

VI. Sexual Violence Policy

INCLUDING SEXUAL HARASSMENT, GENDER-BASED HARASSMENT, DOMESTIC VIOLENCE, DATING VIOLENCE AND STALKING

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A. POLICY INTRODUCTION

The Massachusetts State Universities are committed to maintaining safe and healthy learning, living and working environments that are free from all forms of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation. Consistent with this commitment, the Universities comply with Title IX of the Higher Education Amendment of 1972, which prohibits discrimination and harassment on the basis of sex in education programs and activities, as well as retaliation for the purpose of interfering with any right or privilege secured by Title IX. The Universities do not discriminate on the basis of sex in admission to or employment in its education programs and activities.

This Policy prohibits all forms of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation. These behaviors are antithetical to the Universities' educational mission and are prohibited forms of harassment under Title IX. The Universities provide educational and prevention programs, services for individuals who have been impacted by discrimination and harassment on the basis of sex, and accessible, timely and equitable methods of investigation and resolution of complaints.

This Policy and the Complaint Investigation and Resolution Procedures are intended to comply with Title IX, the reauthorized Violence Against Women Act, including the Campus SaVE Act, the Clery Act, and the guidance documents on Title IX issued by the Department of Education's Office for Civil Rights and the White House Task Force to Protect Students from Sexual Assault.

1. Policy Purposes

The purpose of this Policy is for the Universities to educate their campuses about sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation, as well as their efforts to prevent, address and remedy all forms of such prohibited conduct. Accordingly, this Policy:

- states that sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation are prohibited and will not be tolerated;
- defines and describes the conduct that is prohibited;
- explains what to do if one experiences sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and/or retaliation;
- identifies available on- and off-campus resources;
- identifies the persons with whom one may speak confidentially;
- describes all reporting options, including how to file a complaint with the University;
- specifies the rights of both complainants and respondents; and
- explains the Universities' response to alleged incidents, including how reports of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation are evaluated, investigated and resolved.

2. Prohibition Against Sexual Violence, Sexual Harassment, Gender-Based Harassment, Domestic Violence, Dating Violence, Stalking and Retaliation

The Universities prohibit and will not tolerate sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation. These behaviors violate this Policy, state and federal civil rights laws, and possibly the criminal laws of Massachusetts.¹

These behaviors can occur between strangers or acquaintances, including between people involved in an intimate or sexual relationship. Victims² can be any gender. Any person, regardless of gender identity, can commit sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation, and these behaviors can occur between people of the same or different gender.

The Universities prohibit any student, faculty or staff member, visitor or contractor, regardless of gender, from sexually harassing, stalking, engaging in sexual violence toward or committing domestic or dating violence against another community member or anyone having dealings with the Universities. Any member of the University community who believes that s/he has been subjected to such misconduct is encouraged to report it as described in this Policy. Upon receiving a report, the University will respond quickly and seriously, and, where appropriate, will take steps to prevent the recurrence of the behavior, remedy its effects, and discipline individuals who violate this Policy.

The Universities prohibit retaliation against anyone who reports sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation, who assists another in making a report, or who participates in an investigation of a report. All persons should feel free to report their concerns without fear of retribution or reprisal.

3. Policy Application

This Policy applies to all University community members, including students, faculty, staff, visitors, contractors and applicants for employment or admission, and without regard to a person's race, color, religion, national origin, age, disability, gender, sexual orientation, gender identity, gender expression, genetic information, marital or parental status, or veteran status. This Policy applies to all University programs and activities, both on and off campus.

Acts of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation that take place off campus may be subject to investigation and disciplinary action under this Policy when the conduct involves behavior by or toward a community member, which (1) occurs during University-sponsored events or the events of organizations affiliated with the University, including study abroad and outside internships; (2) negatively impacts a person's access to education programs and activities; (3) adversely affects or disrupts the campus

¹ Incidents of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking or retaliation as described in this Policy may also constitute criminal acts when they meet the standards set forth in Massachusetts' criminal laws, which are listed in Section M of this Policy. An individual can be prosecuted by the Commonwealth for violating a criminal law and simultaneously subject to discipline for Policy violations by the University.

² This Policy uses the term "victim" or "complainant" to describe a person who has been subjected to sexual violence, and does so with respect for those who have been subjected to sexual violence and without making a presumption about the responsibility (or lack thereof) of the alleged respondent.

community; and/or (4) poses a threat of harm to the campus community.

4. Title IX Coordinator

Pursuant to Title IX and its implementing regulations at 34 C.F.R. Part 106, each University has appointed a Title IX Coordinator, who has the primary responsibility for coordinating the University's efforts to comply with and carry out its responsibilities under Title IX.

In this role, the Title IX Coordinator: administers this Policy; monitors the University's responsive actions to ensure that the learning, living and working environments are free of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation; and monitors the steps taken to remedy the effects of the misconduct on the complainant(s), including any investigation, resolution or disciplinary proceedings. The Title IX Coordinator also: provides information about reporting options and support resources; initiates interim protective measures; evaluates requests for confidentiality; coordinates appropriate accommodations; assists persons in filing complaints with law enforcement (when requested); provides or facilitates training for faculty, staff and students; and may investigate complaints.

The Title IX Coordinator may also serve as the University's Equal Opportunity Officer ("EO Officer"). If these positions are held by different persons, the Title IX Coordinator and EO Officer may collaborate on the enforcement of any aspect of this Policy. There may also be a Deputy Title IX Coordinator(s) designated to assist the Title IX Coordinator in the performance of the Coordinator's duties and to whom specific responsibilities may be delegated.

Anyone with questions, concerns or complaints related to Title IX, sexual violence, sexual harassment, gender-based harassment, domestic or dating violence, stalking and retaliation, and/or this Policy may contact the Title IX Coordinator on the relevant campus. The names and contact information for the Universities' Title IX Coordinators and any Deputy Coordinators are identified on each campus's website.

Bridgewater State University

<https://www.bridgew.edu/>

<http://www.handbook.bridgew.edu/PoliciesProcedures/SexualMisconductandRelationshipViolence.cfm>

Fitchburg State University

<http://www.fitchburgstate.edu/>

<http://www.fitchburgstate.edu/about/equal-opportunity-diversity-and-affirmative-action-title-ix/>

Framingham State University

<http://www.framingham.edu/>

<http://www.framingham.edu/shape>

Massachusetts College of Art and Design

<http://www.massart.edu>

Massachusetts College of Liberal Arts

<http://www.mcla.edu/titleix>

Massachusetts Maritime Academy

<http://www.maritime.edu/title-ix>

Salem State University

<http://www.salemstate.edu>

<http://www.salemstate.edu/chs/27875.php>

Worcester State University

<http://www.worcester.edu>

http://www.worcester.edu/Title_IX

Westfield State University

<http://www.westfield.ma.edu/>

http://catalog.westfield.ma.edu/content.php?catoid=8&navoid=329#Sexual_Misconduct_Policy

5. Coordination with the Policy Against Discrimination, Discriminatory Harassment and Retaliation

Harassment, misconduct or violence related to a person's sex, sexual orientation, gender identity or expression is sometimes also related to a person's race, age, disability, or membership in another protected class. Discriminating against or harassing any person on such bases is prohibited by the Universities' Policy Against Discrimination, Discriminatory Harassment and Retaliation. In cases where the alleged conduct implicates both Policies, the University will coordinate its evaluation, investigation and resolution efforts to address the alleged conduct on all prohibited bases.

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

B. DEFINITIONS AND EXAMPLES OF POLICY VIOLATIONS

For the purposes of this Policy, the following definitions and terms apply:

1. Sexual Violence

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

a. Rape

Rape is the penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person's consent. Rape is also the performance of oral sex or anal sex on another person without that person's consent.

b. Sexual Assault

Sexual assault is any kind of sexual physical contact that involves any form of coercion, force or lack of consent. Sexual physical contact includes the intentional touching of another person on an area of the body generally recognized as a private part of the body, or touching any part of another person's body with a private part of one's own body or object, no matter how slight. Sexual intercourse means penetration, no matter how slight, of a bodily orifice (vagina, anus, or mouth) by an object or by a body part, and/or non-consensual oral sex or anal sex. *Examples* of sexual assault include, but are not limited to:

- kissing or fondling without consent;
- rape;
- advancing sexual activity without consent;
- ignoring a partner's objections to sexual activity on one occasion even when consent has been given in the past; and
- engaging in manipulative, threatening and coercive behavior to obtain consent.

c. Sexual Exploitation

Sexual exploitation is taking sexual advantage of another person for one's own benefit or the benefit of anyone other than that person without that person's consent. Examples of behavior that could rise to the level of sexual exploitation include, but are not limited to:

- prostituting another person;
- recording images (*e.g.*, video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent;
- distributing through social media, text, email or other media images (*e.g.*, video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure and objects to such disclosure;
- viewing child pornography; and
- viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent.

d. Incest

Incest is sexual intercourse between persons who are related to each other and whose marriage would be prohibited by law. Attempts to commit incest are also prohibited.

e. Statutory Rape

Statutory rape is sexual intercourse with a person who is under the statutory age of consent, which is 16 in Massachusetts. Attempts to commit statutory rape are also prohibited.

f. Aiding in the Commission of Sexual Violence

The aiding or assisting in the commission of an act(s) of sexual violence is prohibited. Examples of aiding in the commission of sexual violence include, but are not limited to:

- videotaping a friend having sex with a person who has passed out drunk at a party;
- helping a friend to drug the friend's date's drink; and
- encouraging students to engage in sexual activity when one knows those students to be incapacitated by drugs or alcohol.

g. Affirmative Consent

Consent is an understandable exchange of affirmative words or actions, which indicate a willingness by all parties to participate in mutually agreed upon sexual activity. Consent must be informed, freely and actively given. It is the responsibility of the initiator to obtain clear and affirmative responses at each stage of sexual involvement.

Whether an individual has taken advantage of a position of influence over a complainant may be a factor in determining consent. For example, 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. Consent to sexual activity may be withdrawn at any time, as long as the withdrawal is communicated clearly.

h. Incapacitation

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

Persons unable to consent due to incapacitation also include, but are not limited to: persons under age sixteen (16); persons who are intellectually incapable of understanding the implications and consequences of the act or actions in question; and persons who are physically helpless. A physically helpless person is one who is asleep, blacked out, involuntarily physically restrained, unconscious, or, for any other reason, unable to communicate unwillingness to engage in any act.

The use of alcohol or drugs to render another person mentally or physically incapacitated as a precursor to or part of a sexual assault is prohibited. The use of alcohol, medications or other drugs by the respondent or accused does not excuse a violation of this Policy.

i. Force

Force is 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.

j. Coercion

Coercion is unreasonable pressure or emotional manipulation to persuade another to engage in sexual activity. When someone makes it clear that s/he does not want to engage in sexual behavior, or s/he does 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.

2. Sexual Harassment

Unwelcome conduct of a sexual nature is prohibited when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education; and/or
- submission to, or rejection of, such conduct by an individual is used as a basis for academic or employment decisions affecting that individual; and/or
- such conduct has the purpose or effect of substantially interfering with an individual's academic or work professional performance or creating a sexually intimidating or hostile employment, educational, or living environment.

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

- repeatedly pressuring another person for sexual activity;

- making sexist remarks about an individual's clothing, body or sexual activities;
- unnecessary touching, patting or pinching another person;
- demanding sex from a subordinate while making threats concerning the subordinate's job;
- demanding sex from a student while making implied threats concerning the student's grade;
- electronically transmitting derogatory, demeaning or pornographic materials;
- posting explicit sexual pictures on an exterior office door or on a computer monitor; and
- sexually assaulting another person.

Sexual harassment can occur between people of any gender. It can occur between equals (*e.g.*, student-to-student, staff-to-staff, faculty-to-faculty) or between those of differing power status (*e.g.*, supervisor-to-subordinate, faculty-to-student, coach-to-athlete). It is possible for one who appears to have the lesser power to commit sexual harassment (*e.g.*, a student harassing a faculty member).

In order for conduct to constitute sexual harassment under this Policy, a reasonable person under similar circumstance would have to conclude that the behavior was harassing or discriminatory.

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 sexual harassment under this Policy.

Hostile Environment

A hostile environment exists when sexual harassment is sufficiently serious to deny or limit a person's ability to participate in or benefit from the University's programs or activities. A hostile environment can be created by anyone involved in the University's programs or activities (*e.g.*, administrators, faculty members, students, and campus visitors).

To make the ultimate determination of whether a hostile environment exists for campus community member(s), the University considers a variety of factors related to the severity, persistence, or pervasiveness of the sexual harassment, including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of persons involved; (3) the number of individuals involved; (4) the location of the conduct and the context in which it occurred; and, (5) the degree to which the conduct affected one or more person's education or employment.

A single or isolated incident may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to show evidence of a hostile environment, particularly if the harassment is physical.

3. Gender-Based Harassment

Unwelcome conduct of a nonsexual nature based on a person's actual or perceived sex, including conduct based on gender identity, gender expression, and nonconformity with gender stereotypes, is prohibited when:

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

- submission to, or rejection of, such conduct by an individual is used as a basis for academic or employment decisions affecting that individual; and/or
- such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance or creating an intimidating or hostile employment, educational, or living environment based on gender.

Examples of gender-based harassment include, but are not limited to:

- using derogatory comments and terms toward a male or female who do not act in ways that align with their gender stereotype, such as a male being called names for being interested in the arts or a female being called names for being interested in construction;
- telling someone to use a restroom that does not align with that person's gender identity; and
- making generalized derogatory comments about one gender, such as "all females" are _____ or "all males" are _____.

While harassment based on non-sexual factors may be distinguished from sexual harassment, these types of behaviors may contribute to the creation of a hostile environment. Thus, in determining whether a sexually hostile environment exists, the University may consider acts of gender-based harassment. In order for conduct to constitute gender-based harassment under this Policy, a reasonable person under similar circumstances would have to conclude that the behavior was harassing or discriminatory.

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 gender-based harassment under this Policy.

The definition of hostile environment provided under the Sexual Harassment section above also applies in the context of gender-based harassment.

4. Domestic and Dating Violence

Domestic and dating violence are acts of abusive or coercive behavior (physical, sexual, financial, verbal and/or emotional) used by a perpetrator to gain or exercise control over another, including any behaviors that intimidate, manipulate, humiliate, isolate, frighten, threaten, blame, hurt, injure, or wound someone. Domestic and dating violence can occur in relationships between persons of any gender.

Domestic violence is such behavior directed against a current or former spouse, family member (blood, step, adoptive or foster), person with whom a child is shared, or cohabitant (possibly a roommate).

Dating violence is such behavior directed against another person in a social relationship of a romantic or intimate nature, and where the existence of such a relationship is determined based on a consideration of the length and type of relationship and frequency of interaction between the persons involved.

Examples of domestic and dating violence may, under the totality of the circumstances of each case,

include, but are not limited to:

- hitting, slapping, punching, kicking, pulling hair or other physical misconduct;
- isolating a partner from family and friends;
- destroying a roommate's personal items;
- physically assaulting the child of a partner;
- pursuing sexual activity when a partner is not fully conscious, is not asked, or is afraid to say no, or coercing a partner to have sex without protection;
- threatening to reveal a person's sexual orientation without the person's permission;
- exhibiting excessive possessiveness and jealousy;
- constantly belittling or insulting a partner;
- checking a roommate's cell phone or email account without permission;
- demanding that a partner dress or act in a certain way; and/or
- threatening violence against the victim's acquaintances, friends, or family members.

5. Stalking

Engaging in a course of harassing, threatening, or unwanted behavior that would cause a reasonable person to suffer substantial emotional distress or fear for their safety or the safety of others. Stalking may occur in a range of formats including, but not limited to, in-person conduct, writings, texting, voicemail, email, social media, following someone with a global position system (GPS), and video/audio recording. *Examples* of stalking behaviors include, but are not limited to:

- repeated unwanted or unsolicited contact or leaving unwanted gifts or items;
- posting disturbing messages or threats online;
- creating, attempting to create, or disseminating unauthorized recordings of another;
- gathering information about an individual from family, friends, co-workers, and/or classmates, or by electronic means by installing spy-ware on a computer or using GPS;
- threats in any form about an individual or their loved ones or threats to harm oneself;
- damaging, stealing, borrowing, or relocating property, trespassing and vandalism;
- pursuing, waiting, or showing up uninvited at a workplace, residence, classroom, or other locations frequented by an individual; and
- directing a third party to take any of the above acts.

6. Retaliation

The Universities prohibit retaliation against any person for making a complaint of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation, for assisting in making a complaint, for resisting or openly opposing such conduct, or for otherwise using or participating in the complaint investigation process under the Policy. Persons who file, or participate in the investigation or resolution of, claims or complaints of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation with outside agencies, law enforcement or otherwise pursuant to any applicable state or federal law, are also protected from retaliation by this Policy.

Prohibited retaliation includes, but is not limited to: threats; intimidation; reprisals; continued harassment or misconduct; other forms of harassment; slander and libel; and adverse actions related to employment or education. Retaliation can be committed by individuals or groups, including friends, relatives or other associates of the person against whom a complaint is filed. Retaliation,

even in the absence of proven sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence or stalking in an underlying complaint, constitutes a violation of this Policy that is just as serious as the main offense itself.

Any person who believes that he or she is the object of retaliation, or any person with questions or concerns about retaliation should contact the University's EO Officer.

k. CONDUCT THAT IS NOT PROHIBITED

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

l. CONSENSUAL RELATIONSHIPS

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

1. Faculty/Administrator/Staff Member Relationships with Students

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

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

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

m. RESOURCES

The safety, health and well-being of the campus communities are of paramount importance to the Universities. All who experience any form of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking or retaliation are strongly urged to talk to 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. The information is also listed on each University's website as identified earlier on page 17.

1. Immediate Needs: Assuring One's Safety and Preserving Evidence

If an incident occurs, the Universities encourage victims to report the incident and seek both police and medical assistance. Seeking police or medical assistance does not obligate a victim to make a complaint or take any further action, but the decision to seek medical help and gather evidence allows victims 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 24/7 help, contact Campus Police, or contact the Title IX Coordinator during normal University hours.

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 the proof of a crime 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.), take care to preserve copies and not delete the originals.

2. Confidential Medical Attention

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

a. Confidential Medical Resources on Campus

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

b. Confidential Community Medical Resources

Sexual Assault Nurse Examiners (SANEs) are specially trained, certified professionals skilled in performing quality forensic medical-legal exams. One may find more information about SANE services and where to obtain them here:

<https://www.mass.gov/orgs/division-of-sexual-and-domestic-violence-prevention-and-services>

2. 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 one's information as confidential as possible while assisting one to determine what additional steps to take, 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.

a. Confidential Counseling and Support Resources on Campus

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

b. Confidential 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.

White House Initiative to Combat Sexual Assault on College Campuses
www.notalone.gov (searchable listing of local resources & hotlines)

The National Stalking Resource Center
<http://www.victimsofcrime.org/our-programs/stalking-resource-center>

National Sexual Assault Hotline
(800) 656-4673 (24 hour)

RAINN [Rape Abuse & Incest National Network]
(800) 656-4673 (Hotline)
www.rainn.org (On-Line Chat Live)

National Domestic Violence Hotline
(800) 799-7233 (24 hour)

MA Spanish Language Rape Crisis Center Hotline (Llamanos)
(800) 223-5001(Hotline)

National Suicide Prevention Lifeline
(800) 273-8255 (Hotline)

Victim Rights Law Center
115 Broad Street, 3rd Floor Boston, MA 02110
Phone: 617-399-6720
(legal services for victims of sexual assault)

Massachusetts Office for Victim Assistance
<http://www.mass.gov/mova/>
Ask MOVA: 844-878-6682
MOVA Office: 617-586-1340
mova@state.ma.us

<http://changingourcampus.org/get-help/>

Additionally, the Rape Crisis Centers listed below offer FREE services, 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.

Greater Boston Area

Boston Area Rape Crisis Center, Cambridge

(800) 841-8371 (24-hour hotline), (617) 492-6434 TTY

BARCC ha ayudado a miles de mujeres y hombres. Por favor llámanos si necesita ayuda. Estamos aquí para usted. Usted puede llamar nuestra oficina al número 617.649.1297 o llamar la línea de ayuda de Llámanos y Hablemos al número **1.800.223.5001**

Français et Kreyol: <http://www.barcc.org/francais>; <http://www.barcc.org/francais/kreyol>

Northeastern Massachusetts

North Shore Rape Crisis Center, Lynn, 800-922-8772

Center for Hope and Healing, Lowell, 800-542-5212 Hotline, 978-452-8723 TTY

YWCA of Greater Lawrence, 877-509-9922 SA Hotline, 978-686-8840 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 Hotline, 508-626-8686 TTY

Southeastern Massachusetts

A Safe Place, Nantucket, 508-228-2111 Hotline, 508-228-7095 TTY

Independence House, Hyannis, 800-439-6507 Hotline, 508-771-6702 TTY

Martha's Vineyard Community Services, Vineyard Haven, 508-696-7233; Hotline 508-693-7900 TTY

Greater New Bedford Women Center, New Bedford, 508-999-6636 Hotline, 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

As the above contact information may be subject to change, current contact information on rape crisis centers in Massachusetts can be found at:

<http://www.mass.gov/eohhs/consumer/physical-health-treatment/health-care-facilities/rape-crisis-centers.html>

[For more information about programs and services offered by the Commonwealth regarding sexual and domestic violence see: http://www.mass.gov/eohhs/gov/departments/dph/programs/community-health/dvip/violence/sapss/](http://www.mass.gov/eohhs/gov/departments/dph/programs/community-health/dvip/violence/sapss/)

[Finally, each county in Massachusetts maintains a Victim Advocate/Assistance Program:](#)

Barnstable <http://www.mass.gov/capeda/public-safety-assistance/victim-and-witness-assistance/>

Berkshire <http://www.mass.gov/berkshireda/victim-assistance.html>

Bristol http://www.southcoastserver.org/bristol_county_district_attorneys_office

Dukes <http://www.mass.gov/capeda/public-safety-assistance/victim-and-witness-assistance/>

Essex <http://www.mass.gov/essexda/victim-witness-services.html>

Franklin <https://northwesternda.org/victim-witness-assistance-unit>

Hampden <http://hampdenda.com/victim-witness-unit/>

Hampshire <https://northwesternda.org/victim-witness-assistance-unit>

Middlesex <http://middlesexda.com/prosecution/victim-witness-services.php>

Nantucket	http://www.mass.gov/capeda/public-safety-assistance/victim-and-witness-assistance/
Norfolk	http://www.mass.gov/norfolkda/victimwitness.html
Plymouth	http://www.mass.gov/daplymouth/prosecution/victimwitness.html
Suffolk	http://www.suffolkdistrictattorney.com/victim-assistance/
Worcester	http://worcesterda.com/resources/victim-resources/

3. Non-Confidential Campus Resources

The Universities offer a variety of resources to those community members who have experienced or been affected by sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation. While the following resources are not bound by confidentiality, they will maintain one's privacy 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
- Human Resources
- Housing/ Residence Life
- Student Life/Student Affairs
- Student Conduct
- Disability Services

n. REPORTING OPTIONS

The Universities strongly encourage all who have experienced sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking or retaliation to report the incident so that the University can provide support and pursue an appropriate resolution. The Universities prohibit and will not tolerate retaliation against anyone who makes a report.

Victims have several options for reporting: **Confidential Reports**, **Non-Confidential Reports** and **Making No Report**. While each option will be described in detail below and is summarized at Appendix A, as a general rule, if a University receives a report of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking or retaliation, it must investigate the report. If one is unsure of someone's duty to report or ability to maintain one's privacy, one should ask them before one talks to them about an incident. They will be able to explain if they are required to make a report, and they can identify others who can help.

All parties and witnesses to incidents of such prohibited conduct have reasonable expectations of privacy in matters reported and investigated under this Policy. The Universities want all community members to seek the assistance they need without fear that their private information will be shared more broadly than they would like. Federal and state laws, however, impose reporting obligations on certain University employees that, under some circumstances, require those employees to share information about an incident of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking or retaliation with others at the University. Even when these employees have an obligation to report, they will protect the privacy of the reporter to the greatest extent possible and share information on only a need-to-know basis.

When a person makes a report, a University employee or official will try to ensure that the person is informed of their reporting obligations, and they will direct the person to Confidential Resources to whom one may make a private report. So that one fully understands the ability to make reports and the ability to keep one's information confidential, please review the following reporting options. If one needs assistance in making a report, please contact the Title IX Coordinator.

1. Confidential Reporting Options

- a. Clergy, Pastoral Counselors, Licensed Medical and Mental Health Providers

One may report sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and/or retaliation in confidence to licensed mental health counselors, licensed health care personnel, pastoral counselors or clergy who work for the Universities. Employees may also report such misconduct in strict confidence through the EAP. Except in rare, extreme circumstances, these individuals will share nothing without one's permission. For example, a University official who works as a clinical provider is legally required to break confidentiality when there appears to be a risk of immediate harm. Further, the University may be required to notify the Massachusetts Department of Children and Families if it receives a report regarding the abuse (including sexual assault) of a child.

Even if one does not wish to make a complaint, these individuals can help one to obtain support services and provide information about one's options. Please bear in mind, however, that if one requests certain protective interim measures from the University, *e.g.*, extension for academic work or changing classes, residence halls or work locations (see Section H), the Dean of Students and/or other University officials as necessary may be contacted only for the purpose of providing the requested measures. In such cases, one's privacy will be maintained to the extent that maintaining confidentiality will not impair the University's ability to provide the requested measures.

One may also confidentially report sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and/or retaliation to community support resources, which are not required to share information with the Universities.

- b. Anonymous Reporting

One may file an anonymous report (without including one's personal identification) with the Title IX Coordinator. Anonymous reports will typically be used only for statistical data collection under the Clery Act, will be kept confidential, and will not be used to initiate an investigation or a complaint except: (1) when necessary to comply with applicable law; or (2) to protect the health and safety of the campus community.

2. Non-Confidential Reporting Options

- a. Campus Reporting Options

If one wishes to report sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and/or retaliation to the University, one may notify the Title IX Coordinator or a Deputy Title IX Coordinator, the EO Officer, Campus Police, the Human Resources Director, the Dean of Students or Student Conduct. Upon receipt of a report, the University will conduct appropriate follow-up to ensure that one has access to support, services, safety measures, and accommodations. One may also request a criminal investigation through Campus Police, who will

assist in contacting the appropriate law enforcement agency that has jurisdiction (see below for more information on Criminal Reporting Options).

The Universities recognize that one may feel most comfortable disclosing an incident to a University employee that one knows well, such as a resident advisor, coach or faculty member. Pursuant to Title IX, however, certain employees are required, under nearly all circumstances, to report incidents to the Title IX Coordinator. These employees, known as “Responsible Employees” or “REs” are those with supervisory responsibilities or the authority to address or remediate sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation, or whom a student might reasonably believe has such supervisory responsibility or authority.

The Universities encourage victims to speak with an RE so that the incident can be investigated and properly resolved. When one makes a report to an RE, one has the right - and should expect - the University to take the report seriously, to undertake a prompt, thorough and fair investigation, and to resolve the matter in accordance with the procedures in this Policy.

The REs at the Universities include persons holding the following positions:

- Members of the Boards of Trustees;
- The President and Vice Presidents;
- Assist./Assoc. Vice Presidents;
- Title IX Coordinator/ Deputy Coordinators;
- EO Officer;
- Campus Police;
- Institutional Security Officers;
- Director and Assist./Assoc. Director of Human Resources;
- Departmental Directors and Assist./Assoc. Directors³;
- Residence Life Staff (including RDs and RAs);
- Athletic Coaches, Assistant Coaches and Athletics Administrators;
- Studio Managers;
- Lab Managers;
- Deans and Assistant/Associate Deans
- Academic Department Chairs;
- Academic and Non-Academic Program Directors/ Coordinators;
- Faculty/Staff Leading or Chaperoning Travel or Overnight Trips; and
- Faculty/Staff Advisors to Student Organizations.

The complete listing of the REs for each University can be found on each University’s website.

Once an RE receives the report, the University is “on notice” of the incident and the University is then required, under most circumstances, to investigate. If one makes a report to an RE, however, only the people who need to know about the report will be told. Personal information will be shared only as necessary, and consistently with state and federal law: (1) with Administrative Investigators, witnesses, and the accused; (2) with other University officials to provide interim measures or accommodations; or (3) when required to be disclosed by law.

Whenever possible, REs will disclose their duty to report incidents before someone reveals information about an incident. REs will also inform a person making a report of their option to make a confidential report on campus, and where to obtain support services.

³ Those Departmental Directors, Assistant Directors and Associate Directors who serve in professional roles in which communications are afforded confidential status under the law (e.g., licensed mental health care providers, medical providers, pastoral counselors and clergy) are not REs under this Policy.

Additionally, University employees who are designated as Campus Security Authorities (“CSAs”) for the purposes of the Clery Act must provide Campus Police with non-identifying statistical information regarding all reported incidents of sexual assault, dating violence, domestic violence and stalking. This statistical information is used by the Universities to compile their Annual Security Reports, and by Campus Police for purposes of advising the campus of any potential safety risks or concerns.

Accordingly, unless a University employee or official is identified as a Confidential Resource in Appendix A, most other University employees and officials who receive reports of incidents of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking or retaliation are required to report them to the Title IX Coordinator.

b. Criminal Reporting Options

Victims may file a criminal complaint with Campus Police and/or the local police department where the incident occurred. Victims can make a criminal report and a report to the University; one does not have to choose one or the other.

The Universities encourage victims to report incidents to the police so that the police can take appropriate measures to help victims and prevent future crimes. If one would like assistance in filing a report with local law enforcement, Campus Police will help.

Victims are never required, however, to report an incident to Campus Police or local law enforcement. If a victim elects not to make a criminal report, the Universities will respect that decision not to report the incident to the police.

If a victim chooses to make a report to Campus Police, the Department will conduct an investigation and, if wished, assist the victim in filing criminal charges against the alleged offender. Campus Police can also assist a victim in the process of obtaining protective restraining orders and abuse prevention orders for relationship/domestic violence. The Department has specially trained officers to respond to complaints of sexual assault and domestic violence, and, whenever possible, Campus Police will make every effort to offer female complainants/victims an opportunity to have a female officer present during all interviews. Campus Police also helps the University to evaluate, investigate and resolve complaints under this Policy, and Campus Police assists in protecting the safety of complainants.

c. Governmental Reporting Options

If one wishes to file a complaint of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking or retaliation outside of the University or in addition to a complaint filed under the University’s Complaint Investigation and Resolution Procedures, the following agencies may provide additional resources:

U.S. Department of Education,
Office for Civil Rights
<http://www2.ed.gov/about/offices/list/ocr/index.html>
U.S. Department of Education
Office for Civil Rights

U.S. Department of Justice, Office on
Violence Against Women
<http://www.ovw.usdoj.gov/>
Office on Violence Against Women
145 N St., NE, Suite 10W.121

33 Arch Street, 9th Floor
Boston, MA 02119-1424
(617) 289-01111, TDD (877) 521-2172
Email: OCR.Boston@ed.gov

Washington, D.C. 20530
(202) 307-6026
Fax: (202) 305-2589
Email: ovw.info@usdoj.gov

Persons who have questions or who wish to file a complaint of gender discrimination or sexual harassment under state law may contact the Massachusetts Commission Against Discrimination:

Boston Office:
One Ashburton Place
Rm. 601
Boston, MA 02108
(617) 994-6000

Worcester Office:
Worcester City Hall
484 Main Street, Rm. 320
Worcester, MA 01608
(508) 453-9630

Springfield Office:
436 Dwight Street, Rm. 220
Springfield, MA 01103
(413) 739-2145

New Bedford Office:
800 Purchase Street, Rm. 501
New Bedford, MA 02740
(508) 990-2390

Employees with complaints, questions or concerns about gender discrimination, sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking or retaliation may also contact the Equal Employment Opportunity Commission, John F. Kennedy Federal Building, 475 Government Center, Boston, MA 02203, (800) 669-4000, TTY (800) 669-6820.

d. Third Party Reporting

Anyone may make a report of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking or retaliation against another member of the campus community or a person affiliated with the University by contacting the Title IX Coordinator, Campus Police or another Responsible Employee.

e. Unknown/Non-University Offenders

If one does not know the identity of an alleged offender, or if the alleged offender is not a member of the campus community, the University will assist a victim in identifying appropriate resources or local authorities if the victim wishes to file a report. In addition, the University may investigate to the fullest extent possible and take other actions to protect the University community.

3. Making No Report

Victims have the right not to make a report to anyone. The Universities, however, strongly encourage victims to seek medical attention, counseling and support. Victims are always welcome to file a report at a later date, but please note that a delay in reporting could weaken the evidence necessary to determine whether the accused is found responsible for committing an act of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking or retaliation.

4. Amnesty

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

2. Timeframe for Reporting

The Universities do not limit the timeframe for filing a complaint under this Policy. While reports may be made at any time, complainants are reminded that the more time that passes from the time of the incident, the more difficult it is for the University to obtain information and contact witnesses, and the alleged respondent may no longer be affiliated with the University.

3. False Charges

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

4. Employees' Duty to Report

All members of the Universities' campus communities are encouraged to promptly report incidents of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation to the Title IX Coordinator.

As set forth above in Subsection 2, each University employee designated as a Title IX Responsible Employee who is informed about an allegation of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and/or retaliation involving any member of the campus community is required to notify the Title IX Coordinator either directly or through their relevant reporting structure.

Additionally, as set forth above in Subsection 2, University employees who are designated as CSAs for the purposes of the Clery Act must provide Campus Police with non-identifying statistical information regarding all reported incidents of sexual assault, dating violence, domestic violence and stalking.

University employees who serve in professional roles in which communications are afforded confidential status under the law (*e.g.*, licensed mental health care providers, medical providers,

pastoral counselors and clergy) may, consistent with their ethical and legal obligations, be required to report limited information about incidents without revealing the identities of the individuals involved, to the Title IX Coordinator. Such employees who receive reports of violence or misconduct when not functioning in their licensed capacity (*i.e.*, teaching a course) are not prohibited by their ethical codes or legal obligations from making a full report to the University.

5. Employees' Duty to Cooperate

Every faculty member, librarian, administrator, staff member and University employee has a duty to cooperate fully and unconditionally in an investigation conducted pursuant to the Complaint Investigation and Resolution Procedures at Appendix 4 of the EO Plan, subject to the provisions of any relevant collective bargaining agreements. This duty includes, among other things, speaking with the EO Officer, Title IX Coordinator, Administrative Investigator, reviewing or appellate body, and voluntarily providing all documentation that relates to the claim being investigated. The failure and/or refusal of any employee, other than an employee subject to criminal charges or who invokes a Fifth Amendment privilege, to cooperate in an investigation may result in a separate disciplinary action up to and including termination.

o. PRIVACY AND CONFIDENTIALITY: ADDITIONAL CONSIDERATIONS

1. Requests for Confidentiality or for No Investigation

If a victim discloses an incident of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and/or retaliation, but requests that the University maintain confidentiality or that no investigation or disciplinary action occur, the University will weigh the request against its obligation to provide a safe, non-discriminatory environment for its entire community, including the victim, and its obligation to comply with applicable laws. It is important to understand that the University's ability to investigate an incident and pursue disciplinary action against the alleged perpetrator(s) may be limited if the University honors a confidentiality or no investigation request.

In consultation with Campus Police and other University personnel as necessary, the Title IX Coordinator will evaluate a request for confidentiality or that investigation/discipline occur by considering a range of factors including, but not limited to, whether:

- there have been other similar complaints about the same alleged perpetrator;
- the alleged perpetrator has a history of arrests or records indicating a history of violence;
- the alleged perpetrator threatened any further violence against the victim or others;
- the misconduct was committed by multiple perpetrators;
- the act was perpetrated with a weapon;
- the alleged perpetrator holds a position of power over the victim;
- the victim is a minor;
- the University possesses no other means to obtain relevant evidence (*e.g.*, security cameras or personnel, physical evidence);
- there appears to be a pattern of perpetration (*e.g.*, via illicit use of drugs or alcohol) at a given location or by a particular group; and/or
- other circumstances indicating an increased risk of violence or harm.

The presence of one or more of these factors could lead the University to investigate and/or pursue discipline. The University will inform the victim prior to starting an investigation and, to the extent possible, will share information with only the people responsible for handling the University's response.

The Universities may not require a victim to participate in any investigation or disciplinary proceeding. If none of the above factors are present, the University will likely honor the victim's request for confidentiality. It will also take interim measures as necessary to protect and assist the victim. In this circumstance, the University will consider broader remedial action, such as increased monitoring, supervision or security, increased or targeted education or prevention measures, conducting climate assessments/victimization surveys, and/or revisiting its policies and practices.

In the event that the victim requests that the University inform the alleged perpetrator that the victim asked the University not to investigate or seek discipline, the University will honor this request and inform the alleged perpetrator that the University made the decision to go forward.

2. Privacy for Respondents Who Are Students

A student's right to privacy is primarily governed by the Family Educational Rights and Privacy Act ("FERPA"), which provides that personally identifiable information maintained by the Universities in students' educational records may not be disclosed except with the consent of the student or as otherwise specified by law. For more information, see each University's website for its Annual Notice on FERPA.

3. Disclosures Made At Public Awareness Events

Public awareness events such as "Take Back the Night," the Clothesline Project, candlelight vigils, protests, "survivor speak outs" or other forums in which individuals disclose incidents of sexual violence or relationship violence are not considered notice to the Universities and do not trigger an obligation to investigate any particular incident(s). Such events, however, may inform the Universities' education and prevention efforts.

4. Statistical Reporting and Timely Warnings under The Clery Act

The Clery Act requires the Universities to maintain a daily log of reports of crimes that occurred on campus, University-controlled property or public property immediately adjacent to campus, including reports of sexual assault, domestic or dating violence and stalking. The Universities must also publish an Annual Campus Crime Report concerning reported incidents. The Universities do not include names or other personally identifying information in the daily logs or the Annual Security Reports.

Additionally, when the University becomes aware that an incident of sexual misconduct or violence occurred, and there is a potential for bodily harm or danger to members of the campus community, the University will issue a timely warning to the campus. While the University will provide enough information to safeguard the campus community, a victim's name or other personally identifying information will not be disclosed in the timely warning.

p. PROTECTIVE INTERIM MEASURES

The Universities may provide individualized services as appropriate to either or both parties involved, making every effort to avoid depriving a student of access to the student's education, throughout the investigation process. The Universities want all community members to be safe, to receive

appropriate medical attention, and to get the help they need to heal and to continue to access their educational or employment opportunities.

The Universities further wish for complainants to understand how to access available interim measures. Complainants may obtain protective interim measures by either (1) reporting the incident to the Title IX Coordinator or other Responsible Employee and requesting interim measures, or (2) disclosing the incident to a counselor, who in turn can request interim measures on the complainant's behalf from the University.

If a complainant elects to confidentially disclose an incident to a counselor and seek protective interim measures from the University, the counselor may ask the complainant to sign a release specifying the information that may be shared with the University. In accordance with the University's practice of allowing counselors to seek such measures for complainants of trauma without requiring that the nature of the trauma be disclosed, the University will not require a counselor to disclose that sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking or retaliation is the basis for the request. Additionally, if a complainant does not wish for the University to investigate or otherwise notify the alleged respondent of the reported incident, a counselor may still request protective interim measures on behalf of the complainant. In such cases, the Title IX Coordinator will consider whether the University can honor the request for confidentiality or no investigation while still providing a safe and nondiscriminatory environment for the campus.

Respondents may seek interim measures by making a request directly to the Title IX Coordinator and/or the Administrative Investigator assigned to the matter in which the respondent is a party.

The Universities will maintain as confidential any accommodations or protective interim measures provided, to the extent that maintaining such confidentiality would not impair the ability of the Universities to provide the accommodations or protective interim measures.

In assessing the need for either or both parties to receive interim measures, the Universities will not rely on fixed rules or operating assumptions that favor one party over another. The determination of interim measures shall be made on a case-by-case basis in consideration of the information available to the Title IX Coordinator. The Universities may provide one or more of the following protective measures:

- "no contact/communication" orders;
- escorts to ensure safety while moving between locations on campus;
- changes in academic or work schedules;
- statutorily-provided leave to employees, such as Domestic Violence Leave pursuant to M.G.L. c. 49, §52D;
- alternative housing, dining and/or office accommodations;
- restrictions from areas of campus;
- medical and/or mental health services;
- assistance in identifying an advocate to help secure additional assistance, such as off-campus and community advocacy, support and services; and/or
- academic accommodations, such as:
 - transferring to another section of a course, lecture or lab;
 - rescheduling an academic assignment or test;

- arranging for incompletes, a leave of absence, or withdrawal from campus; and
- preserving eligibility for academic, athletic, or other scholarships, financial aid, internships, study abroad, or foreign student visas.

The Universities may also suspend a student on an interim basis or place an employee on paid administrative leave prior to completing an investigation under this Policy when it reasonably concludes that the person: (a) poses a threat to health or safety; (b) poses a threat to University property or equipment; (c) is disruptive or interferes with an investigation under this Policy or the normal operations of the University; or (d) is charged with a serious violation of state or federal law. The University shall provide the employee or student of the specific reason(s) for the interim action. During an interim action, the University reserves the right to prohibit the person from entering upon the University's property or participating in any University activities absent written authorization from an appropriate University official. When a person has been placed on interim suspension or paid leave of absence, the Universities will make reasonable efforts to complete the investigation process in an expedited manner. The interim measures needed by either or both parties may change over time, and the Title IX Coordinator shall communicate with each party throughout the investigation and resolution process to ensure that interim measures are appropriate and effective based on the parties' evolving needs.

The failure of a person to comply with an interim suspension, temporary leave or other interim measure is a violation of this Policy and may lead to additional disciplinary action.

Additionally, in some circumstances, a complainant may wish to seek an order of protection from a court or appropriate jurisdiction against the alleged perpetrator. In these circumstances, Campus Police will assist individuals in their attempt to secure these orders. Individuals may also seek restriction of access to the University by non-students or non-employees when appropriate.

q. WRITTEN NOTIFICATION OF RIGHTS, OPTIONS, AVAILABLE RESOURCES, SERVICES AND INFORMATION

The Universities will provide written information to community members regarding counseling, medical and mental health services, disability accommodations, victim advocacy, legal assistance, visa and immigration assistance, and other services available on and off campus.

The Universities will notify parties alleging sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and/or retaliation in writing that they have the following rights:

- to an explanation of the options available;
- to referrals to confidential assistance and support services from both on- and off-campus resources, including 24 hour services;
- to a change in on-campus residence and/or an adjustment to their academic schedule if such changes are reasonably available;
- to request that the University impose no contact/communication orders or other interim protective measures;
- to make a complaint that starts the University's investigation and resolution processes;
- to a prompt, thorough and equitable investigation and resolution of a complaint;
- to choose whether or not to initiate a formal investigation of the complaint, unless the University deems it necessary to investigate to protect the safety of the community or in

- compliance with applicable law;
- to the confidentiality of the investigation process to the extent possible (see Privacy and Confidentiality at Section G);
- to an advisor of one's choice who will assist and be present at any time during the investigation proceedings, but who may not participate in or otherwise provide representation in any way throughout the process;
- to reasonable accommodations for a documented disability during the process;
- to know, in advance, the names of all persons known to be involved;
- not to have irrelevant sexual history discussed;
- to be present at certain meetings and review evidence;
- to speak and present information on one's own behalf;
- to submit questions for the Administrative Investigator to ask witnesses;
- to know the status of the case at any point during the process;
- to be provided with a copy of the investigation report and an opportunity to respond to the report in advance of the administrative review;
- to be informed of the outcome of the process in a timely manner;
- to an appeal from the outcome of the process (if proper grounds for appeal exist);
- to file no complaint with the University, but receive support services from the University;
- to file a police report and/or take legal action separate from and/or in addition to the University discipline process;
- to seek and enforce a no contact, restraining or similar court order;
- to be assisted by the University in seeking assistance from or filing a complaint with local law enforcement;
- to not file a complaint or seek assistance from local law enforcement, but receive support services from the University;
- to be free from any behavior that may be construed by the University to be intimidating, harassing or retaliatory; and
- to have the matter handled in accordance with University Policy.

Parties who are respondents to claims of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and/or retaliation have the following rights:

- to an explanation of the allegations against them;
- to referrals to confidential assistance and support services from both on- and off-campus resources, including 24 hour services;
- to request that the University impose no contact/no communication orders or other interim protective measures;
- to receive a copy of the complaint filed against them;
- to be presumed not in violation of University policy until a violation is established through the complaint investigation process;
- to the confidentiality of the investigation process to the extent possible (see Privacy and Confidentiality at Section G);
- to an advisor of one's choice who will assist and be present at any time during the investigation proceedings, but who may not participate in or otherwise provide representation in any way throughout the process (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);

- to reasonable accommodations for a documented disability during the process;
- to know, in advance, the names of all persons known to be involved;
- not to have irrelevant sexual history discussed;
- to be present at certain meetings and review evidence;
- to speak and present information on one's own behalf;
- to submit questions for the Administrative Investigator to ask witnesses;
- to know the status of the case at any point during the investigation and resolution process;
- to be provided with a copy of the investigation report and an opportunity to respond to the report in advance of the administrative review;
- to be informed of the outcome of the process in a timely manner;
- to an appeal from the outcome of the process (if proper grounds for appeal exist);
- to be free from any behavior that may be construed by the University to be intimidating, harassing or retaliatory; and
- to have the matter handled in accordance with University Policy.

r. EDUCATION AND PREVENTION PROGRAMS

As part of the Universities' commitment to providing working, living and learning environments free from sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation, this Policy shall be disseminated widely to the campus communities through publications, new employee and student orientations, physical posting in places where students and employees are likely to see it, and other appropriate communications. A copy of this Policy shall be prominently posted on each University's website.

The Universities provide sustained and comprehensive training to the campus community concerning: (1) prevention and awareness programs that address rape, acquaintance rape, domestic and dating violence, sexual assault, and stalking; (2) the provisions of the Universities' Sexual Violence Policy; and (3) the Universities' Complaint and Investigation Procedures for alleged violations of the Sexual Violence Policy. Additionally, the Universities provide all new or incoming students and employees primary prevention and awareness programs that promote awareness of rape, acquaintance rape, domestic and dating violence, sexual assault, and stalking.

The Universities have implemented primary and on-going prevention and awareness programs for students and employees focused on sexual violence, domestic and dating violence and stalking, and the promotion of positive and healthy behaviors that foster mutually respectful relationships and sexuality. The Universities shall make preventative educational materials available to all community members to promote compliance and familiarity with this Policy.

In the training programs for students and employees, the Universities address the following:

- The Universities' prohibition of sexual assault, domestic violence, dating violence and stalking.
- The Universities' Sexual Violence Policy and Complaint and Investigation Resolution Procedures for addressing complaints of sexual assault, domestic violence, dating violence and stalking.
- The Massachusetts' legal definitions of the crimes of sexual assault, domestic violence, dating

violence and stalking.

- The legal definition of “consent” in reference to sexual activity in Massachusetts.
- The rights and remedies of students and employees under Title IX.
- Practical information about identifying, preventing, and reporting sexual violence and sexual harassment.
- The reporting options available to victims, on and off campus.
- The confidential resources available to the victims, on and off campus.
- How to obtain accommodations and/or interim protective measures.
- How the Universities’ analyze complaints.
- Positive options for bystander intervention that an individual may take to prevent harm or intervene in risky situation.
- The role of alcohol and drugs and student safety.
- How employees should respond to reports of sexual violence, sexual and gender-based harassment, domestic and dating violence, and stalking; employees’ duty to make reports to the Universities and how to make such reports.
- The Universities’ prohibition against retaliation.

In addition, the Universities provide annual training to its Title IX Coordinators and Deputy Coordinators, EO Officers, Administrative Investigators, review and appellate body members, REs, Campus Police, and all others involved with the administration of this Policy and the Complaint Investigation and Resolution Procedures on the topics listed above, as well as the following:

- The obligations of responsible employees when interacting with students or employees making reports of sexual violence, sexual and gender-based harassment, domestic and dating violence, and stalking.
- The obligations of responsible employees to forward reports to the Universities.
- The dynamics of sexual violence and the unique toll it can take on self-blaming and traumatized individuals.
- Understanding how sexual violence occurs, how it is perpetrated, and how victims naturally respond during and after assault.
- Issues related to sexual violence, domestic violence, dating violence and stalking.
- The requirements of the Complaint Investigation and Resolution Procedures.
- How to conduct an investigation in a manner that protects the safety of the parties and promotes accountability.
- How to conduct prompt, fair, impartial and thorough investigations.

Furthermore, the Universities pledge to routinely:

- evaluate current policies, procedures, and practices;
- ensure appropriate training of all persons charged with administering this Policy and/or involved in the complaint investigation and resolution process;
- evaluate who is designated an RE for Title IX reporting purposes and/or CSA for Clery Act reporting purposes, and disseminate and publish applicable list of REs and CSAs;
- ensure appropriate training of REs and CSAs;
- evaluate campus climate assessment survey data;
- provide education and prevention programming for students and employees; and

- evaluate physical security needs on campus.

s. INDEPENDENT INVESTIGATIONS

At any time, the University, at its discretion, may conduct an investigation independent of, or in addition to, the procedures described in this Policy.

t. COMPLIANCE CONCERNS

All are encouraged to report any concerns about the University's handling of a sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking or retaliation investigation to the University's Title IX Coordinator. Individuals may also report concerns about the University's handling of such investigations to:

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

u. MASSACHUSETTS LEGAL DEFINITIONS

Alleged incidents of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation are determined by the language of this Policy rather than by the provisions of the criminal laws of Massachusetts. However, community members who believe they have been the victim of a crime may choose to pursue a criminal investigation through local law enforcement. In those instances, the criminal laws will apply. Here are the definitions of Massachusetts crimes related to the conduct prohibited by this Policy:

5. Sexual Assault

Massachusetts uses the term "rape." The definition encompasses (1) the penetration of any orifice by any body part or object (2) by force (or threat) and (3) without consent. Rape also includes instances where the victim is incapacitated ("wholly insensible so as to be incapable of consenting") and the perpetrator is aware or should have known of the incapacitation. Relatedly, under M.G.L. c. 268, § 40, a person who knows that an individual is a victim of an aggravated rape and is at the scene of the crime, must report the crime to law enforcement as soon as is reasonably practicable.

<https://malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter265/Section22>

6. Domestic Violence

Section 1 of M.G.L. c. 209A defines domestic abuse as "the occurrence of one or more of the following acts between family or household members: (a) attempting to cause or causing physical harm; (b) placing another in fear of imminent serious physical harm; (c) causing another to engage involuntarily in sexual relations by force, threat or duress."

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter209A>

For the purposes of Chapter 209A, "family or household members" are defined as persons who: (a) are or were married to one another; (b) are or were residing together in the same household; (c) are or were related by blood or marriage; (d) have a child in common regardless of whether they

have ever married or lived together; or (e) are or have been in a substantive dating or engagement relationship, which shall be adjudged by district, probate or Boston municipal courts' consideration of the following factors: (1) the length of the relationship; (2) the type of relationship; (3) the frequency of interaction between the parties; and (4) if the relationship has been terminated by either person, the length of time elapsed since the termination.

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter209A>

Section 13M of M.G.L. c. 265 prohibits assault and/or assault and battery against family or household members, which is defined as: "persons who: (i) are or were married to one another, (ii) have a child in common regardless of whether they have ever married or lived together or (iii) are or have been in a substantive dating or engagement relationship."

<https://malegislature.gov/Laws/GeneralLaws/PartIV/Title/Chapter265/Section13m>

<https://malegislature.gov/Laws/SessionLaws/Acts/2014/Chapter260>

In determining whether Section 13M applies to a particular relationship, the courts shall consider the following factors: "(1) the length of time of the relationship; (2) the type of relationship; (3) the frequency of interaction between the parties; and (4) if the relationship has been terminated by either person, the length of time that has elapsed since the termination of the relationship."

<https://malegislature.gov/Laws/GeneralLaws/PartIV/Title/Chapter265/Section13m>

Section 15D of M.G.L. c. 265 prohibits the strangulation or suffocation of another person.

<https://malegislature.gov/Laws/SessionLaws/Acts/2014/Chapter260>

7. Dating Violence

While Massachusetts does not have a law concerning dating violence, conduct may constitute an assault or assault and battery under M.G.L. c. 265, § 13A. An assault or an assault and battery: (i) upon another and [the perpetrator] by such assault and battery causes serious bodily injury; (ii) upon another who is pregnant at the time of such assault and battery, [the perpetrator] knowing or having reason to know that the person is pregnant; or (iii) upon another who [the perpetrator] knows has an outstanding temporary or permanent vacate, restraining or no-contact order or judgment issued pursuant to [applicable law], in effect against him at the time of such assault or assault and battery."

<https://malegislature.gov/Laws/GeneralLaws/PartIV/Title/Chapter265/Section13a>

Section 13M of M.G.L. c. 265 prohibits assault and/or assault and battery against family or household members, which is defined as: "persons who: (i) are or were married to one another, (ii) have a child in common regardless of whether they have ever married or lived together or (iii) are or have been in a substantive dating or engagement relationship."

<https://malegislature.gov/Laws/GeneralLaws/PartIV/Title/Chapter265/Section13m>

<https://malegislature.gov/Laws/SessionLaws/Acts/2014/Chapter260>

In determining whether Section 13M applies to a particular relationship, the courts shall consider the following factors: "(1) the length of time of the relationship; (2) the type of relationship; (3) the frequency of interaction between the parties; and (4) if the relationship has been terminated by

either person, the length of time that has elapsed since the termination of the relationship.”

<https://malegislature.gov/Laws/GeneralLaws/PartIV/Title/Chapter265/Section13m>

Section 15D of M.G.L. c. 265 prohibits the strangulation or suffocation of another person.

<https://malegislature.gov/Laws/SessionLaws/Acts/2014/Chapter260>

8. Stalking

Section 43 of M.G.L. c. 265 defines “stalking” as “(1) willfully and maliciously engages in a knowing pattern of conduct or series of acts over a period of time directed at a specific person which seriously alarms or annoys that person and would cause a reasonable person to suffer substantial emotional distress, and (2) makes a threat with the intent to place the person in imminent fear of death or bodily harm.”

<https://malegislature.gov/Laws/GeneralLaws/PartIV/Title/Chapter265/Section43>

9. Consent

There is no definition of the term “consent” in the Massachusetts General Laws. Massachusetts courts use the term “against his/her will” which means without consent. Cases have held that consent cannot be compelled or induced by force or threats, and consent is not present when the victim is incapacitated. In other words, consent requires a voluntary agreement demonstrated by words or actions, by a person with sufficient mental capacity to make a conscious choice to do something proposed by another, free of duress. Commonwealth v. Lopez, 433 Mass. 722 (2001), Commonwealth v. Lefkowitz, 20 Mass. App. Ct. 513 (1985); see also:

<https://malegislature.gov/Laws/GeneralLaws/PartIV/Title/Chapter265/Section22>