial subpoena, subject to the provisions of the University's Fair Information Practices Regulations (Doc. T77-059).

**UNIVERSITY OF MASSACHUSETTS DARTMOUTH  
EQUAL OPPORTUNITY AND ANTI-HARASSMENT  
COMPLAINT PROCEDURES  
(Doc. T92-037)**

*Revised 11/6/02*

**I. UNIVERSITY POLICY AND CAMPUS RESPONSIBILITY**

These procedures are designed to implement the University's policies which require equal opportunity for all members of the University community and prohibit harassment of any member of the University community. Pursuant to Board of Trustees policies (Doc. T92-034 and T92-037), the University is committed to enforcing the requirements of applicable federal and state laws, including but not limited to Title VII of the Civil Rights Act of 1964 and Chapter 151B of the Massachusetts General Laws.

Furthermore, it is the policy of the University of Massachusetts to promote a University community that is free of harassment of any type, including sexual harassment. Harassment consists of unwelcome conduct, whether verbal or physical, that is based on a characteristic protected by law, such as sex, race, color, national origin, religion, age, disability, veteran status and/or sexual orientation. The University will not tolerate harassing conduct that affects employment or educational conditions, that interferes unreasonably with an individual's school or work performance, or that creates an intimidating, hostile, or offensive work or school environment.

Harassment of employees or students occurring on campus, in connection with work-related travel, and/or University sponsored events will not be tolerated. Further, retaliation against an individual who has complained about harassment or retaliation against individuals for cooperating with an investigation of a harassment complaint is similarly unlawful and will not be tolerated.

The University takes allegations of harassment or violation of equal opportunity seriously and will respond promptly to complaints. Where it is determined that inappropriate conduct has occurred, the University will act promptly to eliminate the conduct and will impose corrective action as necessary, including disciplinary action where appropriate, which may include termination of employment or school-related discipline. Each campus is responsible for disseminating and enforcing the policy and procedures so that each member of the University community is aware of the policy and held responsible for his/her behavior.

## II. DEFINITIONS

### *Equal Opportunity*

Equal opportunity means the right to enjoy equal opportunity in employment, admission to, and participation in the University's programs and activities, the provision of University services, and the selection of vendors who provide services or products to the University, without regard to an individual's race, color, religion, sex, age, sexual orientation, national origin, disability, or veteran status.

### *Harassment*

"Harassment" means unwelcome conduct, whether verbal or physical, that is based on a characteristic protected by law. Harassment includes, but is not limited to:

1. Display or circulation of written materials or pictures that are degrading to a person or group as previously described.
2. Verbal abuse or insults about, directed at, or made in the presence of an individual or group as previously described.

"Sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic work;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working or academic environment.

Under these definitions, direct or implied requests by a faculty member, supervisor or other individual in a position of work or school authority for sexual favors in exchange for actual or promised job or school benefits such as favorable reviews, salary increases, promotions, increased benefits, continued employment, better grades, recommendations or other advantages constitutes sexual harassment.

The definition of sexual harassment is broad. In addition to the above examples, other unwelcome sexually oriented conduct, whether intended or not, that has the effect of creating a school or work environment that is hostile, offensive, intimidating or humiliating to either male

or female students or employees also may constitute sexual harassment. Such conduct may include but is not limited to sexual epithets, jokes, comments, inquiries or gossip regarding one's sex life or sexual activity; displaying sexually suggestive objects, pictures or cartoons; and unwelcome leering, whistling, or brushing against the body or sexual gestures.

Unwelcome conduct may be considered harassment or sexual harassment depending upon the totality of the circumstances, including the severity of the conduct and its pervasiveness.

### **III. COMPLAINT PROCEDURES**

#### **A. Responsible Persons and Covered Individuals**

1. All members of the University community share responsibility for avoiding, discouraging and reporting any form of harassment or discrimination. The primary responsibility for ensuring that a proper investigation and resolution of discrimination or harassment complaints rests with the Assistant Chancellor for Equal Opportunity, Diversity, and Outreach (hereinafter, Assistant Chancellor/EO) or designee, who will administer the policy and procedures described herein.
  - a. The Assistant Chancellor/EO or designee will receive complaints, advise complainants and respondents about the University's procedures and options for responding to complaints, conduct investigations, and determine its findings.
  - b. The Vice Chancellors, Associate Chancellors, and Assistant Chancellors (hereinafter, Vice/Associate/Assistant Chancellors), working with the Assistant Chancellor/EO or designee, will see that all supervisors on the Dartmouth campus receive information and training concerning discrimination and harassment and understand the responsibilities of supervisors when complaints are received. In addition, the Vice/Associate/Assistant Chancellors have other responsibilities as described herein.
2. These procedures are available to any member of the University community who believes that he or she has been discriminated against or harassed. In addition, applicants; visitors; guest lecturers; contractors, their agents and employees may use these procedures where applicable to bring complaints against members of the University community whom they believe have engaged in discrimination or harassment in the course of the educational, work or other official activities of the University, such as sporting events or lectures. Members of the University community consist exclusively of students, faculty, and other full and part-time employees of the University of Massachusetts Dartmouth. These procedures are available regardless of whether the person alleging discrimination or harassment (the "complainant") has filed a complaint with any outside agency or court.
3. The Vice Chancellor for Student Affairs will be notified whenever the person accused of discrimination or harassment (the "respondent") is an undergraduate student. If the respondent is a graduate student, the Vice Chancellor for Academic Affairs/Director of the Graduate School will be notified. Whenever the respondent is an undergraduate or graduate student, the University reserves the right, in the sole discretion of the Assistant

Chancellor/EO or designee (but in consultation with the complainant), to follow the investigation and hearing procedures described in the Student Code of Conduct and Student Judicial Code instead of and in lieu of these procedures.

4. Those found to be in violation of the University of Massachusetts' discrimination or harassment policy will be subject to disciplinary sanctions. Disciplinary sanctions shall be based on the nature and severity of the offense as well as any record of prior disciplinary action imposed on the respondent. In general, sanctions may include, but are not limited to, one or more of the following: public apologies, public reprimands, written warnings, letters of reprimand, attendance at appropriate workshops, and, in the case of employees, suspension, denial of merit pay for a specified period of time, involuntary demotion, removal from administrative or supervisory duties, and/or termination of employment. Students may also be issued oral reprimands, put on disciplinary probation, suspended from the residence halls and/or the University for a stated period of time, and/or expelled from the residence halls and/or the University. In investigating complaints under this procedure, the University may impose discipline for inappropriate conduct without regard to whether the conduct constitutes a violation of the law and may take corrective action even if the conduct does not rise to the level of violating the University's equal opportunity and anti-harassment policies.

#### B. Initiating Complaints

1. Prompt reporting of discrimination or harassment is in the best interest of the entire University community and is essential to a fair, timely and thorough investigation. Accordingly, complaints should be filed as soon as possible following the incident(s) at issue.
2. Notwithstanding any provision of this policy, the University reserves the right to investigate and take action on its own initiative in response to behavior and conduct which may constitute discrimination or harassment or otherwise be inappropriate, regardless of whether an actual complaint has been filed.
3. Attorneys are not permitted to be present or participate in the complaint procedures.
4. Initiating the Process:
  - a. In order to initiate a proceeding under this policy, the aggrieved individual(s) must first file an oral or written complaint with the Assistant Chancellor/EO or designee. The complainant initiates a filing process by meeting with the Assistant Chancellor/EO or designee who will explain the complaint procedures. When initiating the complaint process, the complainant should provide the following information:
    - i. all relevant facts, including the date(s) of the occurrence(s), the identity of all parties, the location(s) and circumstances of the behavior at issue, and any other information the complainant feels is relevant;

- ii. the specific nature of the discrimination or harassment involved in the complaint;
- iii. other individuals who might be aware of or have knowledge of the situation;
- iv. what actions, if any, the complainant has taken as a result of the incident(s); and
- v. what remedy or relief is being sought (although the imposition of any particular remedy is in the discretion of the University).

### **C. Complaint Investigation**

1. After the complainant has provided the appropriate information, the Assistant Chancellor/EO or designee will conduct an investigation as appropriate to determine whether there has been a violation of the University's policy. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. When the Assistant Chancellor/EO or designee has completed the investigation he/she will, to the extent appropriate, inform the person filing the complaint and the respondent of the results of that investigation.

2. If the Assistant Chancellor/EO or designee determines that inappropriate conduct has occurred, he/she will recommend corrective action to the appropriate Vice/Associate/Assistant Chancellor in the case of a student, or to the individual's supervisor and the Vice/Associate/Assistant Chancellor responsible for the appropriate work unit in the case of an employee. Disciplinary or other action will be approved by the appropriate Vice Chancellor consistent with Section III, (A) (4) of the Equal Opportunity and Anti-Harassment Complaint Procedures.

1. Any individual who is aggrieved by disciplinary action imposed as a result of an investigation may, within ten working days of the imposition of the action, file a written appeal to the Chancellor. The Chancellor or designee will review the results of the Assistant Chancellor/EO or designee's investigation, the decision of the Vice/Associate/Assistant Chancellor, and the discipline imposed and will make a final decision regarding the discipline. Nothing in these procedures is intended to interfere with the right of any member of the University community to utilize other applicable grievance or appeal procedures following the imposition of corrective action.

2. Not all discrimination or harassment complaints require a detailed investigation process. Some complainants may wish to explore informal alternatives, which may involve, but are not limited to, one or more of the following:

- a. The Assistant Chancellor/EO or designee may counsel the complainant concerning options for responding to the problem on his/her own initiative, for example through oral or written communication with the respondent or the respondent's department head/supervisor (in the case of an employee) or an appropriate administrator (in the case of a student).

- b. The Assistant Chancellor/EO or designee may arrange for a meeting(s) and/or distribution of relevant policy statements and/or other forms of educational materials to the appropriate department, residential area, etc.
  - c. If both complainant and respondent agree, the Assistant Chancellor/EO or designee may arrange and facilitate a meeting between the parties in an attempt to reach a mutually acceptable resolution.
  - d. Other options may be pursued which are consistent with applicable laws and/or University policies and procedures.
3. It is the intention of the University that the process described herein be the sole process for investigating complaints of discrimination or harassment. Nothing in these procedures is intended to interfere with the University's right to investigate and take appropriate action with respect to any other conduct or behavior.
  4. The University reserves the right to discipline members of the University community who bring false complaints of discrimination. No complaint will be considered "false" solely because it cannot be corroborated.
  5. These procedures may be modified, revised or amended at the discretion of the University.

#### **IV. STATE AND FEDERAL REMEDIES**

In addition to the above, employees who believe they have been subjected to harassment may file a complaint with the respective state agency and/or the EEOC. Using the University's complaint process does not prohibit an employee from filing a complaint with these agencies. Each agency has a specific time period for filing a claim: the United States Equal Employment Opportunity Commission (EEOC) allows at least 180 days (may be longer in some circumstances), and the Massachusetts Commission Against Discrimination (MCAD) allows 300 days from the alleged incident or when the complainant became aware of the incident.

#### **The United States Equal Employment Opportunity Commission (EEOC)**

John F. Kennedy Federal Building, Room 475  
Government Center  
Boston, MA 02203  
617 565 3200  
TDD 617 565 3204

**The Massachusetts Commission Against Discrimination (MCAD)**

Boston Office:

One Ashburton Place, Room 601  
Boston, MA 02108  
617 727 3990

Springfield Office:

424 Dwight Street, Room 220  
Springfield, MA 01103  
413 739 2145

Worcester Office:

22 Front Street, 5<sup>th</sup> Floor  
P.O. Box 8038  
Worcester, MA 01641  
508 799 6379

Students may also file complaints with the Massachusetts Commission Against Discrimination at the address listed above or with:

**The United States Department of Education  
Office for Civil Rights**

John W. McCormack Post Office & Courthouse, Room 701  
Boston, MA 02109-4557  
617 223 9662  
TDD 617 223 9695

**UNIVERSITY OF MASSACHUSETTS LOWELL**  
**SEXUAL HARASSMENT POLICY AND PROCEDURES**  
**(Doc. T92-037)**

**INTRODUCTION**

The University of Massachusetts Lowell is committed to maintaining an environment that respects the dignity of each member of its community. We are a multicultural community of diverse racial, ethnic, and class backgrounds, national origins, religious and political beliefs, physical abilities, ages, genders, and sexual orientations. Our educational activities and everyday interactions are enriched with acceptance of one another and appreciation of our differences. We recognize that our university must encourage the open exchange of ideas and we acknowledge the right of community members to hold and promote various opinions. However, the right to hold and promote opinions does not allow for the unjust interference with others' right to pursue their professional and educational goals and activities. Our community must be free of harassment and intimidation. We strive to learn from each other in an atmosphere of positive engagement and mutual respect. It is the policy of the University of Massachusetts Lowell that sexual harassment is prohibited. Chancellor William T. Hogan issues an annual Administrative Announcement that "unwelcome sexual advances, overt or covert, verbal or physical, that substantially interfere[s] with a person's ability to work or perform academically in this University setting cannot nor should not be tolerated" (Hogan, 1989).

## **SEXUAL HARASSMENT POLICY OF UNIVERSITY OF MASSACHUSETTS LOWELL**

Sexual harassment is a violation of both Federal and Massachusetts law and is defined for purposes of this policy as

**Unwelcome sexual advances, requests for sexual favors, and other intimidating verbal or written communications or physical conduct of sexual nature when:**

- 1. Submission to such conduct is made either explicitly or implicitly a term or condition in an individual's employment or academic standing;**
- 2. Submission to or rejection of such conduct is used as the basis for employment or academic decisions affecting that individual; or**
- 3. Such conduct has the purpose or effect of unreasonably interfering with an individual's education or work performance or by creating an intimidating, hostile or offensive working or learning environment.**

Sexual harassment can take many forms and the determination of what constitutes sexual harassment will vary according to the particular circumstances and with consideration to the context in which the conduct occurred. Sexual harassment may be described generally as unwelcome sexual behavior that a reasonable person would find offensive and/or that adversely affects the working or learning environment. It can involve, among others, supervisor to employee, faculty or staff to student, student-to-student, student to staff, employee to employee.

Sexual harassment may involve behavior by a person of either gender against a person of the same or opposite gender. These policies apply to every University employee, consultant, contractor, and student when working for the University. When both parties are students, the complainant is encouraged to use the student judicial process. Some examples of sexual harassment are, but are not limited to:

1. Persisting in making unwanted sexual advances. This may include situations beginning as mutual attractions but later cease to be reciprocal and result in harassment.
2. Making or threatening reprisals after a negative response to sexual advances.
3. Offering employment (i.e. hiring, promotion, salary increase, or performance review, etc.) or educational benefits in exchange for sexual favors or relationships. These situations may also involve and affect third parties treated less favorably because others have been offered or have acquiesced to sexual advances.
4. Visual conduct such as leering, making sexual gestures, or displaying sexually suggestive objects, pictures, recordings, cartoons or posters in public work places,

offices, or classrooms, unless the purpose of such display is part of legitimate educational activities.

5. Unwelcome verbal conduct such as making derogatory comments, slurs, jokes, unwanted sexual advances or propositions, verbal abuse of a sexual nature, graphic commentaries about an individual's body, suggestive or obscene written or electronic letters and notes or sexually degrading words used to describe an individual, etc.
6. Intentional and unwelcome physical conduct of a sexual nature such as assault, touching, impeding or blocking movement to force contact, or unwelcome hugging, etc.

These illustrations provide notice to all, both offenders and victims, of what kinds of behavior will not be tolerated by the University. Knowingly filing false reports may result in disciplinary actions as well. These behaviors are unacceptable and against University policy. Those engaging in such behavior strain the relationship of trust that must exist if the University is to foster independent, creative and enjoyable learning and discovery.

The best method for preventing the problem of sexual harassment is an ongoing campus-wide educational effort. However, corrective discipline will, at times, be necessary up to and including termination.

### **REPORTING PROCESS**

When a complainant chooses to report an alleged incident of sexual harassment, she or he has a choice of requesting either an informal or formal hearing process. A person who believes he/she may be experiencing sexual harassment has several options to address these concerns and resolve the matter. The University requires all persons to report any claims of sexual harassment so that these may be investigated.

In cases of rape and other criminal assault, the charges must be handled through the University Police Department.

All employees of the University have the legal responsibility to refer persons who have indicated that they have been harassed to the appropriate supervisor or academic officer or the Sexual Harassment Officer (SHO) directly or to refer the incident themselves if the victim is not going forward.

An Ombudsperson Office has been established to assist in the resolution of sexual harassment allegations. An Ombudsperson is an impartial observer who helps resolve problems that develop in the University community.

1. Any member of the University community who believes that she or he has experienced sexual harassment should speak with the relevant supervisor/academic officer or the Sexual Harassment Officer (SHO). Persons who have witnessed sexual harassment or have other knowledge of a sexual harassment incident must notify the relevant supervisor/ academic or Sexual Harassment Officer of the apparent violation. An

employee receiving information about an alleged incident is required to maintain complete confidentiality except for the report to the supervisor/academic officer or Sexual Harassment Officer.

Relevant supervisors or academic officers must report incidents brought to their attention to the Sexual Harassment Officer within 3 working days.

2. Prompt reporting of sexual harassment by complainants is strongly encouraged within 3 working days. A report may be made to a supervisor/academic officer or Sexual Harassment Officer any time after an incident is alleged to occur. However, it should be understood that the longer the complainant waits, the more difficult it will be to pursue a resolution. Supervisors/academic officers shall report all incidents that are brought to their attention to the Sexual Harassment Officer regardless of the time that had passed. Action on a complaint is required if it is reported within six months after the (last) alleged incident. After six months, the decision as to appropriate action, if any, is at the discretion of the Sexual Harassment Officer.
3. After receiving a personal or written report about an incident, the supervisor/academic officer or Sexual Harassment Officer must respond to the complainant within five (5) working days to acknowledge receipt of the report and to inform her or him of any preliminary steps that have been taken.

When a complainant makes a report, the SHO will be available to provide information. This information will include a description of the process, discussion of the allegations, and an explanation of the options.

4. It is expected that most cases will begin with the Informal Resolution Procedure (detailed below). If a satisfactory resolution is not reached through the Informal Resolution Procedure, the complainant or the accused may pursue the Formal Resolution Procedure. In addition, the SHO, representing the University in an apparent violation of policy, may initiate the Formal Resolution Procedure even if the complainant chooses not to continue the process.
5. If the alleged offender or complainant refuses to follow the Informal Resolution Procedure then the complaint moves to the Formal Resolution Process.

## **INFORMAL RESOLUTION PROCESS**

The sexual Harassment Officer shall, within five (5) working days of receipt of an in-person or written report about an incident, attempt to initiate the following actions:

1. Inform the complainant of receipt of the complaint and of all possible courses of action and of available campus support services. The SHO shall also describe the penalties for filing a knowingly false report. To file a knowingly false report of sexual harassment is a violation of the Sexual Harassment Policy.
2. If warranted, notify the accused that he/she has allegedly violated the University's sexual harassment policy.
3. If warranted, schedule a preliminary interview with the accused, during which the charges, process and possible remedies will be discussed.

Within twenty (20) days of receiving an in-person or written complaint the SHO will:

4. Begin a fact-finding investigation.
5. Following a fact-finding investigation, the SHO or Ombudsperson will meet with all of the individuals involved. The purpose of this meeting is to inform the parties of the finding of the investigation relative to sexual harassment and to attempt to reach a mutually satisfactory resolution.
6. If the SHO and the parties agree that the matter has been satisfactorily resolved, the SHO will confirm this in writing and close the complaint. This letter shall contain a statement that it may be referred to in any future hearings or charges of a similar nature. The letter will not be removed from the permanent Sexual Harassment Office files.
7. If the SHO or the Ombudsperson is unable to resolve the matter informally, the complaint will proceed to the formal resolution process detailed below.

## **FORMAL RESOLUTION PROCESS**

Either party may choose to use the Formal Resolution Process if a mutually satisfactory resolution is not reached in the Informal Resolution Process. The following formal procedures will be used. All participants in the grievance process shall respect the confidential nature of the entire process.

1. Within ten (10) working days of the decision by the SHO to initiate the Formal Resolution Process, the SHO will set a date, time and place for a formal hearing. Every attempt shall be made to accommodate the schedule of both parties.

2. The SHO will notify both the complainant and the accused in writing of the date, time and place of the hearing, and review the process. This notice will be sent at least ten (10) working days in advance of the hearing date.
3. A fact-finding investigation will be carried out under the direction of the SHO.
4. If the Informal Resolution Process was not used, then the involved parties will meet with the Ombudsperson prior to the hearing. At this time efforts to resolve the complaint using the Informal Resolution Process will be presented as an option. The agreement of both parties is necessary to proceed informally. Lacking this agreement the Formal Resolution Process continues.
5. A formally constituted panel drawn from the membership of the Sexual Harassment Board will carry out the hearing. Panel members for each particular case will have received training in sexual harassment issues, adjudication procedures and Robert's Rules of Order. It is expected that the membership of each panel will be comprised of the following:
  - a. Five voting members, selected ad-hoc for each case: a chair, appointed by the Sexual Harassment Board; and four additional Board members, selected by the chair and approved by the board and meeting the following criteria:
    - Include at least one member from the constituency\* of each party
    - Not include anyone from the same department or office of either party
  - b. The SHO and/or Ombudsperson may serve as observers only
  - c. A designated panel member must excuse her/himself if impartiality may be an issue

\*Constituencies:

- Classified staff (includes all clerical, all technical, all maintenance, and all police and security personnel and temporary employees)
- Professional staff (includes administration and mid-management)
- Faculty/Librarians (includes full and part-time, adjunct, and Continuing Education)
- Students (includes undergraduate, graduate, and Continuing Education)

**PROCEDURES FOR HEARING PANEL**

1. Robert's Rules of Order shall apply.
2. The hearings will be closed and fully confidential.
3. A certified transcript will be made, which shall be kept by the SHO as part of the permanent files.
4. All evidence to be introduced by either party may be reviewed by either party prior to the hearing and materials shall be provided at least 48 hours in advance. Exceptions to the schedule may be approved by the hearing panel.

5. The SHO will make an initial presentation of the case, evidence and charges.
6. Either party may request that witnesses appear at the hearing and may request written accounts by witnesses when they are unable to appear; the panel will not unreasonably deny such requests.
7. Each party may have an advisor, advocate, or support person of his or her choice present at the hearing. This person may not be an attorney and may not address the Hearing panel. The advisor may not be an attorney. The advisor may not address the Hearing Panel nor question the parties or witnesses.
8. Each party's questions will be directed to the panel chair but not to panel members, witnesses, or other participants. Each panel member may question the parties.
9. The panel will deliberate in private. All information and opinions must be kept in strict confidence.
10. The panel chair will notify both parties, in writing, the decision and recommendations that will be forwarded to the Chancellor. However, the specific nature of any disciplinary action is not reported to the complainant in order to protect the privacy rights of the accused.
11. The panel's findings and recommendations as well as the Chancellor's final decision will be entered into the personnel file of the accused/offender.

## **APPEAL**

The SHO will inform the accused of his/her right to appeal the decision or the severity of the sanctions to the Chancellor's Office. An appeal must be made within five working days of receipt of the Chancellor's decision and may be based only on procedural issues.

Grounds for appeals by the accused party are as follows:

1. New and significant relevant information becomes available.
2. The procedures followed were in violation of those stated in this document.

These procedures are not intended to preempt other procedures and options which may be desired by the complainant/alleged offender or required by other statutes/policies (ie. EEOC, MCAD complaint, criminal charges).

The United States Equal Employment Opportunity Commission (EEOC)  
1 Congress Street – 10<sup>th</sup> floor  
Boston, Massachusetts 02114  
Phone: (617) 565-3200

The Massachusetts Commission Against Discrimination (MCAD)  
1 Ashburton Place – Room 601  
Boston, Massachusetts 02108  
Phone: (617) 994-6000

**Sexual Harassment Officer**

Mrs. Oneida D. Blagg, Director of Affirmative Action Compliance and Equal Opportunity  
Cumnock Hall, One University Avenue  
Lowell, Massachusetts 01854  
Phone: (978) 934-3400  
Fax: (978) 934-3032  
E-mail: Affirmative\_Action@uml.edu

**University Ombudsperson**

Dr. Alan Jay Lincoln  
Fox Hall 415, One University Avenue  
Lowell, Massachusetts 01854  
Phone: (978) 934-3400  
Fax: (978) 934-4083  
E-mail: Ombuds@uml.edu

**CONFIDENTIALITY**

All participants in the Resolution Process must respect the confidentiality of the proceedings. Participants are authorized to discuss the case only with those who have a genuine and specified need to know.

**COMPOSITION OF SEXUAL HARASSMENT BOARD**

The membership of the Sexual Harassment Board will be composed of at least twenty persons and no more than thirty persons ideally distributed as follows:

Four or more staff members

Four or more Faculty/Librarians

Four or more students

One or more representative(s) from the Office of Student Services

One or more representatives from the Counseling Center

One or more representatives from University Police

One or more representatives from the Research Foundation

Sexual Harassment Officer (ex-officio)

Ombudsperson (ex-officio)

Faculty and staff will be appointed by the Chancellor to three-year terms. The sexual Harassment Board will nominate students for two-year terms. Members may be re-appointed at the discretion of the Chancellor.

**UNIVERSITY OF MASSACHUSETTS MEDICAL SCHOOL  
SEXUAL HARASSMENT POLICY AND PROCEDURES  
(Doc. T92-037)**

**The following are responsible for the accuracy of the information contained in this document**

**Responsible University Officer:  
Marian V. Wilson, PhD  
Associate Vice Chancellor**

**Responsible Office:  
Diversity and Equal Opportunity Office  
Contact: 508-856-2179**

**POLICY STATEMENT**

The Medical School is firmly committed to working to ensure that all employees, students and individuals who are authorized to conduct business with and/or perform other services on behalf of the Medical School are not subject to sexual harassment. To that end, it is the policy of the Medical School to comply with all federal and state laws and regulations: Title VII of the Civil Rights Act of 1964, Chapter 151B, and M.G.L. 151B Sec. 3A.

Retaliation against an individual for filing a complaint of sexual harassment or against any individual for cooperating in an investigation of a complaint, is against the Medical School policy and **it is against the law.** If retaliation is found to have occurred, appropriate action(s) will be taken.

**REASON FOR POLICY**

To provide a learning and working environment that is free of sexual harassment in the form of unwelcome physical advances, requests for sexual favors, and verbal or written communications of a sexual nature.

**ENTITIES AFFECTED BY THIS POLICY**

The policy and procedures for resolution apply to all employees, students and individuals who are authorized to conduct business with and/or perform other services on behalf of the University of Massachusetts Medical School who believe that they have been sexually harassed. The policy and procedures also address the concerns of any person who has a sexual harassment complaint brought against them.

## **RELATED DOCUMENTS**

Discrimination Complaint Policy and Procedures  
Disciplinary Action  
Trustee Document T92-037 (Appendix D - 6)

## **SCOPE**

The Medical School has designated the Diversity and Equal Opportunity Office (DEOO) as having primary responsibility for receiving and investigating complaints of sexual harassment and acting upon them through both informal and formal processes.

## **RESPONSIBILITIES**

### **Complainant Responsibilities**

A formal complaint should be filed as soon as possible following the occurrence(s) of the sexual harassment; prompt filing within ninety (90) days of the incident or the last occurrence is strongly encouraged. However, the Medical School retains the right to review a sexual harassment complaint that is filed beyond the recommended time period.

### **DEOO Responsibilities**

A DEOO staff person initiates the investigation of the complaint within ten (10) working days of receipt of the formal/written complaint or within a time frame after the informal complaint has been filed by the complainant. Documents relevant to the investigation are held in a confidential case file. Information is shared with all parties on a need-to-know basis during the investigation of the complaint.

The Associate Vice Chancellor for Diversity and Equal Opportunity and/or a DEOO staff person will inform the party against whom the complaint is made that a sexual harassment complaint has been filed against him/her. The respective managers of the complainant and the accused will be informed on a need-to-know basis.

Upon completion of the investigation, DEOO reviews the findings with all of the appropriate parties. Every effort is made to complete the review within forty-five (45) working days after the complaint is filed with DEOO. However, depending on the complexity of the case, the process may be extended at the discretion of the DEOO.

If the DEOO determines through its investigation that the allegations in the complaint are probable, it will recommend to the appropriate manager that disciplinary action be taken against the accused individual. Disciplinary action, which may include expulsion or discharge, will be appropriate to the offense and individuals involved. The complainant will be notified either verbally or in writing of the disposition of the investigation. The accused will be notified either verbally or in writing of the findings and, where/when appropriate, the recommended sanctions.

## **PROCEDURES**

If any individual(s) (complainant) believes he/she has been subject to sexual harassment, the individual should initiate a complaint immediately by calling or visiting the DEOO to arrange an appointment as soon as possible. The longer the period of time between the incident and the initiation of a complaint, the more difficult it is to reconstruct what occurred. A complaint should be filed as soon as possible following the occurrence(s) of the sexual harassment; prompt filing within ninety (90) days of the last occurrence is strongly encouraged. However, the Medical School retains the right to review a complaint of sexual harassment that is filed beyond the recommended time period.

**The presence/involvement of legal counsel is not permitted at any time during the sexual harassment complaint procedures.** If an individual is a member of a collective bargaining unit, they may have the support of a union representative. However, the representative is **not** a part of the proceedings, but they may be available for support. All parties involved in an investigation, including the union representative, are required to keep information related to the investigation confidential.

## **TYPES OF COMPLAINTS**

### **Informal Complaint**

During the informal complaint process, a complainant shares his/her concern with a DEOO staff member. The DEOO staff member may suggest ways the complainant can resolve the issue(s) in an informal, non-adversarial approach that satisfies all concerned parties. DEOO may consult with or refer complainant to other appropriate offices, i.e. Human Resources or the Employee Assistance Program. DEOO may schedule follow-up meetings as needed to further assist the complainant.

When filing an informal complaint, the individual must provide the following information:

- the name of the complainant;
- the specific nature of actions/behaviors leading to the allegation of sexual harassment;
- the date(s) and time (s) of the occurrence(s) of sexual harassment;
- a detailed description of the occurrence(s) of the sexual harassment;
- the name(s) of the person(s) the complainant is accusing of the sexual harassment;
- the name(s) of other individual(s) who have knowledge of the occurrence(s) of the sexual harassment brought forth in the complaint; and
- the remedy or relief that is being sought.

### **Formal Complaint**

If at any time the complainant considers the informal complaint procedure unsatisfactory, he/she may elect to forgo the informal procedure and request that a formal complaint be initiated. Also, in some instances, the Associate Vice Chancellor for Diversity and Equal Opportunity may determine that the serious nature of the complaint requires that it be addressed as a formal matter. When filing a formal complaint, the individual should put the information stated above in writing and submit it to the DEOO. Please use the Formal Complaint Form available on the DEOO Web site or in the DEOO.

The individual(s) accused by the complainant is/are provided a copy of the DEOO written report of the complaint and given an opportunity to respond to the allegation(s). The appropriate managers are informed of the filing of a formal complaint on a need to know basis.

## **DEFINITIONS**

**Complainant:** An individual who believes he/she has been subject to sexual harassment and who files a complaint of sexual harassment, either informal or formal, against another individual(s).

**Accused:** Any person who has a sexual harassment complaint brought against them.

**Sexual Harassment:** Any unwanted and/or unwelcome sexual advances, requests for sexual favors and other verbal, written or physical conduct of a sexual nature.

**Quid Pro Quo:** When a person in authority or control makes unwanted and unwelcome requests/demands for sexual favors from a subordinate, and implies that the subordinate's employment or academic standing depends on submission to these requests/demands. **Quid pro quo** is existent when:

- submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's continued employment or assessment of academic work;
- submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting that individual.

**Hostile Environment:** When conduct has the purpose or effect of unreasonably interfering with the individual(s) work or academic performance or in creating an intimidating, hostile, humiliating, uncomfortable, or offensive working or academic environment. Such conduct may include, but is not limited to:

- verbal or written abuse;
- subtle pressure for sexual activity;
- persistent remarks about another individual's clothing, body or sexual activities;
- unnecessary touching, patting, or pinching;
- intentional brushing against another individual's body; and/or
- leering, whistling, or sexual gestures.

**Retaliation:** Conduct which is taken against a complainant because they have filed a complaint or conduct taken against an individual who has cooperated with the investigation of a complaint.

## **APPROVALS**

Aaron Lazare

11/24/04

\_\_\_\_\_  
Aaron Lazare, MD  
Chancellor/Dean

\_\_\_\_\_  
Date

Marian V. Wilson

12/1/04

\_\_\_\_\_  
Marian V. Wilson, PhD  
Associate Vice Chancellor  
Diversity and Equal Opportunity

\_\_\_\_\_  
Date

**APPENDICES**

The Massachusetts Commission Against Discrimination (MCAD) located at One Ashburton Place, Boston, MA 02108 and 436 Dwight Street Springfield, MA 01103 is responsible for enforcing the Massachusetts discrimination and harassment laws. The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing the federal law prohibiting protected class harassment. The EEOC is located at JFK Federal Office Building, Government Center, Room 475, Boston, MA 02203. These agencies may be contacted at the above addresses. A complaint to the MCAD must be filed within six months of the occurrence or the last incident. A complaint under federal law should be filed within 180 days. Under certain circumstances a federal complaint may be filed within 300 days of the incident or of the last occurrence.

**FORMS / INSTRUCTIONS**

**Formal Complaint Form**

(To be filed within ninety (90) days of the alleged occurrence)

1. Name of Complainant \_\_\_\_\_

2. Department \_\_\_\_\_

3. Today's Date \_\_\_\_\_

4. Name of person (s) accused of the alleged occurrence \_\_\_\_\_

5. Department \_\_\_\_\_

6. Date of alleged occurrence (Write the day, date, time and location) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. Name of Person(s) who witnessed alleged occurrence \_\_\_\_\_  
\_\_\_\_\_

8. Please write a detailed description of the occurrence \_\_\_\_\_  
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9. What remedy are you seeking?

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