Massachusetts State Universities'

Equal Opportunity, Nondiscrimination, and Title IX Plan

Bridgewater State University

Fitchburg State University

Framingham State University

Massachusetts College of Art and Design

Massachusetts College of Liberal Arts

Massachusetts Maritime Academy

Salem State University

Westfield State University

Worcester State University

Effective Date: August 1, 2024

Approved by the Massachusetts Board of Higher Education

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1 INTRODUCTION

Together, Bridgewater State University, Fitchburg State University, Framingham State University, Massachusetts College of Art and Design, Massachusetts College of Liberal Arts, Massachusetts Maritime Academy, Salem State University, Westfield State University, and Worcester State University (collectively, "the Universities") have carefully developed the major elements of this Equal Opportunity, Nondiscrimination, and Title IX Plan ("Plan" or "EO Plan") in accordance with applicable local, state and federal constitutions, statutes, regulations, and executive orders.

Notices, policies, and procedures within this Plan make reference to "the University", which does not refer to any one specific institution but to each one of the nine MA State Universities implementing this Plan.

1.1 PURPOSE

A primary purpose of this EO Plan is to inform the campus communities of:

1. the Universities' prohibition of discrimination; discriminatory harassment, including sex-based harassment and sexual misconduct, including sexual assault, domestic violence, dating violence, stalking; and retaliation;
2. the Universities' efforts to prevent such behaviors; and
3. the manner in which the Universities will respond to such behaviors, including the prompt, impartial, fair, and thorough investigation and resolution of complaints.

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

This EO Plan incorporates by reference, and where applicable, the requirements of: Titles VI and VII of the Civil Rights Act of 1964; Title VI of the Civil Rights Act of 1968; Titles I and II of the Civil Rights Act of 1991; Title IX of the Education Amendments of 1972 and its regulations found at 34 C.F.R. part 106; the Equal Pay Act of 1963; Civil Rights Restoration Act of 1988; Sections 503 and 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990, as amended; Section 402 of the Vietnam-era Veterans Readjustment Act of 1974, Uniformed Services Employment and Reemployment Rights Act; the Age Discrimination Act of 1975; the Age Discrimination in Employment Act of 1967, as amended; the Family and Medical Leave Act of 1993; the Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. Sec. 2000ff; the reauthorized Violence Against Women Act, Pub. Law No. 113-4 (2013); the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act; the Higher Education Act of 1965, as amended; Federal Executive Order 11246 of 1965, as amended by Executive Order 11375 of 1967; Federal Executive Order 12900 of 1994; Federal Executive Order 13145 of 2000; Federal Executive Order 13160 of 2000; Federal Executive Order 13166 of 2000; Massachusetts Civil Rights Act; Massachusetts General Laws Chapters 151B, 151C, and Chapter 149; An Act Relative to Gender Identity, Mass. Acts of 2011, ch. 199; An Act Relative to Transgender Anti-Discrimination, Mass. Acts of 2016, ch. 134; the Pregnant Workers Fairness Act; the PUMP for Nursing Mothers Act ("PUMP Act"); An Act Expanding Protections for Reproductive and Gender Affirming Care, Mass. Acts of 2022, ch. 127; An Act Relative to Sexual Violence on Higher Education Campus, Mass. Acts of 2020,

ch. 337 (also known as the 2021 Campus Sexual Assault Law); An Act Prohibiting Discrimination Based on Natural and Protective Hairstyles (Massachusetts CROWN Act), Mass. Acts of 2022, ch. 117; directives of the BHE, the Universities' Boards of Trustees and the Commonwealth; and other applicable local, state and federal constitutions, statutes, regulations and executive orders.

1.2 DURATION

Pursuant to M.G.L. Chapter 15A, this Plan shall be approved by the Commonwealth of Massachusetts' Board of Higher Education ("BHE") and each local Board of Trustees.

1.3 SCOPE

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

1.4 IMPLEMENTATION

The final authority and ultimate responsibility for the implementation of this Plan rests with the Presidents of the Universities.

The EO Officer on each campus is assigned the responsibility for the overall development, administration and monitoring of all policies, procedures, and programs pertinent to the implementation of this Plan as it pertains to prohibited discrimination other than sex-based discrimination. Title IX of the Education Amendments Act of 1972 requires that each University designate a Title IX Coordinator. The Title IX Coordinator for each University is assigned the responsibility for the overall development, administration, and monitoring of all policies, procedures, and programs pertinent to the implementation of this Plan as it pertains to sex-based discrimination. The Equal Opportunity Officer and the Title IX Coordinator may or may not be the same person. The EO Officer and Title IX Coordinator commonly report to the President or a senior cabinet member, collaborate on the oversight and implementation of this Plan, and bear the responsibility for the preparation and execution of all equal opportunity policies and programs. Details regarding the EO Officer's and Title IX Coordinator's primary responsibilities can be found in Appendix 1 and Appendix 2, respectively. All Vice Presidents, Deans, Directors, Program Coordinators, Department Chairs, and other supervisory personnel are accountable for ensuring that equal opportunity and nondiscrimination, are integrally tied to all actions and decisions for which they are responsible and which fall within the scope of the Plan. A statement concerning such accountability will be added to all appropriate position descriptions. It shall be considered a regular function of faculty, librarians, administrators, and supervisory staff that they are aware of goals. The Universities, independently and collectively, from time to time, will develop internal practices, procedural guidelines, and other supplemental documentation to guide them in implementation of this Plan.

1.5 PLAN AWARENESS

The Universities' Notice of Nondiscrimination, with reference to this Plan, will be posted in areas customarily used for public announcements and on the Universities' websites. Prospective employees and applicants for admission will be informed of this Notice in all advertisements posted both on and off campus.

At the start of each academic year, all policy statements regarding equal opportunity and nondiscrimination at the Universities will be distributed, either electronically or in hard copy or in both formats, as follows:

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

Copies of all policy statements regarding equal opportunity and nondiscrimination will also be provided to students who enroll mid-year and to all new employees upon their hire.

1.6 REVIEW

The Universities will continually review this Plan to ensure compliance with the requirements of federal and state law and regulations.

2 STATEMENT OF NONDISCRIMINATION

The University is committed to nondiscrimination and equal opportunity. The University is dedicated to providing educational, working, and living environments that value the diverse backgrounds of all people.

The University does not discriminate in admission or access to, or treatment or employment in, its educational programs and activities on the basis of race, color, religion, national origin, age, disability, genetic information, marital or parental status, or Veteran status. The University prohibits discrimination or discriminatory harassment on all of those bases. Such behaviors violate the University's Policy of Nondiscrimination, will not be tolerated, and may result in disciplinary action up to and including termination or expulsion.

The University has appointed an Equal Opportunity Officer ("EO Officer") to oversee its compliance of applicable policy, as well as the state and federal nondiscrimination and equal opportunity laws. Anyone with questions, concerns or complaints regarding discrimination, discriminatory harassment, or retaliation may contact the EO Officer at:

Trish Bonica
AVPHR
Office of HR, Title IX, & EO
pbonica@westfield.ma.edu
413-572-8670

Furthermore, the University does not discriminate in admission or access to, or treatment or employment in, its educational programs and activities on the basis of sex, including sex characteristics, sex stereotypes, sexual orientation, gender identity, gender expression, or pregnancy, childbirth, and other related conditions, and prohibits sex discrimination in any education program or activity that it operates, including as required by Title IX and its regulations. Such behaviors violate the University's Policy of Nondiscrimination, will not be tolerated, and may result in disciplinary action up to and including termination or expulsion.

The University has appointed a Title IX Coordinator to oversee its compliance with Title IX. Inquiries about Title IX may be referred to the University's Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights, or both. The University's Title IX Coordinator is:

Matthew Russo
Title IX Coordinator
mrusso@westfield.ma.edu

To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please refer to:

Matthew Russo
Title IX Coordinator
mrusso@westfield.ma.edu

The University's Policy of Nondiscrimination and complaint resolution procedures can be located at:

https://www.westfield.ma.edu/university-policies

3 EQUAL OPPORTUNITY

3.1 STATEMENT OF EQUAL OPPORTUNITY

The University endeavors to ensure that all employment and academic decisions, programs, and policies are formulated and conducted in a manner to ensure equal access for all people and to prevent unlawful discrimination. As part of this effort, the University will ensure that employment and academic decisions, programs, and policies will be based solely on the individual eligibility, merit, or fitness of applicants, employees, and students without regard to race, color, religion, national origin, age, disability, sex, including sex characteristics, sex stereotypes, sexual orientation, gender identity, gender expression, pregnancy and pregnancies-related conditions, genetic information, marital or parental status, or Veteran status.

3.2 AFFIRMATIVE ACTION

3.2.1 Affirmative Action in Employment

Affirmative action is a critical element of the University's commitment to equal opportunity and refers to proactive steps taken by the University intended to increase workplace opportunities for people who are underrepresented in various areas of our society.

Selection for and participation in the University's employment is without regard to race, color, religion, national origin, age, disability, sex, including sex characteristics, sex stereotypes, sexual orientation, gender identity, gender expression, pregnancy and pregnancy-related conditions, genetic information, marital or parental status, or Veteran status. However, the University shall act affirmatively to increase the representation of qualified persons in its workforce with marginalized and/or minoritized identities.

3.2.2 Affirmative Action in Admission

Furthermore, the University is a place where all students are welcome and should have the opportunity to succeed, but it recognizes that sustained action is necessary to lift the barriers that keep underserved students, including students of color, from equally accessing the benefits of higher education. The University is committed to efforts to recruit and retain talented students from underserved communities and fostering a sense of belonging for students currently enrolled. Through such efforts, the University strives to effectively support and retain students from diverse backgrounds.

3.3 EQUAL ACCESS FOR PERSONS WITH DISABILITIES

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

3.3.1 Definitions

3.3.1.1 *Education of Persons with Disabilities*

In accordance with state and federal requirements, the University will provide necessary reasonable accommodations, auxiliary aids, and academic adjustments (including support services) to otherwise qualified students with disabilities to ensure equal access to its programs, facilities, and services. Reasonable

accommodations will also be afforded to applicants for admission who have disabilities to enable them to adequately pursue all opportunities for enrollment in the programs of study.

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

3.3.1.2 *Employment of Persons with Disabilities*

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

3.3.1.3 *Individual with a Disability*

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

3.3.1.4 *Interactive Process*

An ongoing communication between the University and an individual with a documented disability in an effort to provide reasonable accommodations, auxiliary aids, or academic adjustments.

3.3.1.5 *Qualified Individual with a Disability.*

An employee or applicant who satisfies the skill, experience, education, and other job-related requirements of the position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of that position; or

A student who meets the academic and technical standards requisite for admission or participation in the institution's educational program or activity.

3.3.1.6 *Reasonable Accommodation*

Modifications or adjustments to an application process, job, work environment, academic program or activity, or a course of study that permit a qualified individual with a disability to perform the essential functions of a position or to enjoy the benefits and privileges of employment or education equally with persons without disabilities, while not reducing or eliminating the curriculum standards.

3.3.1.7 *Title II/504 Coordinator.*

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

The Title II/504 Coordinator for **Westfield State University is:**

Trish Bonica
Office of HR, Title IX, & EO
pbonica@westfield.ma.edu
413-572-8670

3.3.1.8 *Undue Hardship*

The University is required to provide reasonable accommodations to qualified individuals with disabilities unless doing so would impose an undue hardship on the operation of the University's business. Undue hardship means an action that requires significant difficulty or expense when considered in relation to factors such as the University's overall size, financial resources, and the nature and structure of its operation.

3.3.2 Process by Which to Request Reasonable Accommodations for a Disability

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

Melissa Cody
Associate Director of Benefits & Wellness
Office of HR, Title IX, & EO
mcody@westfield.ma.edu
413-572-8476

Additionally, students seeking reasonable accommodations, auxiliary aids, and/or academic adjustments for a disability must contact the resource noted below to obtain such services:

Banacos Academic Center
banacos@westfield.ma.edu
413-572-8377

3.3.3 Complaint Investigation and Resolution Procedures

Any member of the University community or any applicant for admission or employment who believes that they have experienced disability discrimination or harassment, or who alleges that the University has failed to provide reasonable accommodations, appropriate auxiliary aids, and/or academic adjustments, may

initiate a claim as outlined in the Policy of Nondiscrimination and the Complaint and Resolution Procedures in Section 5 of this EO Plan.

3.4 Reasonable Accommodations for Pregnancy and Pregnancy-Related Conditions

In accordance with the requirements of state and federal law, including Title IX, the University prohibits discrimination against students, employees, and applicants based on pregnancy, childbirth, termination of pregnancy, lactation, related medical conditions, or recovery. Furthermore, the University provides reasonable accommodations for pregnancy and pregnancy-related conditions, including modifications for students, reasonable break time for employees for lactation, and one or more clean, private lactation spaces, that is not a bathroom, for both students and employees. The Title IX Coordinator coordinates specific actions to prevent sex discrimination and to ensure equal access to employment, education programs, and activities.

3.4.1 Student Accommodations for Pregnancy or Pregnancy-Related Conditions

Once a student or the student's representative notifies the Title IX Coordinator of the student's pregnancy or pregnancy-related condition, the University will:

- Inform the student of the University's obligations to students who are pregnant or experiencing pregnancy-related conditions and restrictions on University disclosure of personal information, as well as provide the University's notice of nondiscrimination.
- Provide the student with the option of individualized, reasonable modifications as needed to prevent discrimination and ensure equal access to the University's education program or activity.
- Allow the student a voluntary leave of absence for, at minimum, the medically necessary time period and reinstatement upon return, including reinstatement to the status held by the student when the leave began.
- Ensure the student's access to a clean, private space for lactation that is not a bathroom.

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

- breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom;
- intermittent absences to attend medical appointments; access to online or homebound education;
- changes in schedule or course sequence;
- extensions of time for coursework and rescheduling of tests and examinations;
- allowing a student to sit or stand, or carry or keep water nearby;
- counseling;
- changes in physical space or supplies (for example, access to a larger desk or a footrest);
- elevator access; and/or
- other changes to policies, practices, or procedures.

The University does not require supporting documentation from a student unless doing so is necessary and reasonable. For example, the University does not require documentation when it has already been provided or relates to lactation needs; the need is obvious or one of various routine and simple modifications; or when modifications, leave, or other steps are available to students for non-pregnancy related reasons without submitting supporting documentation.

3.4.2 Employee Accommodations for Pregnancy or Pregnancy-Related Conditions

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

Through the interactive process, the University will provide necessary, reasonable accommodations that will allow an employee to perform the essential functions of the job while pregnant or experiencing pregnancy-related conditions unless doing so would impose an undue hardship on the University. The University recognizes that it cannot make an employee accept a particular accommodation if another reasonable accommodation would allow the employee to perform the essential functions of the job or require an employee to take a leave if another reasonable accommodation may be provided without undue hardship.

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

- reasonable break time for lactation;
- access a clean and private lactation space;
- more frequent or longer paid or unpaid breaks;
- time off to attend to a pregnancy-related condition or recover from childbirth with or without pay;
- acquisition or modification of equipment or seating;
- temporary transfer to a less strenuous or hazardous position;
- job restructuring;
- assistance with manual labor; and/or
- modified work schedule.

The University may require documentation regarding the need for an accommodation from a healthcare professional that explains what accommodation(s) the employee needs, but it cannot require documentation for the following accommodations: (1) more frequent restroom, food, or water breaks; (2) seating; (3) limits on lifting more than 20 pounds; and (4) clean, private space for lactation that is not a bathroom.

3.4.3 Process by Which to Request Accommodations for Pregnancy or a Pregnancy-Related Condition

Persons who seek an accommodation for pregnancy or a pregnancy-related condition may contact the Title IX Coordinator for more information.

Matthew Russo
Title IX Coordinator
mrusso@westfield.ma.edu

The Title IX Coordinator is responsible for ensuring that any approved accommodations are implemented, including notifying any University officials responsible for implementing specific elements of the accommodation.

3.4.4 Complaint Investigation and Resolution Procedures

Employees, job applicants, and students who believe that they have been subjected to discrimination as a result of pregnancy or a pregnancy-related condition or who allege that the University has failed to provide reasonable accommodations may initiate a claim as outlined in the Complaint Investigation and Resolution Procedures in Section 5 of this EO Plan.

4 POLICY OF NONDISCRIMINATION

4.1 TYPES OF PROHIBITED DISCRIMINATION

Discrimination is an intentional or unintentional act that adversely affects employment and/or educational opportunities because of a person's membership in a protected class, perceived membership in a protected class or association with a member(s) of a protected class. A single act of discrimination may be based on more than one protected class status.

The sections below describe the specific forms of discrimination, harassment, and retaliation prohibited under this Policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of this Policy.

4.1.1 Disparate Treatment Discrimination

Intentional treatment of an individual or group that is less favorable than treatment of others based on discriminatory reasons.

For example, if Latino employees are the only ones who need to take an exam to qualify for employment, they are experiencing disparate treatment.

4.1.2 Disparate Impact Discrimination

Disparate impact occurs where disparate treatment is unintentional because policies, practices, rules, or other systems that appear to be neutral result in a disproportionate impact on a protected group, and such disparities cannot be justified by business necessity.

For example, a qualification test may create a disparate impact if the pass rate among Latino applicants is significantly lower than for other groups.

4.1.3 Discriminatory Harassment

A form of prohibited discrimination including verbal and/or physical conduct based on membership, association with, or perceived membership in a protected class that: (1) has the purpose or effect of creating an objectively intimidating or hostile work or educational environment; (2) has the purpose or effect of unreasonably interfering with an individual's work or educational opportunities; or (3) otherwise unreasonably adversely affects an individual's employment or educational opportunities.

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

4.1.3.1 *Hostile Environment Harassment*

Hostile environment harassment is a form of discriminatory harassment where:

- The complainant is an actual or perceived member of a protected class, or associated with a member of a protected class;
- The complainant was subjected to conduct directed at said protected class;
- The harassing conduct was subjectively offensive (i.e., unwelcome) and objectively offensive; and

- Considering the totality of the circumstances, the conduct was sufficiently severe or pervasive that it altered conditions of employment or education by creating an intimidating, hostile, or humiliating environment.

Whether a "hostile" environment has been created is a fact-specific inquiry, based on the totality of the circumstances, that includes, but is not limited to, consideration of the following:

- The degree to which the conduct affected the complainant's ability to access the University's program or activity;
- The type, frequency, and duration of the conduct;
- The parties' ages, roles within the University's program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- The location of the conduct and the context in which the conduct occurred; and
- Other harassment on the same or similar basis in the University's program or activity.

Under this definition, simple teasing, offhand comments, and isolated incidents, unless severe or pervasive and objectively and subjectively offensive, will not amount to hostile environment harassment under this Policy.

4.1.3.2 *Quid Pro Quo Harassment*

Quid pro quo protected class harassment is a form of prohibited discrimination that can occur when an employee's continued employment or receipt of workplace benefits, promotions, assignments, or opportunities, etc.; or a student's educational access or opportunities are conditioned on the individual's willingness to tolerate conduct of a harassing nature.

In a quid pro quo protected class harassment complaint, a preponderance of the evidence must show:

- Conduct requiring the complainant to alter, conceal, or eliminate a characteristic signifying their membership in a protected class or other unwelcome conduct of a harassing nature based on protected class; and
- Submission to or rejection of the conduct was made either explicitly or implicitly as a term or condition of employment or education or as a basis for employment or educational decisions affecting that individual.

A person may have a claim of quid pro quo harassment when they either reject or submit to the conduct in question, or a mix of both. In either type of case, proof of the above elements necessarily proves that conduct was unwelcome.

Some examples of quid pro quo protected class harassment include:

Example 1: A student's grade in a course is conditioned on their willingness to conform and participate in their instructor's religious practices; or

Example 2: An employee assigned male at birth, who identifies as female, is required to dress in traditionally masculine clothing in order to keep her job and is terminated after refusing to do so.

4.1.3.3 *Coinciding Harassment*

Depending on the circumstances, a person can suffer one type of protected class harassment or both types of protected class harassment simultaneously.

4.1.4 Retaliation

Retaliation is prohibited by this Policy and the University will respond to information and complaints involving conduct that reasonably may constitute retaliation using the same procedures it uses for other forms of prohibited discrimination. Retaliation, even in the absence of provable discrimination in the original complaint, constitutes as serious a violation of this Policy as proved discrimination under the original claim, complaint or charge.

Retaliation may include adverse treatment, intimidation, threats, coercion, or discrimination against any person by the University, a student, or an employee, or other person authorized by the University to provide aid, benefit, or service under the University's education program or activity, (1) for the purpose of interfering with any right or privilege secured by this Policy, or (2) because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy, or (3) because the person is suspected of having filed such claims, complaints, or charges, or (4) the person has protested practices alleged to be violative of the nondiscrimination policies of the University, the BHE, or local, state or federal regulation or statute.

Peer retaliation, which is defined as retaliation by one student against another student or one employee against another employee of similar rank or authority, is also prohibited.

The University may require its employees to participate in, or otherwise assist with, an investigation, proceeding, or hearing, as such requirement does not constitute retaliation under this Policy.

4.2 ELEMENTS OF PROHIBITED DISCRIMINATION AND HARASSMENT

This section defines specific criteria that is assessed to make a determination as to whether prohibited discrimination has occurred under this Policy. In all cases, prohibited discrimination must be based on one's membership in, one's association with, or perceived membership in one or more of the protected classes listed below. However, not all elements are required to demonstrate a violation for all types of prohibited discrimination. Please refer to the previous section for definitions of the types of prohibited discrimination and relevant elements.

4.2.1 Based on a Protected Class

Discriminatory conduct under this Plan, regardless of type of discrimination, is targeted at an individual because they are a member of a protected class, are perceived to be a member of a protected class, or are associated with a member of a protected class. Discriminatory conduct can also be directed at members of a protected class as a whole.

Protected class harassment commonly revolves around membership in a single protected class, but harassment may also be intersectional and attributed to membership in two or more protected classes. This means that a person may face harassment not necessarily because of their membership in one protected class, but because of their concurrent membership in two or more protected classes.

4.2.1.1 *Race*

Discrimination is based on a complainant's race if it is because the complainant is Black, White, Hispanic or Latino, Asian or Pacific Islander, American Indian or Alaskan Native, multiracial, or another race and is interpreted to prohibit discrimination on the basis of ancestry or physical or cultural characteristics associated with a certain race, such as, but not limited to, skin color, hair texture or hairstyles, or certain facial features, and on the basis of stereotypes and assumptions about abilities, traits, or the performance

of individuals of certain racial groups. All individuals, including persons of more than one race, are protected from discrimination.

4.2.1.2 *Color*

Color-based discrimination is due to an individual's pigmentation, complexion, or skin shade or tone. Color-based discrimination is sometimes related to discrimination based on race or national origin.

4.2.1.3 *National Origin*

Discrimination based on national origin is due to a complainant's or the complainant's ancestors' place of origin.

4.2.1.4 *Religion*

Religion is broadly defined. The protection against religious discrimination is not limited to mainstream religions, but also applies to any lawful observances and practices that are based on one's own sincerely held beliefs.

4.2.1.5 *Sex*

Sex-based discrimination can be due to sex (female, male, intersex), sex characteristics, sex stereotypes, sexual orientation, gender identity and expressions thereof, and pregnancy, childbirth, and related medical conditions. Sex-based discrimination explicitly includes sexual harassment, sexual assault, domestic violence, dating violence, and sex-based stalking. Additional information is available in section 4.3 of this Policy.

4.2.1.6 *Age*

For the purposes of employment, age-based discrimination is prohibited against workers aged 40 or older. For the purposes of access to and participation in the University's educational programs and services, all persons of all ages are protected on the basis of age.

4.2.1.7 *Disability*

Disability discrimination is based on an individual's physical or mental disability or perceived disability, including harassment based on stereotypes about individuals with disabilities in general or about an individual's particular disability. It also can include harassment based on traits or characteristics linked to an individual's disability, such as how an individual speaks, looks, or moves, provided that the conduct meets the criteria for prohibited conduct under section 4.1.3.

4.2.1.8 *Genetic Information*

Discrimination based on genetic information may be based on any written, recorded individually identifiable result of a genetic test or explanation of such a result or family history pertaining to the presence, absence, variation, alteration, or modification of a human gene or genes.

4.2.1.9 *Marital/Parental Status*

Discrimination based on marital or parental status can be based on a person's status as single, married, parent, or non-parent where discrimination on these bases has disparately impacted those of different protected classes, including gender and sexual orientation.

4.2.1.10 *Veteran Status*

Veteran status discrimination is directed at a person who is a member of, has served in, applies to perform, or is obligated to perform service in, a uniformed military service of the U.S., including the National Guard.

4.2.2 Elements Specific to Hostile Environment Harassment

4.2.2.1 *Subjective Unwelcomeness*

Harassing conduct is subjectively offensive when a person experiences the conduct to be offensive, which, as a practical matter, also demonstrates unwelcomeness. Conduct can be subjectively offensive even if a person voluntarily participates. This standard is a personal one—conduct might be subjectively offensive to one person but not to another. Therefore, a person who does not subjectively perceive the conduct at issue as intimidating, hostile, or offensive has not experienced harassment, even if other individuals would consider such conduct to be so. Objections to or requests to stop harassing behavior, remarks, or epithets, or complaints to other individuals about conduct are some ways of demonstrating that conduct was subjectively offensive. However, a person is not required to complain to the University about the harassment, quit their job, or withdraw from classes in order to prove that they found it subjectively offensive.

Not all conduct of an offensive nature is prohibited. If a person initiates conduct of an offensive nature or is a willing participant in an offensive environment, they might not be a victim of prohibited harassment. However, a person's participation in or acquiescence to conduct of a harassing nature does not determine whether the conduct was unwelcome. When a person submits to harassing behavior to avoid being targeted further, to cope in a hostile environment, or because participation is made an implicit or explicit condition of employment or education, they are not considered to have welcomed the conduct. Rejection of or failure to respond positively to offensive comments or gestures demonstrates unwelcomeness. A person does not have to communicate an objection to harassing conduct to demonstrate its unwelcomeness or communicate objections every time a harassing incident occurs.

4.2.2.2 *Objectively Offensive*

Harassing conduct relating to protected class is objectively offensive if it is offensive to a reasonable person who is similarly situated, considering all the circumstances. An examination into the totality of circumstances is necessary. The circumstances considered might include, but are not limited to, frequency of conduct, the public nature of the conduct, how other employees or students responded to the conduct, whether the conduct was previously objectionable to the individual, whether it was physically threatening or humiliating, or whether any physical harm resulted. Those circumstances should include a person's protected class(es), if considering protected class may help a factfinder determine what would be offensive to a reasonable person who is similarly situated.

4.2.2.3 *Conduct That Alters*

Subjectively and objectively offensive conduct alters the conditions of employment or education and creates a hostile environment when it impedes an employee's or student's full participation in the workplace or educational program or activity.

Assessing whether conduct alters the conditions of employment or education requires a fact-based inquiry into the totality of the circumstances. This includes, but is not limited to, the nature, severity, frequency, and pervasiveness of the conduct and the psychological harm to an employee or student, if any.

Conduct that alters can manifest through physical conduct, verbal conduct, nonverbal conduct, written communication, electronic communications, pictures, or any combination of conduct or speech. There is no requirement that conduct must be both severe and pervasive to create a hostile environment, and, in certain circumstances, a single incident can be serious enough to create a hostile environment. Not all unwelcome,

offensive conduct alters an employee's conditions of employment by creating a hostile work environment or a student's education by creating a hostile educational environment.

4.3 SEX-BASED DISCRIMINATION

Sex-based discrimination is any discrimination that depends in part on consideration of a person's sex and can be due to sex characteristics, sex stereotypes, sexual orientation, gender identity, gender expression, and pregnancy, childbirth, and related medical conditions.

Sex Characteristics - Physiological characteristics, such as anatomy, hormones, chromosomes, and other traits, associated with male, female, or intersex bodies.

Sex Stereotypes - Fixed or generalized expectations regarding a person's aptitudes, behavior, self-presentation, or other attributes based on sex.

Gender Identity - A person's internal view of their gender. "Gender identity" covers a multitude of identities including, but not limited to, male, female, transgender, nonbinary, or gender-nonconforming individuals, and includes any person whose gender identity or gender presentation falls outside of stereotypical gender norms.

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

Sexual Orientation - Actual or perceived heterosexuality, homosexuality, bisexuality, pansexuality, asexuality, or other sexual identity either by orientation or by practice.

Pregnancy, Childbirth, or Related Medical Conditions - Issues such as pregnancy; childbirth; lactation; using or not using contraception; or deciding to have, or not to have, an abortion.

Under Title IX, the University must not carry out different treatment or separation on the basis of sex by subjecting a person to more than de minimis harm except where permitted under the law in limited circumstances. Adopting a policy or engaging in a practice that prevents a person from participating in an education program or activity consistent with their gender identity causes more than de minimis harm on the basis of sex.

4.3.1 Sex-Based Harassment or Harassing Conduct Otherwise Based on Sex

A form of sex discrimination that includes sexual harassment and harassment based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, or gender identity; that is quid pro quo harassment, hostile environment harassment based on sex and/or of a sexualized nature; or one of four specific offenses:

1. sexual assault
2. domestic violence
3. dating violence
4. stalking

Some examples of conduct that may be considered sex-based harassment, all of which are prohibited when they are part of conduct that meets the standard for discriminatory harassment set forth in 4.1.3.1 (Hostile Environment Harassment) and 4.1.3.2 (Quid Pro Quo Harassment), include, but are not limited to:

Example 1: (Quid Pro Quo) A professor promises a student that he will give the student a better grade if he agrees to go out on a date with him. The student goes on the date and is given the better grade, or the student does not go on the date and does not receive the better grade;

Example 2: (Quid Pro Quo) A manager tells her employee that his work hours will be reduced if he does not have sex with her. The employee has sex with the manager and is permitted to retain his current work schedule, or the employee does not have sex with the manager and his work hours are reduced;

Example 3: (Hostile Environment) Unwelcome sexual advances -- whether they involve physical touching or not;

Example 4: (Hostile Environment) Unwelcome sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; unwelcome comments about an individual's body, including comments or inquiries about an individual's sexual activity, deficiencies, or prowess;

Example 5: (Hostile Environment) Unwelcome leering, whistling, brushing against the body, or sexual gestures.

4.3.1.1 ***Specific Offenses***

4.3.1.1.1 Sexual Assault

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

For the purposes of this section, the following considerations apply:

Consent – An understandable exchange of affirmative words or actions, which indicates a willingness by all parties to participate in mutually agreed upon sexual activity. Consent must be informed and freely and actively given and may not be obtained through coercion. It is the responsibility of the initiator to obtain clear and affirmative responses at each stage of sexual involvement. Consent to sexual activity may be withdrawn at any time, as long as the withdrawal is communicated clearly. Whether an individual has taken advantage of a position of influence over a complainant may be a factor in determining consent. A position of influence could include supervisory or disciplinary authority. Silence, previous sexual relationships or experiences, and/or a current relationship may not, in themselves, be taken to imply consent. While nonverbal consent is possible (through active participation), it is best to obtain verbal consent. Similarly, consent to one form of sexual activity does not imply consent to other forms of sexual activity.

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

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

Incapacitation - An individual who is incapacitated by alcohol and/or drugs, whether voluntarily or involuntarily consumed, may not give consent. Alcohol or drug related incapacitation is more severe than impairment, being under the influence, or intoxication. Persons unable to consent due to incapacitation also

include, but are not limited to: persons under age sixteen (16); persons who are intellectually incapable of understanding the implications and consequences of the act or actions in question; and persons who are physically helpless.

4.3.1.1.1.1 Sexual Assault – Rape

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

4.3.1.1.1.2 Sexual Assault – Fondling

Fondling is the touching of body parts commonly thought private of another person for the purpose of sexual gratification, without the consent of the victim, including instances in which the victim is incapable of giving consent because of age and/or because of temporary or permanent mental incapacity. This includes forcing another person to touch one's own body parts commonly thought private.

4.3.1.1.2 Domestic Violence

Felony or misdemeanor crimes committed by a person who:

A. Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the University, or a person similarly situated to a spouse of the victim;
B. Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
C. Shares a child in common with the victim; or
D. Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

4.3.1.1.3 Dating Violence

Dating violence is violence committed by a person:

A. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
B. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
    a. The length of the relationship;
    b. The type of relationship; and
    c. The frequency of interaction between the persons involved in the relationship;

4.3.1.1.4 Stalking

Engaging in a course of conduct based on sex and directed at a specific person that would cause a reasonable person to:

A. Fear for the person's safety or the safety of others; or
B. Suffer substantial emotional distress.

See Appendix 4 for state, local, and campus resources and other information to support persons who have experienced sex-based harassment.

4.4 JURISDICTION

4.4.1 University Programs and Activities

The University's prohibitions against discrimination, harassment, and retaliation applies to all conduct occurring under the University's programs or activities. It applies to all members of the campus communities, including, but not limited to, students, faculty, librarians, staff, visitors, contractors, and applicants for employment or admission.

Conduct that occurs under the University's program or activity includes, but is not limited to:

- Athletics;
- Instruction;
- Grading;
- Housing;
- Extracurricular activities;
- Employment;
- Conduct that occurs in any building owned or controlled by a student organization that is officially recognized by a postsecondary institution; and
- Conduct that is subject to the University's disciplinary authority.

4.4.2 Conduct Outside of the University's Programs and Activities

Discrimination, harassment, or retaliation that occurs outside of the University's programs and activities may be actionable if there is a sufficient link with the employment or student relationship or both or where such conduct contributes to a hostile environment within the University's programs or activities. To determine whether conduct outside of the University's programs and activities constitutes prohibited discrimination or harassment, the University may consider the following nonexhaustive list of factors:

- Whether the conduct adversely affected the terms and conditions of the complainant's employment or education or impacted the complainant's work or learning environment;
- Whether the conduct occurred during a workplace event or educational activity, such as a University-sponsored function or outing;
- Whether the conduct occurred during work hours or scheduled class time;
- The relationship between the complainant and alleged harasser, such as harassment between a supervisor and supervisee or faculty member and student; or
- The nature and severity of the alleged conduct.

4.4.3 Online Conduct

Prohibited discriminatory harassment and retaliation may also occur via social media and other virtual platforms. Offensive conduct occurring online may be considered in determining both quid pro quo harassment claims and hostile environment harassment claims, such as a person making sexual requests through private online messages or a member of the campus community posting derogatory information about another member of the campus community online, provided the conduct meets the standard of discriminatory harassment set forth in 4.1.3.1 (Hostile Environment) and/or 4.1.3.2 (Quid Pro Quo). To determine whether conduct occurring online constitutes prohibited harassment covered by this Plan, the University will consider the nature and severity of the conduct, and may consider a range of nonexhaustive factors:

The nature or severity of the conduct;

- The virtual platform within which such conduct took place, and whether it is connected to the workplace or educational environment;
- The device or account used to access social media or the platform, such as use of a University account or device;
- Whether the conduct occurred during work hours;
- How the respondent obtained access to the complainant's social media accounts;
- Whether the harassment was on publicly available social media or private;
- The relationship between the complainant and respondent, such as harassment between a supervisor and employee or between a faculty member and student; or
- Whether the conduct adversely affected the terms and conditions of the complainant's employment or education or has an effect on the complainant's work or educational environment.

4.5 First Amendment and Academic Freedom

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

4.6 Consensual Relationships

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

4.6.1 Faculty/Administrator/Staff Member Relationships with Students

No faculty member shall have a romantic and/or sexual relationship, consensual or otherwise, with a student who is being taught or advised by the faculty member or whose academic work is being supervised or evaluated, directly or indirectly, by the faculty member. No administrator or staff member shall have a romantic and/or sexual relationship, consensual or otherwise, with a student who the administrator or staff member supervises, evaluates, advises, or provides other professional advice or services as part of a University program or activity. Even if not expressly prohibited, a romantic and/or sexual relationship, consensual or otherwise, between a faculty member, administrator, or staff member and a student is looked upon with disfavor and is strongly discouraged.

4.6.2 Relationships Between Supervisors and Subordinates or Between Coworkers

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

4.7 EMPLOYEE OBLIGATIONS

This section outlines specific obligations of employees to participate in required trainings; to report information, knowledge, or suspected knowledge of prohibited conduct under this policy; and/or to provide specific information to reporting parties. Employees who fail to adhere to these requirements and duties are subject to disciplinary action. Any member of the University community who has a question about their responsibilities under this Policy should contact the EO Officer or Title IX Coordinator.

4.7.1 Duty to Report Discrimination, Harassment, and Retaliation

Any trustee, administrator, department chair, program coordinator, manager, or any other employee with any supervisory authority, who receives such a report from a student or other member of the University community is obligated to report to the EO Officer or Title IX Coordinator any conduct of which they have direct knowledge and which they in good faith believe constitutes discrimination, discriminatory harassment, or retaliation in violation of this Policy. This includes sex-based discrimination and harassment.

All employees of the University without a duty to report are still encouraged to report to the EO Officer or Title IX Coordinator any conduct of which they have direct knowledge and which they in good faith believe constitutes discrimination, discriminatory harassment, or retaliation in violation of this Policy and to provide the reporting party as much assistance in bringing it to the attention of the EO Officer or Title IX Coordinator as is reasonably appropriate given their position at the University and relationship with the reporting party.

4.7.2 Duty to Report Sex-Based Discrimination or Sex-Based Harassment

In addition to the employees noted in section 4.7.1, any employee who either has authority to institute corrective measures on behalf of the University or has responsibility for teaching (credit and non-credit-bearing instruction) or advising (faculty and professional academic advisors) in the University's education program or activity, and who is not a confidential employee, is required to notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under this Policy.

4.7.3 Duty to Notify Reporters of Sex-Based Discrimination or Sex-Based Harassment

Any employee not otherwise required to report information about conduct that reasonably may constitute sex discrimination may still elect to notify the Title IX Coordinator of information about such conduct. Otherwise, it is the obligation of that employee to notify the reporting party of specific information on how to contact the Title IX Coordinator and how to make a complaint.

4.7.3.1 *Confidential Employees*

Confidential employees must identify themselves as not required to report information to the Title IX Coordinator and only notify the reporting party of specific information on how to contact the Title IX Coordinator and how to make a complaint. The reporting party may request that confidential employees make a report to the Title IX Coordinator if the reporting party provides written consent to share information directly with the Title IX Coordinator.

4.7.4 Duty to Report Abuse of Minors, Adults Aged 60+, and Persons with Disabilities

Persons under 18 may be students or may be engaged in activities sponsored by the University or by third parties utilizing University facilities. Where an employee has reasonable cause to believe that a child is suffering injury, neglect, or abuse, including from sexual abuse, on campus or on University-owned or controlled property, the employee and/or the University *may* be obligated to comply with the mandatory child abuse reporting requirements established at M.G.L. c. 119, §51A-E. In such cases, the employee must immediately report the matter to Campus Police or Public Safety, who, in consultation with other officials,

shall contact the Department of Children and Families ("DCF") and/or outside law enforcement. In certain cases, employees may be obligated to make a report directly to DCF.

An employee may also directly contact law enforcement, DCF, or other relevant state agency in cases of suspected abuse or neglect. Massachusetts law also has mandatory reporting requirements for certain occupations where abuse or neglect of adults over 60, per M.G.L. c. 19A, §15, or persons with disabilities, per M.G.L. c. 19C, is suspected. For more information, please contact the Campus Police or Public Safety.

University Police
413-572-5262 (non-emergencies)

4.7.5 Duty to Report Violations of the Clery Act

Furthermore, Campus Security Authorities for the purposes of the Clery Act must act in accordance with their specific reporting obligations.

4.7.6 Duty to Inform Persons Reporting Pregnancy or Pregnancy-Related Conditions

When a student, or a person who has a legal right to act on behalf of the student, informs any employee of the student's pregnancy or related conditions, unless the employee reasonably believes that the Title IX Coordinator has been notified, the employee is required to promptly provide that person with the Title IX Coordinator's contact information and inform the student or person who has a legal right to act on the student's behalf that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the University's education program or activity.

4.7.7 Required Title IX and Campus Sexual Misconduct Employee Training

All employees, including all faculty, staff, librarians, contract employees, and student employees are required to participate within 45 days of hire, and annually thereafter, in training on: (i) the University's obligation to address sex discrimination in its education program or activity; (ii) the scope of conduct that constitutes sex discrimination under Title IX and this Policy, including the definition of sex-based harassment; and (iii) all applicable notification and information requirements under Title IX and this Policy.

Furthermore, training at time of hire shall include but not be limited to: (i) an explanation of civil rights laws, their meaning, purpose, definition and applicability to all forms of sex-based and gender-based harm; (ii) the role drugs and alcohol play in changing behavior and affecting an individual's ability to consent; (iii) information on options relating to the reporting of an incident of sexual misconduct, the effects of each option and the methods to report an incident of sexual misconduct, including confidential and anonymous disclosure; (iv) information on the University's policies and procedures for resolving sexual misconduct complaints and the range of sanctions or penalties the University may impose on students and employees found responsible for a violation; (v) the name, contact information and role of the confidential resource provider; and (vi) strategies for bystander intervention and risk reduction; and (vii) information on opportunities for ongoing sexual misconduct prevention and awareness campaigns and programming.

Training completion will be tracked by the Title IX Coordinator at each campus. Employees working on multiple campuses are required to participate in training at each University.

Investigators, decisionmakers, and other persons who are responsible for implementing the University's grievance procedures relative to sex discrimination or have the authority to modify or terminate supportive measures are required to participate in training relative to their duties and responsibilities under Title IX, including how to serve impartially, such as by avoiding prejudgment of the facts at issue, conflicts of interest,

and bias, at the time of hire, at change of appointment that alters their duties under Title IX, and annually thereafter.

5 COMPLAINT INVESTIGATION AND RESOLUTION PROCEDURES

The University has adopted complaint investigation and resolution procedures ("Procedures") that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its program or activity, or by the Title IX Coordinator or Equal Opportunity Officer. These Procedures provide a mechanism for investigation and resolution of any alleged conduct prohibited by the EO Plan and are available to all students, faculty, librarians, staff, visitors, contractors, applicants for employment or admission, and others having dealings with the University.

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

Specific elements of these Procedures are applicable only to complaints and reports of sex-based harassment and are explicitly designated as such. See Appendix 5 for a summary of rights for parties to complaints of sex-based harassment.

5.1 DEFINITIONS

5.1.1 Administrative Reviewer

The administrative reviewer, one or more trained persons, other than the investigator, who reviews the investigation report to assess if the investigation process was equitable, impartial, and thorough, and therefore, complete. The administrative reviewer may or may not be the EO Officer or Title IX Coordinator. The administrative reviewer is part of the decision-making body.

5.1.2 Complainant

A student or employee who is alleged to have been subjected to conduct that could constitute discrimination under the Policy of Nondiscrimination; or

A person other than a student or employee who is alleged to have been subjected to conduct that could constitute discrimination under the Policy of Nondiscrimination and who was participating or attempting to participate in the University's program or activity at the time of the alleged discrimination.

5.1.3 Complaint

An oral or written request to the University that objectively can be understood as a request for the University to investigate and make a determination about alleged discrimination under the Policy of Nondiscrimination.

5.1.4 Decision-Making Body/Decisionmaker

The decision-making body, or decisionmaker, is comprised of the investigator and administrative reviewer assigned to a complaint. The decision-making body makes the determination as to whether prohibited conduct occurred based on the preponderance of the evidence and, where such prohibited conduct is found to have occurred, assigns any appropriate sanctions or remedies.

5.1.5 Disciplinary Sanctions

Consequences imposed on a respondent following a determination under these Procedures that the respondent violated the University's Policy of Nondiscrimination.

5.1.6 Investigator
The investigator is one or more trained persons assigned to a complaint to gather evidence and interview parties and witnesses to make findings of fact regarding the allegations in the complaint. The investigator may or may not be the EO Officer or Title IX Coordinator. The investigator is part of the decision-making body.

5.1.7 Party
A complainant or respondent.

5.1.8 Relevant
Questions are relevant when they seek evidence that may aid in showing whether the alleged discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged discrimination occurred.

5.1.9 Remedies
Measures provided, as appropriate, to a complainant or any other person the University identifies as having had their equal access to the University's program or activity limited or denied by discrimination as defined by the Policy of Nondiscrimination. These measures are provided to restore or preserve that person's access to the University's program or activity after the University determines that discrimination occurred.

5.1.10 Report
A report is the first step in order for an individual to provide information, learn about options and resources, and consider supportive measures. A report puts the University on notice that prohibited conduct may have occurred and may or may not include a request for investigation of prohibited conduct. Many employees are obligated to share information reported to them about conduct prohibited under the Policy of Nondiscrimination with the Title IX Coordinator or EO Officer and, therefore, most reports result in outreach from the Title IX Coordinator or EO Officer to the impacted individual(s) to provide information and review options, including options to submit a complaint and request an investigation. A report can be submitted by an employee, student, community member, or other third party, and can be authored by someone impacted by behavior or someone with knowledge of it. A report may be considered a complaint where it includes a statement that can be objectively understood as a request for the University to investigate and make a determination about alleged discrimination under the Policy of Nondiscrimination.

5.1.11 Respondent
A person or persons who are alleged to have violated the University's Policy of Nondiscrimination.

5.2 SUPPORTIVE MEASURES
Supportive measures are individualized measures offered as appropriate and as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

A. Restore or preserve that party's access to the University's program or activity, including measures that are designed to protect the safety of the parties or the University's environment; or
B. Provide support during the University's complaint investigation and resolution procedures or during an informal resolution process.

Such measures are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment, or deter prohibited harassment. Supportive measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules or dining arrangements, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, restrictions from areas of campus, leaves of absence, increased security and monitoring of certain areas of the campus, statutorily provided leave to employees, and other similar measures.

A formal complaint is not required to request or access supportive measures. Supportive measures may be appealed under the same grounds as outlined in section 5.5.18 of this Plan. Appeals may be submitted to the Title IX Coordinator or EO Officer.

See Appendix 4 for state, local, and campus resources and other information to support persons who have experienced sex-based harassment.

5.3 AMNESTY

Students may be hesitant to report sex-based harassment, sexual assault, domestic or dating violence, stalking, or retaliation, out of concern that they, or witnesses, might be charged with violations of the University's drug/alcohol policies. While the University does not condone such behavior, it places a priority on the need to address sex-based harassment prohibited by this Plan. Accordingly, the University will not pursue discipline against a student who, in good faith, reports, witnesses, or participates in an investigation of sex-based harassment, sexual assault, domestic or dating violence, stalking, or retaliation.

5.4 FALSE COMPLAINTS

Filing a false charge of discrimination, discriminatory harassment, or retaliation is a serious offense. If an investigation reveals that a person knowingly filed false charges, the University shall take appropriate actions and issue sanctions, up to and including termination or expulsion, pursuant to other applicable University policies, including any applicable collective bargaining agreement. The imposition of such sanctions does not constitute retaliation under this Plan. The University will not discipline any party, witness, or others participating in the process for making a false statement based solely on the University's determination of whether prohibited conduct occurred.

5.5 COMPLAINTS

A complaint is one action that may be pursued based on a report of prohibited behavior under this Plan. Additional reporting and resolution options are described in sections 5.7 and 5.8 of this Plan. The formal complaint process includes an investigation process, determination of responsibility by a decisionmaker, and an appeal opportunity.

5.5.1 Right to Make a Formal Complaint

The following people have a right to make a complaint of prohibited discrimination, requesting that the University investigate and make a determination about alleged discrimination:

A "complainant," which includes:

- a student or employee of the University who is alleged to have been subjected to conduct that could constitute discrimination under the Policy of Nondiscrimination; or
- a person other than a student or employee of the University who is alleged to have been subjected to conduct that could constitute discrimination under the Policy of Nondiscrimination at a time when that individual was participating or attempting to participate in the University's program or activity.

University officials with oversight of this Plan:

- The University's Title IX Coordinator, consistent with the requirements of Title IX; or
- The University's Equal Opportunity Officer, consistent with the requirements of Title VI and Title VII.

Where a complaint is filed by the University's Title IX Coordinator or EO Officer, or a person authorized to act on behalf of the complainant, the complainant is still such person who is alleged to have been subjected to conduct that could constitute discrimination under the Policy of Nondiscrimination. In such cases, neither the Title IX Coordinator, the Equal Opportunity Officer, nor the University, are the complainant.

5.5.2 Submission of Complaint

Individuals are encouraged to file complaints directly with the EO Officer or Title IX Coordinator, but complaints may also be filed with other offices, such as Student Conduct, Human Resources, Residence Life, or Campus Police. Any complaint that is initially filed with other offices will be reported to the EO Officer or Title IX Coordinator.

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

Reports may be made in person, in writing, by mail, by telephone, or by electronic mail, using the contact information listed for the EO Officer or Title IX Coordinator, electronic form (if available), or by any other means that results in the EO Officer or Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during nonbusiness hours) by using the reporting options available at the time of the report.

https://www.westfield.ma.edu/submitareport

5.5.3 Jurisdiction Determination

The EO Officer, Title IX Coordinator, or designee will determine if the complaint falls within the jurisdiction of these Procedures. At this point, the University will implement any necessary and/or appropriate supportive measures, where applicable, or monitor and/or revise any measures already in place. If the University determines that the complaint is not properly filed pursuant to these procedures, it will provide written notice to the complainant (or third party reporter).

Prohibited conduct occurring prior to the implementation of this EO Plan is subject to adjudication under the complaint and resolution procedures applicable at the time the alleged prohibited conduct occurred.

5.5.4 Consolidation

The University may consolidate complaints of discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of discrimination arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

5.5.5 Concurrent Investigations

In some circumstances, the respondent's alleged conduct violating this Plan may constitute a potential violation of other University conduct policies such as those in the Student Code of Conduct. To avoid duplicative efforts, the University may undertake a concurrent investigation of the alleged conduct. Where such concurrent investigation takes place, the University will use these Complaint Investigation and Resolution Procedures. Based on the findings of the concurrent investigation, the respondent may be subject to disciplinary action for violations of this Plan, the Student Code of Conduct, or other policy violations. If a formal complaint is dismissed in accordance with section 5.5.9 of this Plan, an investigation may continue under other University conduct policies and the procedures prescribed for alleged violations of those policies.

5.5.6 Concurrent Criminal or Civil Proceedings

University investigations may be conducted before, after, or simultaneously with civil or criminal proceedings, and University investigations are not subject to challenge on the grounds that civil or criminal charges involving the same conduct have been dismissed or reduced. When a person has been charged with a crime or a violation of civil law, the University will neither request nor agree to special consideration for the individual solely because of his/her student status. Persons subject to parallel criminal charges shall be instructed that their statements and/or other information supplied by them may be subject to subpoena. The University will not delay its investigation due to the criminal investigation, unless law enforcement requests to gather evidence. When law enforcement makes such a request, the University will typically resume its investigation within three to ten days.

5.5.7 Counterclaims

At times a respondent may assert a counterclaim against the complainant in which the respondent alleges that the complainant has engaged in conduct that violates the EO Plan. Such counterclaims are treated as separate complaints under the EO Plan. Under such circumstances, the Investigator will notify and/or provide a copy of the respondent's complaint to the complainant for their response in the same manner that the initial complaint is provided to the respondent. The University has the discretion to consolidate into one investigation all complaints between a complainant and a respondent (or among multiple parties), if the evidence related to each incident would be relevant and probative in reaching a determination on the other incident(s). Any complaint by a respondent against a complainant that is frivolous, knowingly false, or asserted in bad faith will be considered retaliation against the complainant who filed the original complaint, and will become a separate violation of the EO Plan for which the Respondent may be subject to potential sanctions.

5.5.8 Patterned Offenses

Multiple complaints of discrimination can be charged as or combined as pattern offenses. A pattern may exist and be charged when there is a potential substantial similarity to incidents where the proof of one could make it more likely that the other(s) occurred, and vice-versa. Patterns may exist based on target selection, similarity of offense, or other factors. Where a pattern is found, it can be the basis to enhance sanctions, accordingly.

Violation of any other University policies may constitute discrimination or harassment when motivated by actual or perceived protected characteristic(s), and the result is a limitation or denial of employment or educational access, benefits, or opportunities.

5.5.9 Dismissal of a Complaint

The University may dismiss a complaint if:

- The University is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in the University's program or activity and is not employed by the University;
- The University obtains the complainant's voluntary withdrawal in writing of any or all of the allegations, the Title IX Coordinator or Equal Opportunity Officer declines to initiate a complaint, and the University determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute discrimination under the Policy of Nondiscrimination even if proven; or
- The University determines the conduct alleged in the complaint, even if proven, would not constitute discrimination under the Policy of Nondiscrimination. Before dismissing the complaint, the University will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, the University will promptly notify the complainant in writing of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the University will notify the parties simultaneously in writing.

The University will notify the complainant that a dismissal may be appealed on the bases outlined in section 5.5.18 of this Plan. If dismissal occurs after the respondent has been notified of the allegations, then the University will also notify the respondent that the dismissal may be appealed on the same bases. If a dismissal is appealed, the University will follow the procedures outlined in section 5.5.18 of this Plan.

When a complaint alleging sex-based harassment is dismissed, the University will, at a minimum:

- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that prohibited sex-based discrimination does not continue or recur within the University's program or activity.

5.5.10 Requirements of the Formal Complaint Process

5.5.10.1 *Advisor of Choice*

The University will provide the parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.

- The University will not limit the choice or presence of the advisor for the complainant or respondent in any meeting or proceeding.
- The University may establish restrictions regarding the extent to which the advisor may participate in these resolution procedures, as long as the restrictions apply equally to the parties.

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

5.5.10.2 *Equitable Treatment*

The University will treat complainants and respondents equitably. Furthermore, the University presumes that the respondent is not responsible for the alleged prohibited conduct until a determination is made at the conclusion of these Procedures.

5.5.10.3 *No Conflicts of Interest*

The University requires that any EO Officer, Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. As long as there is no conflict of interest or bias, a decisionmaker may be the same person as the EO Officer, Title IX Coordinator, or investigator.

5.5.10.4 *Presentation of Witnesses and Evidence*

The University will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible during the investigation process.

5.5.10.5 *Privacy and Confidentiality*

The University will take reasonable steps to protect the privacy of the parties and witnesses during its resolution procedures and to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through these complaint investigation and resolution procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consulting with their family members, confidential resources, or advisors; or otherwise preparing for or participating in the resolution procedures. The parties cannot engage in retaliation, including against witnesses.

5.5.10.6 *Standard of Proof*

The determination of responsibility for alleged violations of this Plan will be made based on a preponderance of evidence. Under this standard of proof, conclusions by the decisionmaker must be based on what "more likely than not" occurred, based on available information and evidence. Accordingly, the decisionmaker must determine whether it is more likely than not that the respondent violated the Policy of Nondiscrimination.

5.5.10.7 *Written Notice*

The University will provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate.

5.5.11 Timeframes for Formal Complaints

The University has established the following timeframes for the major stages of the formal complaint process. A "day" for the purposes of these procedures is a business day, that is, Monday through Friday, excluding University-recognized holidays.

Formal Complaint Process Steps and Milestones	Timeframe, where practicable
Complaint Received	n/a
Notification of Allegations sent to all Parties Simultaneously	Promptly after formal complaint received
Respondent's Initial Written Response to Allegations	Due 5 days after delivery of notice of allegations
Investigation to Gather Evidence and Conduct Interviews	To be concluded, where practicable, within 60 days of notice of allegations
Draft Investigation Report	Issued to parties simultaneously at the conclusion of the investigation process
Party Review and Response to Draft Investigation Report	Parties have 10 days to view the draft report and submit written response to the investigator
Final Investigation Report to Administrative Reviewer	Delivered to Administrative Reviewer within 10 days of response due date
Decision-Making Body Conducts Questioning, if required or applicable	To be completed within 15 days of receipt of written responses to Final Investigation Report
Written Determination of Responsibility sent to Parties Simultaneously	Within 7 days of the Decision-Making Body reaching a determination
Appeal Submittal	Due within 5 days of delivery of written determination
Appeal Response	To be concluded, where practicable, within 30 days of receipt of written appeal

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

5.5.12 Step 1: Written Notice of Allegations to Parties

Upon receipt of a formal complaint and initiation of the formal complaint process, the University will notify the parties in writing of the following with sufficient time for the parties to prepare a response before any initial interview:

- The University's complaint investigation and resolution procedures and any informal resolution process, if determined appropriate;

- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute prohibited discrimination, and the date(s) and location(s) of the alleged incident(s), if known;
- Retaliation is prohibited;
- The respondent is presumed not responsible for the alleged discrimination until a determination is made at the conclusion of the resolution procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- The parties may have an advisor of their choice who may be, but is not required to be, an attorney;
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence.
- The University prohibits knowingly making false statements or knowingly submitting false information during the complaint resolution and resolution procedures.

If, in the course of an investigation, the University decides to investigate additional allegations of discrimination by the respondent toward the complainant that are not included in the written notice or that are included in a consolidated or patterned complaint, it will provide written notice of the additional allegations to the parties.

The respondent may provide an initial written response to the allegations within five (5) days of delivery of the Notice of Allegations.

5.5.13 Step 2: Investigation

The investigation is a process by which the investigator assigned to a formal complaint gathers evidence and interviews parties and witnesses to make findings of fact regarding the allegations in the complaint. Through the investigation interviews, the investigator provides parties with opportunities to present evidence and fact witnesses.

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

The investigator will objectively evaluate all evidence that is deemed relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence.

The following types of evidence, and questions seeking that evidence, are impermissible (*i.e.*, will not be accessed or considered, except by the University to determine whether one of the exceptions listed below applies, will not be disclosed, and will not otherwise be used), regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the

party or witness, unless the University obtains that party's or witness's voluntary, written consent for use in its resolution procedures; and

- In regards to complaints of sex-based harassment, evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

5.5.13.1 *Duty to Cooperate*

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

5.5.13.2 *Investigation Report*

Following the gathering and review of evidence and conclusion of investigative interviews, a Draft Investigation Report will be produced which shall include:

- summaries of the investigation interviews;
- all evidence, or descriptions and summaries thereof, that is relevant to the allegations of discrimination and not otherwise impermissible;
- the investigator's findings of fact based on the preponderance of the evidence; and
- the investigator's analysis of allegations, defenses, and evidence presented in order to make the factual findings.

The investigator will provide each party and the party's advisor, if any, with 10 days to view and respond in writing to the Draft Investigation Report.

The investigator will consider the responses to the Draft Investigation Report, make any changes deemed appropriate by the investigator, and provide a Final Investigation Report to the administrative reviewer, along with any evidence that was deemed not relevant or otherwise impermissible.

Should material changes be made to the Investigation Report due to the responses received to the Draft Investigation Report, the parties will be provided an additional opportunity to view the revised report and provide additional response to new substantive evidence. Each party will have 5 days to view and respond to the revised Investigation Report.

The Investigation Report does not include a determination. The determination and any applicable sanctions are communicated through the Notice of Outcome.

5.5.14 Step 3: Administrative Review

5.5.14.1 *Assessment that Investigation is Complete*

For all complaints, upon receipt of the Final Investigation Report, the administrative reviewer will review the Investigative Report to assess if the investigation process was equitable, impartial, and thorough, and therefore, complete. The administrative reviewer will review all available evidence to confirm that any evidence deemed irrelevant or impermissible has been appropriately excluded from consideration. The administrative reviewer may consult directly with the investigator to make such determinations. If deficiencies are found, the administrative reviewer may remand the matter to the investigator for additional investigation.

The University provides the parties with an equal opportunity to be heard and to access the relevant and not otherwise impermissible evidence during the investigation process and through the Draft Investigation Report. If additional evidence is determined to be relevant and permissible during the Administrative Review process, the parties will be provided with an equal opportunity to access this evidence. Parties may also access relevant and permissible evidence upon the request of the party.

5.5.14.2 *Credibility Assessment*

If the administrative reviewer is satisfied that the investigation process was equitable, impartial, and thorough, the administrative reviewer and investigator, comprising the decision-making body, will make a credibility determination for each party. To the extent credibility is both in dispute and relevant to evaluating one or more allegations of discrimination, the decision-making body may direct follow-up questions to parties and witnesses to adequately assess a party's or witness's credibility. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness. Such a credibility determination will be addressed in the final Investigation Report.

5.5.14.3 *Follow-Up Questions*

The investigator and administrative reviewer, as the decision-making body, further reserve the right to collaborate in conducting additional individual meetings with any parties and witnesses to ask follow-up questions.

5.5.15 Step 4: Special Considerations Applicable Only to Complaints of Sex-Based Harassment

In complaints alleging sex-based harassment, parties may propose to the decision-making body relevant and not otherwise impermissible questions and follow-up questions to ask of other parties and witnesses, including questions challenging credibility.

Such questioning will take place following the administrative review process and through one of two mechanisms: (1) a live hearing, or (2) shuttle-questioning in individual follow-up meetings.

The decision-making body, in consultation with the Title IX Coordinator, except where the Title IX Coordinator conducted the investigation or administrative review, will determine if such questioning will take place through a live hearing or individual follow-up meetings. The Title IX Coordinator may consider the following principles in making such determination:

- Severity of alleged allegations;
- Severity of alleged harm resulting from alleged conduct;
- Imbalances of power between parties;
- Care, concern, and risk factors for the parties; or

- Whether all parties demonstrate capacity.

5.5.15.1 *Procedures for a Live Hearing, if offered*

In matters involving sex-based harassment and where the decision-making body, in consultation with the Title IX Coordinator, has deemed that a live hearing will be conducted for the purpose of questioning parties and witnesses, the University will conduct the live hearing with the parties and their advisors, if any, physically present in separate locations with technology enabling the decisionmaker and parties to simultaneously see and hear the party or witness while that person is speaking. At the University's discretion, the University may conduct the live hearing with the parties physically present in the same geographic location.

The University will create an audio or audiovisual recording or transcript of any live hearing and make it available to the parties for inspection and review but not for additional response.

5.5.15.2 *Procedures for Shuttle-Questioning through Individual Follow-Up Meetings*

In matters involving sex-based harassment and where the decision-making body, in consultation with the Title IX Coordinator, has deemed shuttle-questioning will take place through individual follow-up meetings for the purpose of questioning parties and witnesses, the decision-making body will solicit follow-up questions from parties following review of the investigation report. The decision-making body will conduct follow-up meetings with each party and any witnesses, as appropriate. The decision-making body will then provide each party with an audio or audiovisual recording or transcript of the questioning with enough time for the party to have a reasonable opportunity to propose additional follow-up questions. The decision-making body will again conduct follow-up meetings with each party and any witnesses, as appropriate, after which the questioning process is considered complete.

5.5.15.3 *Procedures for the Decisionmaker to Evaluate the Questions and Limitations on Questions*

Regardless of the format for follow-up questioning, the decision-making body is the only process participant who may ask direct questions of the parties and witnesses during the follow-up question process. Direct cross examination by the parties or their advisors is prohibited.

Parties will present their questions to the decision-making body for prescreening. The decision-making body will determine whether a proposed question is relevant and not otherwise impermissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The decision-making body will give a party an opportunity to clarify or revise a question that the decisionmaker determines is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked by the decision-making body.

5.5.15.4 *Refusal to Respond to Questions*

The decision-making body may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The decision-making body will not draw an inference about whether discrimination occurred based solely on a party's or witness's refusal to respond to such questions.

5.5.16 Step 5: Determination of Whether Prohibited Discrimination Occurred

Following an investigation of a formal complaint, evaluation of all relevant and not otherwise impermissible evidence, and assessment of credibility, the decision-making body will:

- Use the preponderance of evidence standard of proof to determine whether prohibited conduct occurred. If the decision-making body is not persuaded under the preponderance of evidence standard that prohibited conduct occurred, whatever the quantity of the evidence is, the decision-making body will not determine that prohibited conduct occurred.
- Not impose discipline on a respondent for conduct prohibited by this Plan unless there is a determination at the conclusion of the complaint and resolution procedures that the respondent engaged in prohibited conduct.
- If there is a determination that prohibited conduct occurred, as appropriate, the EO Officer or Title IX Coordinator will:
    - Coordinate the provision and implementation of remedies to a complainant and other people the University identifies as having had equal access to the University's program or activity limited or denied by the prohibited conduct;
    - Coordinate the imposition of any disciplinary sanctions on a respondent, including, when appropriate, notification to the complainant of any such disciplinary sanctions;
    - Take other appropriate prompt and effective steps to ensure that the prohibited conduct does not continue or recur within the University's program or activity;
    - Comply with the complaint and resolution procedures before the imposition of any disciplinary sanctions against a respondent; and
    - Not discipline a party, witness, or others participating in the complaint and resolution procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether prohibited conduct occurred.

The determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

5.5.17 Step 6: Notice of Outcome, Disciplinary Sanctions, and Remedies

A written Notice of Outcome will be issued to all parties simultaneously promptly and not more than seven (7) days following the determination by the decision-making body.

The Notice of Outcome shall include the following:

1. A description of the alleged prohibited conduct;
2. Information about the policies and procedures that the University used to evaluate the allegations;
3. The factual findings of the investigation based on the decision-making body's evaluation of the relevant and not otherwise impermissible evidence;
4. The determination as to whether prohibited conduct occurred and the rationale for the determination;
5. When the decision-making body finds that prohibited sex-based harassment occurred, any disciplinary sanctions the University will impose on the respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by the University to the complainant, and, to the extent appropriate, others identified by the University to be experiencing the effects of the prohibited conduct;
6. The sanctions that directly relate to the complaining party that arise from an allegation of any other form of prohibited discrimination; and

7. The University's procedures and permissible bases for the complainant and respondent to appeal.

For the purpose of recordkeeping, the Notice of Outcome shall be affixed to the Final Investigation Report. Parties may request a copy of the Final Investigation Report by contacting the Equal Opportunity Officer and/or Title IX Coordinator.

5.5.17.1 *Sanctions*

Following a determination that prohibited conduct occurred, the University will notify a party found responsible of all sanctions imposed. If the sanctions imposed include a separation from the residence halls or the University, and, in the opinion of the decision-making body, the party poses a continued threat to the safety of one or more members of the campus community, the sanctions may take effect immediately, and while an appeal is pending.

For employee respondents, disciplinary action taken against an employee shall be regarded as an administrative action, up to and including termination. Additional disciplinary action shall also be taken against an employee who violates a sanction or sanctions imposed pursuant to this Plan.

Where removal of tenure is recommended by the decision making body, the procedures set forth in Article IX of the collective bargaining agreement between the MSCA and the BHE will be followed. In the event that tenure is not removed, the matter will be remanded to the decision making body to assign appropriate sanctions.

For student respondents, a student who has been found to have violated the EO Plan may be subject to sanctions including, but not limited to:

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

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

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

5.5.17.2 *Additional Remedies Following Finding of a Violation*

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

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

5.5.18 Step 7: Appeals

Appeals must be submitted to the EO Officer or, for complaints of sex-based discrimination, to the Title IX Coordinator, and be received by the fifth day following delivery of the Notice of Outcome or Notice of Complaint Dismissal.

The University will offer an appeal from a dismissal or determination whether prohibited conduct occurred on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and
- The EO Officer, Title IX Coordinator, investigator, or decisionmaker involved in the process had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If a party appeals a dismissal or determination whether prohibited conduct occurred, the University will:

- Notify the parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with the policy and, for sex-based discrimination complaints, with Title IX regulations;
- Communicate to the parties in writing that the University will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties in writing of the result of the appeal and the rationale for the result.

5.6 INFORMAL RESOLUTION

In lieu of resolving a complaint through the University's formal complaint investigation procedures, the parties may instead request to participate in an informal resolution process by making a request to the EO Officer or Title IX Coordinator.

The University will inform the parties in writing of any informal resolution process it offers and determines appropriate, if any. Participation in informal resolution is voluntary. This resolution option is only available where all parties explicitly agree to utilize an informal resolution process.

The University will not offer informal resolution to resolve a complaint when such a process would conflict with Federal, State, or local law. The EO Officer and/or Title IX Coordinator, in conference with others as necessary, will assess the request for informal resolution against the severity of allegations and the potential risk of a hostile environment or safety concern for other campus community members. Informal resolution is not available when the complainant is an employee of the University. In addition to the aforementioned considerations, the University may also consider these additional factors:

- Likelihood of potential resolution, considering any power dynamics between the parties
- Civility, emotional investment, and capability of the parties
- Respondent's disciplinary history
- Complaint complexity
- Goals of the parties
- Adequate resources to invest in informal resolution (e.g., time, staff, etc.)

If an informal resolution is appropriate, the EO Officer or Title IX Coordinator will notify the parties. The University will not ask a complainant to resolve a problem with a respondent without the involvement of the EO Officer, Title IX Coordinator, or designee.

Before the initiation of an informal resolution process, the University will explain in writing to the parties:

- The allegations;
- The requirements of the informal resolution process;
- That any party has the right to decline to participate in the informal resolution process;
- That any party has the right to withdraw from the informal resolution process and initiate or resume complaint investigation and resolution procedures at any time before agreeing to a resolution;
- That if the parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume complaint investigation procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
- What information the University will maintain and whether and how the University could disclose such information for use in complaint and resolution procedures if such procedures are initiated or resumed.

The EO Officer, Title IX Coordinator, or designee will facilitate a dialogue with the parties in an attempt to reach a resolution. At no time prior to the resolution of the matter shall either party question or confront the other, or engage a third party to do so, outside the presence of the EO Officer, Title IX Coordinator, or designee.

Every attempt will be made to conclude the Informal Resolution Process within sixty (60) days of the date of the request for informal resolution. A complainant is not required to use the Informal Resolution Procedure before initiating the complaint investigation procedures. A party may withdraw from the Informal Resolution Procedure and initiate the complaint investigation procedures at any time.

The informal resolution process will be deemed complete when all parties expressly agree to an outcome that is acceptable to them and to the University. The University will create a written record of any such agreement. The University will also ensure a reasonably prompt time frame for an informal resolution process, if it is offered and utilized.

5.7 OTHER REPORTING OPTIONS

5.7.1 Law Enforcement

Complainants are never required to report an incident to Campus Police/Public Safety or local law enforcement. The EO Officer or Title IX Coordinator will assist complainants in notifying law enforcement, if requested by the complainant.

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

If a complainant elects not to make a criminal report, the University will respect that decision; however, the University may have an obligation under the Clery Act to inform Campus Police/Public Safety of an alleged crime but will not disclose the complainant's name. If a complainant chooses to make a report to Campus Police/Public Safety, an investigation will be conducted, and if the Complainant so requests, they will receive assistance in filing criminal charges against the Respondent. Campus Police/Public Safety can also assist a complainant in the process of obtaining protective restraining orders and abuse prevention orders for physical assault, sexual harassment, sexual assault, dating violence, domestic violence, and stalking.

5.7.2 Confidential Reports

5.7.2.1 *Employees with Confidential Privilege*

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

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

"Confidential Employees" include the following positions, only when acting in their professional capacity for which confidential privilege has been afforded:

- licensed mental health counselors;
- licensed health care personnel; or
- pastoral counselors or clergy who work for the University.

See also, section 4.7.3.1

5.7.2.2 *Confidential Resource Provider for Sex-Based Harassment*

The University has designated at least one Confidential Resource Provider to assist individuals with concerns of sex-based harassment including sexual assault, domestic violence, dating violence, and stalking.

The confidential resource provider receives training in the awareness and prevention of sex-based harassment and in trauma-informed response and coordinates with any on-campus or off-campus sexual assault crisis service center or domestic violence program and, if directed by the reporting party, campus or local law enforcement agencies, assists the student or employee in contacting or reporting to campus or local law enforcement agencies. If requested by the reporting party, the confidential resource provider, using only the reporting party's identifying information, shall coordinate with the appropriate institutional personnel to arrange possible interim school-based supportive measures to allow the reporting party to change academic, living, campus transportation or working arrangements in response to the alleged sexual misconduct. A confidential resource provider shall not provide services to adverse parties in an incident of sexual misconduct and shall ensure confidentiality is maintained.

The confidential resource provider is not required to report an incident to the institution or a law enforcement agency unless otherwise required to do so by state or federal law and shall provide confidential services to students and employees. A request for a possible interim school-based supportive measure made by a confidential resource provider on behalf of a reporting party to change an academic, living, campus transportation, or working situation in response to alleged sex-based harassment shall not require the reporting party to file a formal complaint. A confidential resource provider may attend University's investigation and resolution proceedings as the advisor of the student's or employee's choice.

Upon the request of the reporting party or responding party, the confidential resource provider shall provide information on:

- the parties' rights;
- the University's responsibilities regarding a protection order, no contact order, and any other lawful orders issued by the institution or by a criminal, civil or tribal court;
- reporting options and the effects of each option;
- counseling services available on campus and through a local, community-based rape crisis center or domestic violence program;
- medical and health services available on campus and off campus;
- available school-based supportive measures related to academic and residence life;
- the disciplinary process of the institution; and
- the legal process carried out through local law enforcement agencies.

See also, section 4.7.3.1

The University's Confidential Resource Provider is**:**

Please contact the Office of HR, Title IX, & EO for additional information regarding confidential resources.
Office of HR, Title IX, & EO
hr@westfield.ma.edu
413-572-8106

5.8 Anonymous Reports of Sex-Based Harassment

The University provides an anonymous reporting option for sex-based harassment. Limited actions and interventions are available in response to anonymous reports. Anonymous reports are not accepted as formal complaints under this Plan. In some cases, the University will be able to use information from anonymous reports to identify patterns, investigate prohibited conduct, structure appropriate and available interventions to address prohibited conduct, issue timely warnings, follow up with impacted parties, or address problematic behavior directly. However, information received anonymously will be used primarily for data and trend tracking.

Anonymous reports may be made online at:

https://www.westfield.ma.edu/submitareport

APPENDIX 1: PRIMARY RESPONSIBILITIES - EO OFFICER

The Equal Opportunity Officer ("EO Officer") provides campus-wide leadership to promote equal opportunity and nondiscrimination on campus. The EO Officer works closely with the President, Vice Presidents, Department Chairs, Program Coordinators and Directors in the implementation, monitoring and evaluation of the Universities' Equal Opportunity, Nondiscrimination, and Title IX Plan. The EO Officer is the ombudsman for all issues of discrimination, other than sex-based discrimination, and retaliation.

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

This position typically reports directly to the President or a senior cabinet member and may provide supervisory oversight to professional and non-professional staff.

Typical duties include:

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

Typical experience, knowledge, and credentials that prepare someone for this role may include:

1. Master's Degree and/or Juris Doctor degree
2. Demonstrated knowledge of and ability to interpret federal and state discrimination, harassment and equal opportunity laws.
3. Exceptional communication, organizational and interpersonal skills.
4. Demonstrated ability to maintain a high level of collegiality with different campus constituencies.
5. Experience with sexual misconduct prevention programming and training.
6. Experience designing and implementing training for different campus constituencies.
7. Experience with reporting software and databases.

8. Prior experience conducting investigations in higher education.
9. Experience participating in administrative hearings and proceedings.
10. Experience with and understanding of mental health/counseling issues in higher education.

This description of primary responsibilities is illustrative and not necessarily exhaustive.

APPENDIX 2: PRIMARY RESPONSIBILITIES - TITLE IX COORDINATOR

The Title IX Coordinator has primary responsibility for managing the day-to-day responsibilities associated with the University's compliance obligations pursuant to Title IX and the Massachusetts Campus Sexual Violence Law of 2021, and the related policies of the University. The Title IX Coordinator works closely with the President, Vice Presidents, Department Chairs, Program Coordinators and Directors in the implementation, monitoring and evaluation of the Universities' Equal Opportunity, Nondiscrimination, and Title IX Plan as it pertains to sex-based discrimination and Title IX compliance.

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

This position typically reports directly to the President or a senior cabinet member and may provide supervisory oversight to professional and non-professional staff.

Typical duties include:

- Serving as the University's central resource on issues related to sexual misconduct, sex--based discrimination and harassment, domestic and dating violence, stalking and retaliation.
- Implementing and managing the University's prohibitions against sex-based discrimination.
- Monitor the University's education program or activity for barriers to reporting information about conduct that reasonably may constitute sex discrimination and take steps reasonably calculated to address such barriers
- Ensuring that community members know their options and resources concerning the reporting of sexual misconduct, sex -based discrimination and harassment, domestic and dating violence, stalking and retaliation.
- Coordinating the training of students and employees, within 45 days of their matriculation or employment: (i) mandatory sexual misconduct primary prevention programming as enumerated in MA law; and (ii) information on opportunities for ongoing sexual misconduct prevention and awareness campaigns and programming.
- Evaluating and implementing of requests for accommodations or supportive measures.
- Overseeing the receipt, investigation and resolution of complaints of sexual misconduct, sex -based discrimination and harassment, domestic and dating violence, stalking and retaliation by employees, students and others protected under state/federal laws/regulations and/or the University EO Plan. Where appropriate, conducting complaint investigations.
- Maintaining investigation files; maintaining a University-wide reporting system for complaints and investigation findings, and identifying patterns, and making recommendations.
- Developing and implementing long-term goals for programming, services, education and assessment of Title IX compliance efforts, including but not limited to sexual misconduct, sex -based discrimination and harassment, domestic and dating violence, stalking and retaliation.
- Providing leadership for University-wide initiatives to increase gender equity on campus.
- Overseeing education, training, and outreach programming concerning awareness and prevention of sexual misconduct, sex -based discrimination and harassment, domestic and dating violence, stalking and retaliation.
- Providing or recommending training to Deputy Title IX Coordinators, complaint Mediators and Administrative Investigators, and other campus officials with Title IX responsibilities.
- Maintaining current knowledge of the laws, policies, procedures and best practices with regard to sexual misconduct, sex -based discrimination and harassment, domestic and dating violence, stalking and

retaliation; attending trainings, workshops, conferences to augment knowledge. Acting as the University's representative when attending conferences and communicating with government compliance or investigation officers, and processing inquiries from third parties.

Typical experience, knowledge, and credentials that prepare someone for this role may include:

1. Master's Degree and/or Juris Doctor degree
2. Demonstrated knowledge of and ability to interpret federal and state discrimination, harassment and equal opportunity laws, including Title IX, Title VII, VAWA, and Clery.
3. Exceptional communication, organizational and interpersonal skills.
4. Demonstrated ability to maintain a high level of collegiality with different campus constituencies.
5. Experience with sexual misconduct prevention programming and training.
6. Experience designing and implementing training for different campus constituencies.
7. Experience with reporting software and databases.
8. Prior experience conducting Title IX investigations in higher education.
9. Experience participating in administrative hearings and proceedings.
10. Experience with and understanding of mental health/counseling issues in higher education.

This description of primary responsibilities is illustrative and not necessarily exhaustive.

APPENDIX 3: PRIMARY RESPONSIBILITIES - EQUAL OPPORTUNITY/TITLE IX INVESTIGATOR

The EO/Title IX Investigator is responsible for investigating alleged incidents of discrimination, harassment, retaliation, as defined in the University's Equal Opportunity, Nondiscrimination, and Title IX Plan ("EO Plan"). The Investigator is responsible for gathering, preserving and analyzing evidence/information to inform the outcome of the investigation and recommended corrective action and/or resolution.

This position typically reports to the EO Officer or the Title IX Coordinator and may provide supervisory oversight to assigned professional and non-professional staff.

Typical duties include:

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

Typical experience, knowledge, and credentials that prepare someone for this role may include: Bachelor's or Master's degrees in psychology, counseling, social work, and criminal justice, or Juris Doctor; or combination of relevant education and experience.

1. Experience investigating complaints and/or grievance investigation and resolution.
2. Knowledge of state and federal laws regarding discrimination, harassment, retaliation and equal opportunity.
3. Exceptional communication and organizational skills.
4. Demonstrated ability and to project neutrality and to appropriately handle confidential and sensitive information.
5. Demonstrated ability to maintain a high level of collegiality with different campus constituencies. Experience in higher education.
6. Experience and training in HR, student conduct, civil rights and/or diversity programming.
7. Knowledge and understanding of equal opportunity laws and regulations

This description of primary responsibilities is illustrative and not necessarily exhaustive.

APPENDIX 4: RESOURCES FOR SEX-BASED HARASSMENT

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

IMMEDIATE NEEDS

Assuring One's Safety

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

Preserving Evidence

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

CONFIDENTIAL MEDICAL ATTENTION

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

Confidential Medical Resources on Campus

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

Confidential Community Medical Resources

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

Confidential Counseling and Support

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

Confidential Counseling and Support Resources on Campus

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

COMMUNITY COUNSELING AND SUPPORT RESOURCES

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

National and State Organizations

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

Massachusetts Office for Victim Assistance (MOVA)

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

Sexual Assault and Rape Services

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

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

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

Greater Boston Area Boston Area

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

Northeastern Massachusetts

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

Central Massachusetts

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

Southeastern Massachusetts

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

Western Massachusetts

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

Domestic Violence Services

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

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

PRIVATE NON-CONFIDENTIAL CAMPUS RESOURCES

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

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

APPENDIX 5: WRITTEN NOTIFICATION OF RIGHTS FOR COMPLAINANTS AND RESPONDENTS OF SEX-BASED HARASSMENT

Parties, that is, complainants or respondents, to claims of sex-based harassment are notified of the following rights to:

- a prompt, thorough, and equitable investigation and resolution of a complaint;
- the confidentiality of the investigation process to the extent possible (reference to confidentiality section);
- referrals to confidential assistance and support services from both on- and off-campus resources, including 24-hour services;
- know, in advance, the names of all persons known to be involved;
- request that the University impose no contact/no communication orders or other supportive measures;
- an advisor of their choice who can be present at any time during the complaint resolution proceedings. Pursuant to Weingarten, Respondent unit members may exercise their right to a union representative or other University employee at meetings which the unit member reasonably believes may result in discipline, who will serve as the advisor of choice;
- reasonable accommodations for a documented disability during the process;
- be present at certain meetings and inspect, review, and respond to evidence;
- present relevant and not otherwise impermissible evidence;
- provide witnesses;
- submit questions to be asked of parties and witnesses;
- not have irrelevant sexual history discussed;
- know the status of the case at any point during the investigation and resolution process;
- receive a determination of responsibility at the conclusion of the investigation and resolution process;
- be informed of the outcome of the process in a timely manner;
- an appeal from the outcome of the process (if proper grounds for appeal exist);
- be free from any behavior that may be construed by the University to be intimidating, harassing, or retaliatory; and
- have the matter handled in accordance with University policy.

Furthermore, complainants are advised of the following rights to:

- an explanation of the options available;
- choose whether or not to make a formal complaint, which would initiate a formal investigation, unless the University deems it necessary to investigate to protect the safety of the community or in compliance with applicable law;
- file a police report and/or take legal action separate from and/or in addition to the University discipline process;
- not file a complaint or seek assistance from local law enforcement, but receive supportive measures from the University;

- be assisted by the University in seeking assistance from or filing a complaint with local law enforcement;
- a change in on-campus residence and/or an adjustment to their academic schedule if such changes are reasonably available;
- seek and enforce a harassment prevention order, restraining, or similar protective court order; and
- inform the University that a protective order has been issued under federal or state law and be informed of the University's responsibilities upon receipt of such notice.

And respondents are advised of the following rights to:

- receive a copy of the complaint filed against them;
- an explanation of the allegation(s) against them; and
- be presumed not in violation of University Policy until such time a determination is made at the conclusion of the investigation and resolution process.