

Title IX Sex/Gender-Based Discrimination and Harassment Policy

Prohibition of Discrimination and Harassment

UMass Global (also referred to as the “University”) is an academic community for working students that seeks to maintain an optimal working and learning environment. It is a community with high standards and high expectations for those who choose to become a part of it, including established rules of conduct intended to foster behaviors that are consistent with a civil and educational setting. Members of the University community are expected to comply with all laws and University policies, conducting themselves in ways that support a positive learning environment.

UMass Global is committed to providing an educational and work environment free of unlawful discrimination and harassment in any form, whether verbal, physical, written, electronically recorded, or visual. UMass Global prohibits all forms of discrimination and harassment on the basis of protected characteristics such as age, race (including traits historically associated with race, including, but not limited to, hair texture and protective hairstyles, such as braids, locks, and twists), color, religion or religious creed (including religious dress and grooming practices), sex (including gender identity, gender expression, gender transitioning, pregnancy, childbirth, breastfeeding, and medical conditions related to pregnancy or childbirth), national origin, ancestry, physical and/or mental disability, medical condition, military or veteran status, marital status, citizenship status, sexual orientation, genetic information, or any other characteristic protected by applicable local, state or federal law. The University also prohibits discrimination and harassment based on the perception that a person has any of the above-protected characteristics or is associated with a person who has or who is perceived as having any of the above protected characteristics.

Title IX Sex/Gender-Based Discrimination and Harassment Policy

This Policy addresses the University’s and Title IX’s prohibition of sex and gender-based discrimination, retaliation, and Sexual Misconduct, which includes Dating Violence, Domestic Violence, Sexual Harassment, Sexual Battery, Sexual Violence, Sexual Exploitation, and Stalking against a person in the United States.

When a member of the University community experiences an act or acts of Sexual Misconduct or discrimination, it can significantly interfere with their lives and professional and educational goals. UMass Global will promptly, thoroughly, and impartially investigate every complaint of alleged violations of this Policy. In doing so, the University will take immediate steps to intervene and end the behavior and remedy the effects of such behavior in an effort to prevent it from reoccurring.

The University uses the preponderance of the evidence (also known as “more likely than not”) standard to decide whether a violation of this Policy occurred based on the

facts available at the time of decision. In campus resolution proceedings, legal terms like “guilt,” “innocence,” and “burdens of proof” are not applicable, but the University never presumes a Responding Party is responsible for a violation of university policy. Campus resolution proceedings are conducted to take into account the totality of all evidence available from all relevant sources, including the Complainant, the Title IX Coordinator (if signing a formal complaint), and the Responding Party, as well as other witnesses to any alleged Policy violations.

This Policy applies to all University administrators, faculty, staff, and students and applies regardless of the sex of the Complainant or Responding Party (as these terms are defined below). This Policy includes within its scope misconduct directed to members of the same sex as well as the opposite sex. It also applies to applicants for admission and employment, vendors, independent contractors, instructors, and other third parties doing business with the University.

This Policy prohibits retaliation of any kind against individuals who oppose perceived violations of this Policy or who assist in complaints or investigations regarding potential violations of this Policy.

Where a complaint of Sexual Misconduct (described further below) involves only non-student-faculty, administrators or staff, the University will first apply this Policy and the University’s Investigation, Hearing, and Appeal Processes for Title IX Policy Complaints of Sexual Misconduct. If the Title IX complaint process and investigation concludes that the complained-of conduct does not violate the University’s Title IX Policy, the investigator will still assess the complaint for violations of the University’s Policy Prohibiting Harassment when the complaint concerns non-students. If a Title IX complaint involving only non-students proceeds through a formal hearing process with a Hearing Committee or hearing officer, and no violation of the Title IX Policy is established, then the Hearing Committee, hearing officer, or a designated member of Human Resources (not the investigator) will still assess whether any violation of the Policy Prohibiting Harassment occurred based on the evidence presented at the hearing.

Where a complaint of Sexual Harassment or Sexual Misconduct (described further below) involves a student and a non-University person, the student may still report the conduct to the Title IX Coordinator(s), who will assess whether the complaint or information requires the University to respond to prevent a hostile educational environment or to ensure students’ access to education. If such a finding is made, the Title IX Coordinator(s) will take reasonable steps to end the complained-of conduct and ensure the student’s safety, consistent with the objectives of this Policy.

Any violation of this Policy established following a formal hearing regarding Sexual Misconduct involving non-students will also be considered a violation of the University’s Policy Prohibiting Harassment.

The U.S. Department of Education Office for Civil Rights (OCR) is the division of the federal government charged with enforcing compliance with Title IX. Information regarding OCR can be found at:
<http://www2.ed.gov/about/offices/list/ocr/index.html>

Prohibited Conduct

The following conduct is prohibited under this Policy:

- A. Engaging in any Sexual Misconduct (as defined below).
- B. Sex-based, gender, gender identity, ethnicity, and national origin-based discrimination.
- C. Engaging in threats or reprisals to dissuade another from reporting an alleged violation of this Policy.
- D. Impeding or obstructing an investigation of an alleged violation of this Policy; or
- E. Retaliating in any manner against someone from making or pursuing a complaint of a violation of this Policy or participating in an investigation of an alleged violation of this Policy.

Conduct which violates this Policy may also constitute a violation of other University policies, including, but not limited to:

- A. Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person.
- B. Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the University community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the Hazing Policy).
- C. Bullying, defined as:
 - 1. Repeated and/or severe
 - 2. Aggressive behavior
 - 3. Likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally
 - 4. That is not speech or conduct otherwise protected by any other law

Please refer to the Student Conduct Code for more information on these and other misconduct violations.

Sex/Gender-Based Discrimination and Retaliation

The Title IX Coordinator will investigate any complaint of sex/gender-based discrimination and/or retaliation involving at least one student made to the University pursuant to this Policy. Any complaint of sex/gender-based discrimination and/or retaliation that involves only non-student employees will be processed pursuant to the University's Policy on Equal Employment Opportunity and the Policy Prohibiting Harassment.

The Title IX Coordinator will meet with the Complainant, any Responding Party, and any other witnesses deemed necessary to conduct a thorough investigation of the

allegations in the complaint. The Title IX Coordinator will also review evidence submitted by the parties and witnesses, if any, and use the preponderance of the evidence (also known as “more likely than not”) standard to decide whether any violation of this Policy occurred based on the facts available at the time of decision. Any person found responsible for a violation of this Policy may be subject to disciplinary sanctions as outlined in the Investigation, Hearing, and Appeal Processes document for Title IX Policy Complaints of Sexual Misconduct.

Complaints of Sexual Misconduct (as defined below), whether involving students or non-students, will be investigated, and processed as outlined in the Investigation, Hearing, and Appeal Processes document for Title IX Policy Complaints of Sexual Misconduct.

Compliance with these provisions does not constitute a violation of section 444 of the General Education Provisions Act ([20 U.S.C. 1232g](#)), commonly known as the Family Educational Rights and Privacy Act of 1974 (FERPA).

Sexual Misconduct

Sexual Misconduct is unwelcome conduct of a sexual nature. This includes conduct in any form, whether verbal, physical, written, electronically recorded, or visual. Conduct of a sexual nature may either be explicitly sexual or may involve conduct that derives its sexual nature from the circumstances in which the conduct occurs or when combined with other conduct that occurs in a sexual context.

Conduct does not need either to express any sexual desire or to be directed to a specific person and can include conduct that attempts to demean, control, or stereotype others on the basis of their sex. While it is not possible to list every form of sexual misconduct, the following are illustrative examples:

- sexual jokes, innuendoes, slurs, or sexually suggestive comments other than in an appropriate academic study of such activity.
- sexually explicit or sex-based statements or anecdotes or questions or statements about sexual activity other than in a legitimate academic study of such activity.
- unwanted sexual advances, propositions, invitations, or other forms of pressure (either blatant or subtle) for sexual activity.
- offensive touching, including engaging in unwanted hugging, patting, kissing, or brushing up against someone's body, or other inappropriate touching.
- knowingly invading another's personal space in a sexually suggestive manner.
- displaying sexually suggestive pictures, objects, posters, cartoons, or calendars other than in a legitimate academic study of such activity.
- making sexual gestures; or

- sending suggestive or obscene notes or phone calls or e-mail.

The following list describes the different categories of Sexual Misconduct covered by this Policy:

- A. **Dating Violence:** Acts of violence or threatened acts of violence committed by a Responding Party who is or has been in a social relationship of a romantic or intimate nature with the Complainant.
- B. **Domestic Violence:** Acts of violence or threatened acts of violence committed by a current or former spouse or intimate partner of the Complainant, with whom the Complainant shares a child in common, or who is cohabitating with or who has cohabitated with the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the state, or by any other person against a Complainant who is protected from that person's acts under the domestic or family violence laws of the state.
- C. **Sexual Harassment:** Sexual harassment is unwelcome conduct based on actual or perceived sex that is so severe, pervasive, and objectively offensive to a reasonable person, that it effectively denies the Complainant equal access to an educational program or activity. It includes the conduct of a sexual nature, as well as non-sexual conduct if such conduct is engaged in based on actual or perceived sex or gender. It may involve intimidation, threats, coercion, sexual advances, and/or requests for sexual favors or other verbal, non-verbal or physical conduct of a sexual nature. For purposes of this Policy, Sexual Harassment also includes Sexual Battery, Sexual Violence, and Sexual Exploitation as further defined below. There are two (2) categories of Sexual Harassment that may impact a student's University experience:
 1. Harassing conduct that is of a sexual nature or based on sex that is sufficiently severe, pervasive, and objectively offensive so that it effectively denies the Complainant equal access to an educational program or activity. The determination of whether an environment is severe, pervasive, and objectively offensive to effectively deny the Complainant equal access to an educational program or activity must be based on the totality of the circumstances. These circumstances could include, and are not limited to:
 - The frequency of the conduct.
 - The nature and severity of the conduct.
 - Whether the conduct was physically threatening.
 - Whether the conduct was humiliating.
 - The effect of the conduct on the alleged victim's mental or emotional state.
 - Whether the conduct was directed at more than one person.

- Whether the conduct arose in the context of other discriminatory conduct.
- Whether the statement is a mere utterance of an epithet which engenders offense in an individual, or offends by mere discourtesy or rudeness; and
 - Whether the speech or conduct deserves the protections under other principles such as academic freedom.

2. Quid pro quo type sexual harassment exists when there are:

- a. Unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature; and
- b. Submission to such conduct is a condition of receiving aid, benefit, or service from the University, or the rejection of such conduct results in an adverse educational or employment action.

D. Sexual Violence: Physical sexual acts perpetrated against a person without the person's affirmative consent, including sexual assault, dating violence, domestic violence, and stalking. Physical sexual acts include both of the following:

1. **Rape:** Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ by another person, without the consent of the victim. Attempts or assaults to commit rape are also included; however, statutory rape and incest are excluded.
2. **Sexual Battery:** Intentional touching of another person's intimate parts without consent, intentionally causing a person to touch the intimate parts of another without consent or using a person's own intimate part to intentionally touch another person's body without consent.

E. Sexual Exploitation: When a Responding Party takes non-consensual or abusive sexual advantage of another for the Responding Party's own advantage or benefit, or to benefit or advantage anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to, prostituting another person; trafficking of another person (the inducement of a person to perform a commercial sex act, or labor or services, through force, fraud, or coercion; non-consensual digital/video, or audio recording, or photographing of another person's sexual activity or intimate parts; distribution of images, including video or photograph, or audio of another person's intimate parts and/or sexual activity or distribution of such without consent; going beyond the boundaries of consent (such as letting your friends surreptitiously watch you having consensual sex); engaging in voyeurism or exhibitionism; the viewing of another person's sexual activity or intimate parts, in a place where that other person would have a reasonable expectation of privacy, without consent, for the purpose of

arousing or gratifying sexual desire; or knowingly transmitting a sexually transmitted disease (STD) or sexually transmitted infection (STI) to another University member without informing that person of the STD or STI .

- F. **Stalking:** Ongoing conduct that could cause a reasonable person to fear for the safety of themselves or others, or suffer substantial emotional distress (e.g., following, monitoring, threatening, communicating to or about the Complainant, or interfering with their property).

Other Important Definitions

- A. **Parties:** A **Complainant** is a person who is alleged to be a victim of conduct that violates this Policy. In certain circumstances, the Title IX Coordinator may choose to bring forth a formal complaint of an alleged policy violation. A **Responding Party** is a person who is alleged to have engaged in conduct in violation of this Policy.
- B. **Affirmative Consent:** Consent is informed, voluntary, affirmative, and revocable and cannot be given when a person is incapacitated.
 1. Affirmative consent is an affirmative, unambiguous, and conscious decision by each person to engage in mutually agreed-upon sexual activity.
 2. Voluntary consent must be given without force, threats, or intimidation. Affirmative consent means expression of intent to engage in the act pursuant to an exercise of free will.
 3. Consent is revocable and consent to some form of sexual activity does not imply consent to other forms of sexual activity. Consent to sexual activity on one occasion is not consent to engage in sexual activity on another occasion. A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be mutual consent to engage in sexual activity. Consent must be ongoing throughout a sexual encounter and can be revoked at any time. Once consent is withdrawn, the sexual activity must stop immediately.
 4. Consent cannot be given when a person is incapacitated. A person cannot consent if the person is unconscious or coming in and out of consciousness. A person cannot consent if the person is under the threat of violence, bodily injury or other forms of coercion. A person cannot consent if the person's understanding of the act is affected by a physical or mental impairment. For the purposes of this Policy, the age of consent is consistent with the laws of the state in which the alleged incident occurred.
- C. **Force:** Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that

overcomes free will or resistance or that produces consent.

- D. Incapacitation:** Incapacitation is the physical and/ or mental inability to make informed, rational judgments. States of incapacitation include but are not limited to unconsciousness, sleep, and blackouts. Where alcohol or drugs are involved, incapacitation is defined with respect to how the alcohol or other drugs consumed affects a person's decision-making judgments. Being intoxicated by drugs or alcohol does not diminish one's responsibility to obtain Affirmative Consent. The factors to be considered when determining whether consent was given include whether the accused knew, or whether a reasonable person should have known, that the Complainant was incapacitated.
- E. Intimidation:** Words or conduct by one person that places another person in reasonable fear of bodily harm.
- F. Retaliation:** Adverse action was taken against a person because that person has, or is believed to have 1) reported a possible violation of this Policy, which includes both formal and informal reports, and/or 2) made a complaint, testified, or participated in an investigation or proceeding.
- G. Unwelcome Conduct:** For purposes of this Policy, conduct is considered "unwelcome" if, under the totality of the circumstances it is 1) neither solicited nor incited, and 2) if it is objectively offensive.
- H. Offensive to a Reasonable Person:** For purposes of this Policy, a determination whether the conduct would be so severe, pervasive, and objectively offensive to a reasonable person shall be determined under the totality of the circumstances, including but not limited to the nature and context of the conduct, its frequency, the relationship of the parties, whether the alleged Responding Party was asked to cease the alleged offending conduct, and whether the alleged Responding Party did so.
- I. Jurisdiction:** This Policy only covers acts occurring against persons in the United States that occur in connection with any educational activity or other program, as well as incidents that occurred outside of those educational programs or activities, whether on or off campus, if there is any reason to believe that the incident could contribute to a hostile educational environment or otherwise interfere with a student's access to education. The Title IX Coordinator(s) will make a factual determination about whether complained-of conduct is subject to this Policy upon receipt and review of any complaint or other information.
- J. Awareness Programs:** Community wide or audience specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration.

- K. Ongoing prevention and awareness campaigns:** Campaigns that are sustained over time focusing on increasing awareness or understanding topics relevant to sexual assault, domestic violence and stalking prevention.
- L. Primary Prevention Programs:** Programming initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion or positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention and seek to change behavior and social norms in healthy and safe directions.
- M. Risk reduction:** Decrease the probability of an adverse outcome.
- N. Bystander Intervention:** Safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.
- O. Proceeding:** Refers to all methods of invoking the action of a court; any procedural means of seeking redress from a tribunal or agency; a step in a larger action; the regular progression of a legal action.
- P. Result:** Outcome of a legal action.
- Q. Technological Abuse:** an act or pattern of behavior that occurs within domestic violence, sexual assault, dating violence or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology, including but not limited to: internet enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.

Title IX Coordinator(s)

Students, faculty, and/or staff who believe they have been subject to sex/gender-based discrimination, Sexual Misconduct (as defined above), or retaliation, should freely and without fear of retaliation report such misconduct to the University's Title IX Coordinator(s).

Any UMass Global administrator, staff, or faculty member who receives a complaint or other information from a student, staff, or faculty member that could constitute a potential violation of this Policy must report all pertinent information to the Title IX Coordinator(s) who is charged with handling these types of complaints and determining whether any investigation is required. The only exception to this reporting requirement is for a UMass Global employee who has confidentiality obligations, either as a therapist or other person acting in a professional capacity as required by law.

Administrators, staff, and faculty cannot make assurances of confidentiality with respect to reporting information to the Title IX Coordinator because the University has a legal duty to respond to such allegations. The Title IX Coordinator will address all possible options with the Complainant, including steps that may be taken to protect confidentiality. With regards to confidentiality, the Title IX Coordinator may consider: whether there are multiple or prior reports of sexual misconduct against the same Responding Party; whether the Responding Party used a weapon, physical restraints, or engaged in battery; whether the Responding Party is faculty or staff with oversight of students; whether there is a power imbalance between the Complainant and Responding Party; the safety of the Complainant; and the ability to conduct a thorough investigation and obtain relevant evidence in the absence of cooperation. The Title IX Coordinator will inform the Complainant about whether confidentiality can be honored under the circumstances and consistent with applicable laws. If confidentiality is not possible, the Title IX Coordinator will take appropriate measures to protect Complainant's safety, as requested.

Members from the University community are strongly encouraged to report all incidents that threaten a student's continued well-being, safety, or security. Reports from any member of the University community relating to sex/gender-based discrimination, Sexual Misconduct (as defined above), or retaliation, must be communicated to UMass Global's Title IX Coordinator(s).

The Title IX coordinator's core responsibilities include, but are not limited to:

- Overseeing the school's response to Title IX reports and complaints
- Ensuring complaints are handled in accordance with established practices and standards
- Investigating complaints
- Ensuring compliance with Title IX, the Clery Act, and other applicable federal and state laws
- Identifying and addressing any patterns or systemic problems revealed by such reports and complaints

Any information about a complaint alleging facts that, if proven, could constitute a violation of this Policy, should be sent to:

Justyn Howard, Esq.
Assistant Vice Chancellor, Student Conduct &
Compliance; Title IX Coordinator
16355 Laguna Canyon Road Irvine, CA 92618

949-383-3903

jhoward4@umassglobal.edu.

Title9office@umassglobal.edu

In the event that an incident involves alleged misconduct *by the Title IX Coordinator(s)*, reports should be made directly to:
CivilRightsComplaints@umassglobal.edu

Individuals experiencing any kind of harassment or discrimination also have the right to file a formal grievance with government authorities:

**Office for Civil Rights
(OCR) San Francisco
Office**

**U.S. Department of
Education**

50 Beale Street, Suite 7200

San Francisco, CA 94105-

1813 Telephone: (415) 486-
555

Facsimile: (415) 486-5570

Email: OCR.SanFrancisco@ed.gov

Web: <http://www.ed.gov/ocr>

Staff members and faculty may also make a report to these government agencies:

**Equal Employment
Opportunity
Commission (EEOC)**

Los Angeles District Office

Royal Federal Building 255

East Temple Street, 4th

floor Los Angeles, CA 90012

Telephone: (800) 669-4000

Facsimile: (213) 894-1118

Web: www.eeoc.gov

**Oregon Bureau of Labor
and Industries Civil
Rights Division**

Telephone: (971) 673-

0764_

crdemail@boli.state.or.us

**Department of Fair
Employment and
Housing (DFEH)**

Los Angeles District Office

320 West 4th Street, 10th Floor

Los Angeles, CA 90013

Telephone: (800) 884-

1684

Email:

contact.center@dfeh.ca.gov

Web: www.dfeh.ca.gov

Washington State Human Rights Commission Olympia Headquarters

Telephone: (800)233-3247

Web: www.hum.wa.gov/

Retaliation Prohibited

Regardless of the alleged status of the Responding Party, the Complainant or, where applicable, the Title IX Coordinator (as signatory on a formal complaint), any UMass Global community member should feel free to report violations of Title IX to any of the above individuals for investigation. The University will not tolerate retaliation against any individual who in good faith files a complaint under Title IX or who participates in an investigation or proceeding relating to a complaint made pursuant to this Policy.

Information for the Complainant

If you have been subject to behavior or conduct prohibited by this Policy, please consider the following information:

A. Medical Attention

Medical providers can treat injuries and test for pregnancy and STDs. Some medical providers can perform a Sexual Assault Forensic Exam which preserves evidence for use in a criminal case.

B. Police Reporting

It is your decision whether or not to report to the police. For the quickest police response, dial 911. To preserve evidence of physical assault, avoid washing your body, brushing your teeth, or changing your clothing. If you believe you may have been drugged and wish to have your blood or urine tested, this should be done as soon as possible at a medical facility.

Be aware that some physical evidence must be collected close to the time of the incident. Even if you have already cleaned yourself or if the incident occurred in the past, you can still report to the police.

C. Reporting to the University

You may wish to report to the University to access support or to file a complaint against a university student, faculty or staff member who engaged in the unwelcome behavior. Any UMass Global employee who receives a complaint or information concerning a potential violation of this Policy must report all pertinent information to the Title IX Coordinator(s) who is charged with handling these types of complaints, consistent with the requirements listed above.

D. Confidential Support

You may wish to speak with a person who can support you while maintaining confidentiality.

1. Inside California, you can contact:

- CALCASA (California Coalition Against Sexual Assault) at 916- 446-2520 or www.calcasa.org. They can direct you to support in your county.

2. Inside Washington, you may contact:

- WCSAP (Washington Coalition of Sexual Assault Programs) at 360-

754-7583 or www.wcsap.org. They can direct you to support in your community.

3. Nationally, you may contact:
 - RAINN (Rape, Abuse & Incest National Network) at 1-800- 656-HOPE (4673) or www.rainn.org
 - National Sexual Violence Resource Center at 877-739-3895 or www.nsvrc.org
 - National Domestic Violence Hotline at 1-800-799-7233 or www.thehotline.org
4. Employees may contact the Employee Assistance Program administered by CompPsych at 800-311-4327. The website is www.guidanceresources.com.

These organizations can provide support and information on what types of conduct are prohibited by law and can assist you with information about reporting to police, applying for civil protection orders, and all other options available to you.