

UMASS GLOBAL TITLE IX POLICY

(Effective August 1, 2024)

I. NON-DISCRIMINATION POLICY

UMass Global does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in employment and admission. Discrimination on the basis of sex includes, but is not limited to, pregnancy or related conditions, gender identity, sex stereotypes, sex characteristics, and sexual orientation.

II. NOTICE OF NON-DISCRIMINATION

UMass Global does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in employment. Discrimination on the basis of sex includes, but is not limited to, pregnancy or related conditions, gender identity, sex stereotypes, sex characteristics, and sexual orientation.

UMass Global's Policy Prohibiting Discrimination, Harassment, and Retaliation and grievance procedures can be located at <https://www.umassglobal.edu/about-umassglobal/consumer-information/title-ix>. To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please refer to the Title IX Coordinator information below.

Inquiries about Title IX may be referred to the University's Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights (OCR), or both. The Title IX Coordinator can be reached at the following:

Justyn Howard, Esq.
Assistant Vice Chancellor, Student Conduct & Compliance
UMass Global
65 Enterprise, Suite 150
Aliso Viejo, CA 92656
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. The OCR National Headquarters is located at:

U.S. Department of Education, Office of Civil Rights,
Lyndon Baines Johnson Department of Education Bldg.
400 Maryland Ave. SW
Washington, DC 20202-1100
OCR@ed.gov
(800) 421-3481

The local OCR is located at:

50 Beale Street, Suite 7200
San Francisco, CA 94105-1813
ocr.sanfrancisco@ed.gov
(415) 486-5555
(415) 486-5570 - fax
OCR.SanFrancisco@ed.gov
<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
(800) 669-4000
(213) 894-1118 - fax
www.eeoc.gov

Oregon Bureau of Labor and Industries Civil Rights Division

(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
(800) 884-1684
contact.center@dfeh.ca.gov
www.dfeh.ca.gov

Washington State Human Rights Commission Olympia Headquarters

Telephone:(800) 233-3247
www.hum.wa.gov/

III. PURPOSE

The purpose of UMass Global’s Title IX Policy (“**Policy**”) is to prohibit sex discrimination, which includes sex-based harassment as defined by the U.S. Department of Education’s regulations construing Title IX of the Education Amendments Act of 1972 (*See* 34 C.F.R. § 106, *et seq.*) (“**Title IX**” or “**Title IX regulations**”), and sexual harassment as defined by California Education Code 66262, *et seq.*, as amended (“**State Law**”).¹

UMass Global (the “**University**”) is committed to maintaining safe learning, living and working environments free of discrimination, harassment, sexual violence, and other forms of sexual misconduct that undermine the University’s educational mission. In pursuit of that goal, this Policy provides individuals with the appropriate process for reporting and redressing individual reports of sex discrimination, sex-based harassment, and sexual harassment².

IV. SCOPE AND APPLICABILITY

A. General

Consistent with longstanding University policy, Title IX regulations, State Law, and other applicable state and federal statutes prohibit UMass Global from discriminating on the basis of sex in all University educational programs or activities, and this requirement against discrimination extends to admission and employment.

This Policy addresses sex discrimination and sex-based harassment (including the sexual harassment of students, as defined by State Law). There are other University policies (e.g., Policy Prohibiting Discrimination and the Policy Prohibiting Discrimination, Harassment, and Retaliation) that address different forms of discrimination and harassment. If the Title IX Coordinator receives a report about misconduct that is not sex discrimination or sex-based harassment as defined by Title IX or State Law, the Title IX Coordinator will not adjudicate that complaint. The conduct may be adjudicated by other individuals under the relevant University policy(ies).

B. Prohibited Acts

The University strictly prohibits sex discrimination (which includes sex-based harassment as defined by Title IX as well as sexual harassment as defined by State Law), in the context of all education programs and activities that the University operates, in University employment relationships, and in University admission. The University will promptly and effectively respond to reports of sex discrimination, including sex-based harassment and sexual harassment, and will take appropriate action to prevent and remediate such behavior.

C. Jurisdiction

This Policy applies to all sex discrimination occurring in admission, employment, or under the University’s education program or activity in the United States on or after August 1, 2024. (For

¹ Under the California Equity in Higher Education Act, the sexual harassment of students, including certain defined acts of sexual violence, is a form of sex discrimination prohibited by Title IX.

² Statistical data on the prevalence of sexual harassment and sexual violence in educational settings may be found at the [Rape, Abuse & Incest National Network \(RAINN\)](#) website.

prohibited Title IX-related conduct that occurred *before* August 1, 2024, the University will apply the relevant Title IX policy and procedures in effect at the time the alleged incident occurred.)

Under Title IX, “conduct that occurs under the University’s education program or activity” includes, but is not limited to:

- conduct that occurs in a building owned or controlled by a student organization that is officially recognized by the University;
- conduct that is subject to the University’s disciplinary authority; or
- conduct that may constitute sex-based hostile environment, even when some conduct alleged to be contributing to the hostile environment occurred outside the University’s education program or activity or outside the United States.

Where the respondent is not subject to the University’s disciplinary authority, the University will offer and implement supportive measures to the complainant consistent with the goals of this Policy, which may include reporting the conduct to law enforcement, as appropriate.

D. Applicability

While UMass Global strives to prevent and address all forms of harassment and discrimination in its education programs and activities as well as in the workplace, the provisions contained within this Policy apply specifically to University administrators, faculty, staff, and students who have been subjected to conduct that could constitute sex discrimination (including sex-based harassment and sexual harassment) under Title IX or applicable State Law as well as other individuals who have been subjected to conduct that could constitute sex discrimination (including sex-based harassment and sexual harassment) under Title IX or applicable State Law while participating, or attempting to participate, in the University’s education program or activity at the time of the alleged misconduct. 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 participating or attempting to participate in business with the University.

Other University resources and policies, including but not limited to, the Student Conduct Code or the Policy Prohibiting Discrimination may govern complaints and subsequent disciplinary actions for conduct that does not fall under Title IX or corresponding State Law.

Alleged misconduct subject to this Policy includes sex discrimination, sex-based harassment, and sexual harassment as defined by Title IX and State Law in the “Definitions” section (Section V) below.

This Policy applies regardless of the complainant’s or respondent’s sexual orientation, sex, gender identity, age, race, nationality, religion, ability, or any other local, state, or federally protected identity.

The University has the authority to combine violations of federal, state, and local statutes, as well as other University policies, such as those in the Student Conduct Code or Employee handbook(s) that are related to the same incident subject to review under this policy, even though they may not be directly related to prohibited acts, as defined in this Policy. Generally, once a complaint or investigation is initiated under this Policy, it will supersede all other policies and will be used to

resolve any and all other ancillary complaints arising out of the same or related incidents or allegations.

E. Discipline and Corrective Actions

The University will take reasonable steps to prevent the recurrence of sex discrimination and to minimize the impact on the complainant (and others, if appropriate). Any member of the University community who is found to have engaged in sex discrimination, including sex-based harassment or sexual harassment will be subject to appropriate discipline, up to and including expulsion, termination of employment or termination of their relationship with the University. The University also may take any other corrective action that it deems appropriate under the circumstances.

F. False Statements

The University will not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred. However, the University may address false statements by initiating a disciplinary process under relevant University policy or procedures if there is evidence independent of the determination as to whether sex discrimination occurred.

G. Free Speech and Academic Freedom

This Policy is intended to define University standards and to outline the investigation and grievance processes when those standards are violated. The prohibitions against discrimination and harassment do not extend to statements and written materials that are otherwise protected by principles of freedom of speech or academic freedom.

H. Distribution of Policy

As part of the University's commitment to providing a working and learning environment free from sex discrimination, this Policy shall be distributed and/or made available online widely to the University community (which includes students and employees, volunteers who will regularly interact with students, and individuals or entities under contract with the University to perform any service involving regular interaction with students at the University). The University will distribute this Policy by appropriate channels of communications, including posting it on an internet or intranet web site and directly notifying the appropriate individuals of how to access the Policy by an exact URL address or link, and that they may request a paper copy. The University will make preventive educational materials available to its students and employees and will provide incoming students with a copy of this Policy along with an informational pamphlet at a scheduled Title IX informational session as part of their orientation.

I. Education and Training Programs

Title IX requires that the University provides programming to educate employees about sex discrimination, including sex-based harassment and sexual harassment. Educational programming consists of primary prevention and awareness programs for all incoming students and new employees and ongoing awareness and prevention campaigns for students and employees.

Any individual serving as the University's Title IX Coordinator or designee(s), Investigators, Informal Resolution Facilitators, or Appeal Officers will receive training on this Policy; trauma-

informed investigatory and hearing practices that do not rely on sex stereotypes to help ensure an impartial and equitable process; best practices for assessment of a sexual harassment or sexual violence complaint; best practices for questioning of the complainant, respondent, and witnesses; and implicit bias and racial inequities, both broadly and in the University's disciplinary processes. Further, they will receive training on questions of relevance, and on preparing an Investigation Report, Determination, or Appeal decision, as appropriate.

In addition to providing specified training to each University representative engaged in the University's grievance procedure, Title IX and State Law requires the University to provide training to all University employees on the University's obligation to address sex discrimination in its education program and activity, the scope of conduct that constitutes sex discrimination under Title IX and State Law and all applicable notification and information requirements under this Policy.

V. DEFINITIONS

When the following terms are used in this Policy, they have the meaning set forth in § 106.2 of the Title IX Regulations, State Law, and other applicable statutes:

Advisor. An Advisor is a person who has agreed to provide support and advice to a Complainant or Respondent.

Affirmative Consent. Under State Law, the term "affirmative consent" is defined as affirmative, conscious, and voluntary agreement to engage in sexual activity, as discussed further in Section VII of this Policy.

Complainant. The term "complainant" means:

- (1) A University student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or applicable State Law; or
- (2) An individual other than a University student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or applicable State Law and who was participating, or attempting to participate, in the University's education program or activity at the time of the alleged sex discrimination.

Complaint. The term "complaint" means an oral or written request to the University that objectively can be understood as a request for the University to investigate and make a determination about alleged discrimination under Title IX and/or applicable State Law.

Disciplinary sanctions. The term "disciplinary sanctions" means consequences imposed on a respondent following a determination under Title IX and/or applicable State Law that the respondent violated the University's prohibition on sex discrimination (including sex-based harassment and sexual harassment).

Parental status. The term "parental status" as defined under Title IX means the status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is:

- (1) A biological parent;
- (2) An adoptive parent;
- (3) A foster parent;
- (4) A stepparent;

- (5) A legal custodian or guardian;
- (6) In loco parentis with respect to such a person; or
- (7) Actively seeking legal custody, guardianship, visitation, or adoption of such a person.

Party. The term “party” means a complainant or respondent, collectively referred to as “parties”.

Pregnancy or related conditions. The term “pregnancy or related conditions” means:

- (1) Pregnancy, childbirth, termination of pregnancy, or lactation;
- (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
- (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

Relevant. The term “relevant” means related to the allegations of sex discrimination (including sex-based harassment and sexual harassment) under investigation as part of these grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a Decision-maker in determining whether the alleged misconduct occurred.

Remedies. The term “remedies” means measures provided, as appropriate, to a complainant or any other person the University identifies as having had their equal access to the University’s education program or activity limited or denied by sex discrimination (including sex-based harassment and sexual harassment). These measures are provided to restore or preserve that person’s access to the University’s education program or activity after the University determines that such misconduct occurred.

Respondent. The term “respondent” means a person who is alleged to have violated the University’s prohibition on sex discrimination (including sex-based harassment and sexual harassment).

Sex discrimination. Under Title IX, the term “sex discrimination” (i.e., discrimination on the basis of sex) includes discrimination based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

Sex-based harassment. “Sex-based harassment” is a form of sex discrimination. Under Title IX, the term “sex-based harassment” means sexual harassment and other harassment on the basis of sex (including harassment on the bases of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity) that is:

- (1) *Quid Pro Quo Harassment.* An employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the University’s education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct;
- (2) *Hostile Environment Harassment.* Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the University’s education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - (i) The degree to which the conduct affected the complainant’s ability to access the University’s education program or activity;

- (ii) The type, frequency, and duration of the conduct;
- (iii) The parties' ages, roles within the University's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- (iv) The location of the conduct and the context in which the conduct occurred; and
- (v) Other sex-based harassment in the University's education program or activity; or

(3) *Specific offenses:*

- (i) "Sexual assault" refers to an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting System, meaning an offense classified as a forcible or nonforcible sex offense under the crime reporting system of the Federal Bureau of Investigation (FBI). *See* 20 U.S.C. § 1092(f)(6)(A)(v). The FBI defines a "sex offense" as any sexual act including Rape, Sodomy, Sexual Assault with an Object, or Fondling directed against another person, without the consent of the victim—including instances where the victim is incapable of giving consent; also unlawful sexual intercourse.

(A) "Rape" (Except Statutory Rape) is defined as the carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

(B) "Sodomy" is defined as oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

(C) "Sexual Assault with an Object" means to use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

(D) "Fondling" is defined as the touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

(E) "Incest" is defined as nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

(F) "Statutory rape" is defined as nonforcible sexual intercourse with a person who is under the statutory age of consent.
See "FBI, Uniform Crime Reporting Program: National Incident-Based Reporting System (2018)."

(ii) “Dating violence” refers to violence committed by a person:

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

(1) The length of the relationship;

(2) The type of relationship;

(3) The frequency of interaction between the persons involved in the relationship.

See 34 U.S.C. § 12291(a)(11).

(iii) “Domestic violence” includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding and, in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who—

(A) is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim;

(B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;

(C) shares a child in common with the victim; or

(D) commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction. *See* 34 U.S.C. § 12291(a)(12).

(iv) “Stalking” refers to engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress.

See 34 U.S.C. § 12291(a)(36).

For purposes of the definition of stalking:

- “course of conduct” means two or more or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.
- “reasonable person” means a reasonable person under similar circumstances and with similar identities to the victim.
- “substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

See 34 C.F.R. § 668.46(a).

Sexual harassment. Sexual harassment of students is a form of sex discrimination prohibited by State Law. Under Cal. Ed. Code § 66262.5, as amended, “sexual harassment” is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:

- Submission to the conduct is explicitly or implicitly made a term or a condition of an individual’s employment, academic status, or progress.
- Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.
- The conduct has the purpose or effect of having a negative impact upon the individual’s work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.
- Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the University. (*Also see* Cal. Ed. Code § 212.5.)

The State Law’s definition of sexual harassment includes “sexual battery,” “sexual violence,” and “sexual exploitation.” For purposes of this Policy, such terms have the following meanings:

- (1) “Sexual violence” means physical sexual acts perpetrated against a person without the person’s affirmative consent. *Physical sexual acts* include both of the following:
 - (A) “Rape,” defined as penetration, no matter how slight, of the vagina or anus with any part or object, or oral copulation of a sex organ by another person, without the consent of the victim.
 - (B) “Sexual battery,” defined as below.
- (2) “Sexual battery” means the 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.
- (3) “Sexual exploitation” means a person taking sexual advantage of another person for the benefit of anyone other than that person without that person’s consent, including, but not limited to, any of the following acts:
 - (A) The prostituting of another person.
 - (B) The trafficking of another person, defined as the inducement of a person to perform a commercial sex act, or labor or services, through force, fraud, or coercion.
 - (C) The recording of images, including video or photograph, or audio of another person’s sexual activity or intimate parts, without that person’s consent.
 - (D) The distribution of images, including video or photograph, or audio of another person’s sexual activity or intimate parts, 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 the disclosure.

- (E) 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 that person’s consent, for the purpose of arousing or gratifying sexual desire.

Supportive Measures. The term “supportive measures” means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to:

- (1) Restore or preserve that Party’s access to the University’s education program or activity, including measures that are designed to protect the safety of the Parties or the University’s educational environment; or
- (2) Provide support during the University’s grievance procedures for resolution of complaints of sex discrimination, sex-based harassment, or sexual harassment or during the informal resolution process.

VI. TITLE IX AND THE TITLE IX COORDINATOR

A. Title IX

Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., and its implementing regulations, 34 CFR Part 106, prohibit discrimination on the basis of sex in education programs or activities operated by recipients of federal financial assistance. Title IX states:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

B. The Role and Responsibilities of the Title IX Coordinator

If the University has knowledge of conduct that reasonably may constitute sex discrimination in its education program or activity (as defined by the Title IX regulations and/or applicable State Law), it must respond promptly and effectively. The Title IX Coordinator is responsible for coordinating the University’s compliance with its obligations under Title IX and applicable State Law.

The University requires its Title IX Coordinator, when notified of conduct that reasonably may constitute sex discrimination under Title IX or applicable State Law, to take the following actions to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects:

- (1) Monitor the University’s education program or activity for barriers to reporting information about conduct that reasonably may constitute sex discrimination under Title IX and/or applicable State Law.
- (2) Take steps reasonably calculated to address such barriers.
- (3) Treat the complainant and respondent equitably.

- (4) Offer and coordinate supportive measures, as appropriate, for the complainant. In addition, if the University has initiated grievance procedures under this Policy (as described in detail below), or offered an informal resolution process to the respondent, offer and coordinate supportive measures, as appropriate, for the respondent.
- (5) Notify the complainant or, if the complainant is unknown, the individual who reported the conduct, of the applicable grievance procedures under this Policy, as well as the informal resolution process, if appropriate and allowed.
- (6) If a complaint is made, notify the respondent of the applicable grievance procedures under this Policy, as well as the informal resolution process, if appropriate and allowed.
- (7) In response to a complaint, initiate the applicable grievance procedures under this Policy, or the informal resolution process, if appropriate, allowed and requested by all parties.

C. Complaints Initiated by the Title IX Coordinator

Under Title IX, in the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator shall determine whether to initiate a complaint of sex discrimination that complies with the grievance procedures under 34 CFR § 106.45, and, if applicable 34 CFR § 106.46.

The Title IX Coordinator's decision to initiate a complaint of sex discrimination is a fact-specific determination, and at a minimum will include the following factors:

- The Complainant's request not to proceed with initiation of a complaint;
- The Complainant's reasonable safety concerns regarding initiation of a complaint;
- The risk that additional facts of sex discrimination would occur if a complaint is not initiated;
- The severity of the alleged sex discrimination, including whether the discrimination, if established, would require removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
- The age and relationship of the parties, including whether the respondent is an employee of the University;
- The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
- The availability of evidence to assist a Decision-maker in determining whether sex discrimination occurred; and
- Whether the University could end the alleged sex discrimination and prevent its

recurrence without initiating Title IX grievance procedures.

If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as alleged prevents the University from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint.

The Title IX Coordinator is not required to initiate a complaint upon being notified of conduct that may constitute sex discrimination if the Title IX Coordinator reasonably determines that the conduct as alleged could not constitute sex discrimination under Title IX.

D. Title IX Coordinator

Individuals who wish to make a complaint of sex discrimination, including sex-based harassment, in violation of this Policy should contact the Title IX Coordinator. UMass Global's Title IX Coordinator is:

Justyn Howard, Esq.
Assistant Vice Chancellor, Student Conduct & Compliance
UMass Global
65 Enterprise, Suite 150
Aliso Viejo, CA 92656
949-383-3903
Jhoward4@umassglobal.edu
Title9office@umassglobal.edu

As appropriate, the University may delegate, or permit the Title IX Coordinator to delegate, specific duties to one or more designees.

VII. CONSENT

A. What is Affirmative Consent

Affirmative consent is an affirmative, conscious, and voluntary agreement to engage in sexual activity.

It is the responsibility of each person involved in the sexual activity to ensure that the person has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent.

Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. Once consent is withdrawn, the sexual activity must stop immediately.

The existence of a dating relationship between the parties involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

In the evaluation of complaints in the University's grievance processes, it shall not be a valid excuse to alleged lack of affirmative consent that the respondent believed that the complainant consented to the sexual activity under either of the following circumstances:

- The respondent's belief in affirmative consent arose from the intoxication or recklessness of the respondent.
- The respondent did not take reasonable steps, in the circumstances known to the respondent at the time, to ascertain whether the complainant affirmatively consented.

Additionally, it shall not be a valid excuse that the respondent believed that the complainant affirmatively consented to the sexual activity if the respondent knew or reasonably should have known that the complainant was unable to consent to the sexual activity under any of the following circumstances:

- The complainant was asleep or unconscious.
- The complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the complainant could not understand the fact, nature, or extent of the sexual activity.
- The complainant was unable to communicate due to a mental or physical condition. For purposes of this Policy, the age of consent is consistent with the laws of the state in which the alleged incident occurred.

The standard used in determining whether the elements of the complaint against the respondent have been demonstrated is the preponderance of the evidence. The respondent will be found responsible if they knew or reasonably should have known that the complainant was incapacitated, from the perspective of a reasonably sober person.

B. Related Definitions

Coercion is the practice of forcing another party to act in an involuntary manner by use of intimidation or threats or some other form of undue pressure or force. A person cannot consent if the person is under the threat of violence, bodily injury or other forms of coercion.

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.

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.

A person whose incapacity results from mental disability, sleep, involuntary physical restraint, inability to communicate due to mental or physical condition and/or from the consumption (voluntary or otherwise) of incapacitating drugs cannot give consent.

Intimidation includes words or conduct by one person that places another person in reasonable fear of bodily harm.

VIII. REPORTING SEX DISCRIMINATION, SEX-BASED HARASSMENT, OR SEXUAL HARASSMENT

A. What is a Complaint

A complaint is an oral or written request to the University that objectively can be understood as a request for the University to investigate and make a determination about alleged sex discrimination (including sex-based harassment and sexual harassment) under Title IX or applicable State Law.

1. Applicable Grievance Procedures.

Complaints of sex discrimination, including sex-based harassment and sexual harassment, will be governed by the grievance procedures set forth in Section IX of this Policy, in accordance with 34 CFR § 106.45 of the Title IX regulations and, where applicable, State Law.

Complaints of sex-based harassment or sexual harassment in which a University student is the complainant and/or the respondent will be governed by the grievance procedures set forth in Section X of this Policy, in accordance with 34 CFR § 106.46 of the Title IX regulations and, where applicable, State Law.

2. Consolidation of Complaints.

The Title IX Coordinator may consolidate complaints of sex discrimination, sex-based harassment and/or sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. The Title IX Coordinator will not consolidate complaints if consolidation would violate the Family Educational Rights and Privacy Act (FERPA). Consolidation would not violate FERPA when the University obtains written consent from the eligible student to the disclosure of their education records.

B. Who Can Make a Complaint

1. Complaints of Sex Discrimination, including Sex-Based Harassment and Sexual Harassment.

The following persons have a right to make a complaint of sex discrimination, including complaints of sex-based harassment and sexual harassment, to the Title IX Coordinator requesting that the University investigate and make a determination about such alleged misconduct under Title IX and/or applicable State Law:

- (i) A complainant, which includes:
 - a. a University student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination, sex-based harassment, or sexual harassment under Title IX and/or applicable State Law; or
 - b. an individual other than a University student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination, sex-based harassment, or sexual harassment under Title IX and/or applicable State Law at a time when that individual was participating or attempting to participate in the University's education program or activity;

- (i) A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- (ii) The Title IX Coordinator (after making the determination specified in Section VI.C. of this Policy).

2. *Complaints of Sex Discrimination That Do Not Include Sex-based Harassment or Sexual Harassment.*

With respect to complaints of sex discrimination other than sex-based harassment or sexual harassment, the following individuals have a right to make a complaint:

- (ii) A complainant, which includes:
 - a. a University student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX and/or applicable State Law; or
 - b. an individual other than a University student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX and/or applicable State Law at a time when that individual was participating or attempting to participate in the University’s education program or activity;
- (iii) A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant;
- (iv) The Title IX Coordinator (after making the determination specified in Section VI.C. of this Policy);
- (v) Any University student or employee; or
- (vi) Any person other than a University student or employee who was participating or attempting to participate in the University’s education program or activity at the time of the alleged sex discrimination.

C. How to Make a Complaint

1. *Complaints to the Title IX Coordinator.*

The University’s Title IX Coordinator must be notified of any information about conduct that reasonably may constitute sex discrimination, including sex-based harassment or sexual harassment. The only exception to this notification requirement applies to information provided to a Confidential Employee, as explained below.

Upon receiving such complaint, the Title IX Coordinator will provide the individual with a written explanation of the individual’s rights and options, irrespective of whether the incident occurred under the University’s education program or activity.

Complaints may be made in person, by mail, by telephone, or by electronic mail, using the contact information listed in this Policy for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the individual’s verbal or written

complaint. Such complaints may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed in this Policy for the University's Title IX Coordinator.

Individuals are strongly encouraged to make reports promptly in order to best preserve evidence for a potential legal or disciplinary proceeding.

Amnesty for Minor Misconduct Violations. Students may be reluctant to report incidents because of concerns that their own behavior may be a violation of University policies. The University's primary concern is student safety. The University strongly encourages students to immediately report about conduct that reasonably may constitute sex discrimination, including sex-based harassment and sexual harassment, to the University or to law enforcement. A bystander acting in good faith or a complainant acting in good faith who discloses any such incident to the University or law enforcement will not be subject to disciplinary action under the University's policies for minor misconduct violations, such as alcohol and/or drug use policies, based on conduct that occurs at or near the time of the reported incident. Other individuals present will also not be subject to disciplinary action under the University's policies for minor misconduct violations, including alcohol and/or drug use policies, occurring at or near the time of the reported incident.

Public Awareness Events. When the Title IX Coordinator is notified of information about conduct that reasonably may constitute sex discrimination, sex-based harassment or sexual harassment that was provided by an individual during a public event to raise awareness about sex discrimination, sex-based or sexual harassment that was held on the University's campus or through an online platform sponsored by the University, the University is not obligated to act in response to the information, unless it indicates an imminent and serious threat to the health or safety of a complainant, any students, employees, or other persons. However, in all cases the University will use this information to inform its efforts to prevent sex discrimination, sex-based harassment and sexual harassment. Nothing in Title IX or this Section requires the Title IX Coordinator or any other employee to attend such public awareness events.

2. Notification Requirements for Confidential Employees.

To ensure that the University's education program or activity is free from sex discrimination while also respecting the Complainant's autonomy, the following three classifications of University employees are Confidential Employees who are not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination, including sex-based harassment and sexual harassment.

For purposes of this Policy, the Confidential Employees' confidential status only applies to information received while that employee is functioning within the scope of their official duties to which the confidentiality applies.

- (1) Any UMass Global employee whose communications are privileged or confidential under Federal or State Law is a Confidential Employee under this Policy. Such employee's confidential status, for purposes of this Policy, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies. Examples include:

- a. Physician-Patient Privilege
 - b. Psychotherapist-Patient Privilege
 - c. Clergy-Penitent Privilege
 - d. Sexual Assault Counselor-Victim Privilege
- (2) Any UMass Global employee (such as therapists or mental health counselors) whom the University has designated as confidential for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services.
- (3) Any UMass Global employee who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination—but only with respect to information received while conducting the study.

NOTE: Even though Confidential Employees are not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination (including sex-based harassment and sexual harassment), *all* Confidential Employees are still required to provide the following information to that individual:

- The Confidential Employee's status as confidential for purposes of Title IX;
- How to contact the Title IX Coordinator;
- How to make a complaint of sex discrimination; and
- How the Title IX Coordinator can help by offering and coordinating supportive measures, as well as initiating an informal resolution process or an investigation under the applicable grievance procedures.

3. Notification Requirements for Non-Confidential Employees.

Any UMass Global employee who does not fall into one of the three categories of a Confidential Employee is a Non-Confidential Employee. All Non-Confidential Employees are required to notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination, sex-based harassment, or sexual harassment under this Policy. This includes complaints made to Campus Security.

If the Non-Confidential Employee is both a student and an employee, for purposes of designating such individual's notification obligations, the student-employee is required follow the notification requirements for Non-Confidential Employees if the student-employee is functioning in their capacity as an employee—and not as a student—at the time they receive information about conduct that reasonably may constitute sex discrimination, sex-based harassment or sexual harassment under this Policy.

Although Confidential Employees and Non-Confidential Employees may receive information regarding conduct that reasonably may constitute sex discrimination, including sex-based harassment and sexual harassment, providing such information to a Confidential or Non-Confidential Employee will not trigger the University's Title IX grievance procedures.

Non-compliance with this policy may result in disciplinary action, up to and including separation from the University.

4. Reports to Law Enforcement.

Reports of incidents such as Specific Offenses of sex-based harassment (as defined by Title IX) or sexual battery, sexual violence, or sexual exploitation (as defined by State Law) constitute potential criminal acts that could be grounds for criminal and/or civil action. Individuals have the right to file a criminal report against a respondent simultaneously with a report of sex-based harassment or sexual harassment under this Policy.

Individuals are strongly encouraged to report incidents to the local police department. Individuals are also encouraged to contact the local victim/survivor services office, counseling centers, and health care providers for appropriate action. In general, there is no time limit for students to make a report, but an undue delay in reporting may affect the quality or preservation of evidence or witness testimony that would have been available.

In cases where individuals are interested in pursuing criminal and/or civil charges, it is especially important to work with law enforcement so that statements can be taken and evidence can be collected immediately. If the individual has experienced sexual intrusion or sexual penetration, they are encouraged to seek medical attention immediately. A medical examination can identify any internal trauma, test for sexually transmitted infections, as well as obtain appropriate medical evidence should one choose to pursue legal charges at some later date. 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 may still file a report with the police.

5. Requests for Confidentiality.

If a complainant requests confidentiality, which could preclude a meaningful investigation or potential discipline of the potential respondent, or that no investigation or disciplinary action be pursued to address alleged sexual harassment, the University will take the request seriously, while at the same time considering its responsibility to provide a safe and nondiscriminatory environment for all students, including for the complainant. The University will generally grant the request. In determining whether to disclose a complainant's identity or proceed to an investigation over the objection of the complainant, the University may consider whether any of the following apply:

- (i) There are multiple or prior reports of sexual misconduct against the respondent.
- (ii) The respondent reportedly used a weapon, physical restraints, or engaged in battery.
- (iii) The respondent is an employee with oversight of students.

- (iv) There is a power imbalance between the complainant and respondent.
- (v) The complainant believes that the complainant will be less safe if the complainant's name is disclosed or an investigation is conducted.
- (vi) The University is able to conduct a thorough investigation and obtain relevant evidence in the absence of the complainant's cooperation.

If the University determines that it can honor the student's request for confidentiality, it will still take reasonable steps to respond to the complaint, consistent with the request, to limit the effects of the alleged sexual harassment and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the complainant. These steps may include increased monitoring, supervision, or security at locations or activities where the alleged misconduct occurred; providing additional training and education materials for students and employees; or conducting climate surveys regarding sexual violence. The University will also take immediate steps to provide for the safety of the complainant while keeping the complainant's identity confidential as appropriate. These steps may include changing living arrangements or course schedules, assignments, or tests. The complainant will be notified that the steps the University will take to respond to the complaint will be limited by the request for confidentiality.

If the University determines that it must disclose the complainant's identity to the respondent or proceed with an investigation, it shall inform the complainant prior to making this disclosure or initiating the investigation. The University will also take immediate steps to provide for the safety of the complainant where appropriate. In the event the complainant requests that the University inform the respondent that the student asked the University not to investigate or seek discipline, the University shall honor this request.

IX. GRIEVANCE PROCEDURES FOR COMPLAINTS OF SEX DISCRIMINATION, INCLUDING SEX-BASED HARASSMENT AND SEXUAL HARASSMENT

UMass Global has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX and applicable State Law.

A. Complaints

1. Complaints of sex-based harassment and/or sexual harassment.

The following individuals have a right to make a complaint of sex-based harassment and/or sexual harassment, requesting that the University investigate and make a determination about such allegations under Title IX and/or applicable State Law:

- a. A complainant;
- b. A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or

- c. The Title IX Coordinator.

The individual is entitled to make a complaint of sex-based harassment and/or sexual harassment only if they themselves are alleged to have been subjected to such misconduct, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements of Title IX.

NOTE: For complaints of sex-based harassment and sexual harassment in which a THE UNIVERSITY student is the complainant and/or the respondent, please refer to the grievance procedures provided in Section X (below).

2. Complaints of sex discrimination.

With respect to complaints of sex discrimination that do not include allegations of sex-based harassment or sexual harassment, the following individuals have a right to make a complaint requesting that the University investigate and make a determination about alleged sex discrimination under Title IX and applicable State Law:

- a. A complainant;
- b. A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant;
- c. The Title IX Coordinator;
- d. Any University student or employee; or
- e. Any individual other than a University student or employee who was participating or attempting to participate in the University's education program or activity at the time of the alleged sex discrimination.

B. Basic Requirements of Title IX Grievance Procedures

The investigation and adjudication of alleged misconduct under this Policy is not an adversarial process between the complainant, the respondent, and the witnesses, but rather a process for the University to comply with its obligations under existing law. The complainant does not have the burden to prove, nor does the respondent have the burden to disprove, the underlying allegation(s) of misconduct.

UMass Global will treat complainants and respondents equitably.

The University requires that any Title IX Coordinator, Investigator, or Decision-maker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. A Decision-maker may be the same person as the Title IX Coordinator or Investigator.

The Investigator presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

The University has established the following major stages of the grievance procedures, which will be implemented with reasonable promptness:

Evaluation (*i.e.*, the decision whether to dismiss or investigate a complaint)

Investigation

Determination

Appeal

The University will provide periodic status updates on the investigation consistent with the stages referenced above to the complainant and respondent.

The University has also established the following reasons that allow for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay. “Good cause” may include the complexity of the circumstances surrounding an allegation; scheduled and unscheduled breaks; the absence of a party, a party’s advisor, or a witness; concurrent law enforcement activity; the need for language assistance or accommodation of disabilities; appeal of a dismissal; or an attempt at Informal Resolution. The University will provide notice in writing to the parties regarding any extension of a time period granted in the investigation and fact-finding process that would change the prospective timeframes for the major stages of the complaint process, and the reason for that extension.

The Investigator will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

The Investigator and/or Decision-maker will objectively evaluate all evidence that is relevant and not otherwise impermissible— including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person’s status as a complainant, respondent, or witness.

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

- (1) Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a Confidential Employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- (2) A party’s or witness’ records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the University obtains that party’s or witness’s voluntary, written consent for use in its grievance procedures; and
- (3) Evidence that relates to the complainant’s sexual interests or prior sexual conduct, unless:
 - a. evidence about the complainant’s prior sexual conduct is offered to prove

that someone other than the respondent committed the alleged misconduct;

- b. evidence about prior or subsequent sexual history between the complainant and anyone other than the respondent is offered to prove that physical injuries alleged to have been inflicted by the respondent were inflicted by another individual;
- c. evidence about specific incidents of the complainant's prior sexual conduct with the respondent is offered to prove consent to the alleged misconduct. (NOTE: The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sexual misconduct or preclude determination that the sexual misconduct occurred); or
- d. evidence about the existence of a dating relationship or prior or subsequent consensual sexual relations between the complainant and the respondent is offered to prove how the parties communicated consent in prior or subsequent consensual sexual relations.

Before allowing the consideration of any evidence proffered pursuant to this subsection, the Investigator or Decision-maker shall provide a written explanation to the parties as to why consideration of the evidence is consistent with this Policy.

C. Notice of Allegations

Upon initiation of the University's Title IX grievance procedures, the Title IX Coordinator will notify the parties of the following:

- (i) The University's Title IX grievance procedures and any informal resolution process;
- (ii) Sufficient information available at the time to allow the parties to respond to the allegations, including:
 - a. the identities of the parties involved in the incident(s),
 - b. the conduct alleged to constitute sex discrimination, and
 - c. the date(s) and location(s) of the alleged incident(s);
- (iii) Retaliation is prohibited; and
- (iv) The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence. If the parties are only provided an accurate description of the evidence, the parties will be provided an equal opportunity to access the relevant and not otherwise impermissible evidence upon request.

If, in the course of an investigation, the Investigator decides to investigate additional allegations of sex discrimination (including sex-based harassment or sexual harassment) by the respondent toward the complainant that are not included in the notice provided or that are included in a

complaint that is consolidated, the Title IX Coordinator will notify the parties of the additional allegations.

D. Dismissal of a Complaint

1. Grounds for Dismissal of a Complaint.

The Title IX Coordinator may dismiss a complaint of sex discrimination (including sex-based harassment or sexual harassment) if:

- (1) The Title IX Coordinator is unable to identify the respondent after taking reasonable steps to do so;
- (2) The respondent is not participating in the University's education program or activity and is not employed by the University;
- (3) The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the Title IX Coordinator determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination, sex-based harassment, or sexual harassment under Title IX and/or applicable State Law even if proven; or
- (4) The Title IX Coordinator determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination, sex-based harassment, or sexual harassment under Title IX and/or applicable State Law. Before dismissing the complaint, the Title IX Coordinator will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, the Title IX Coordinator will promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the Title IX Coordinator will also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.

2. Appeal of the Dismissal of a Complaint.

The Title IX Coordinator will notify the complainant that a dismissal may be appealed and will provide the complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs after the respondent has been notified of the allegations, then the Title IX Coordinator will also notify the respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases:

- (i) Procedural irregularity that would change the outcome;
- (ii) New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- (iii) The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the

individual complainant or respondent that would change the outcome.

3. Title IX Appeal Committee.

The Title IX Appeal Committee is appointed by the Executive Vice Chancellor (EVC) & Chief Operating Officer (COO), and the Vice-Chancellor (VC) of Human Resources & CHRO. The Title IX Appeal Committee shall consist of any combination of three administrators, faculty, and/or staff members. It is responsible for reviewing and adjudicating all Title IX hearing appeals. Depending on the circumstances of the appeal, the University in its sole discretion may elect to designate an external hearing officer to preside over the appeal instead of an Appeal Committee consisting of UMass Global community members.

The members constituting the Title IX Appeal Committee, or the external hearing officer, shall not have any conflict of interest or bias and shall not be a person who either investigated the complaint or rendered a decision at the hearing that is the subject of the appeal. Parties and their advisors shall have five (5) days from the date the University notifies the parties of the names of the Hearing Committee members and/or officer to raise any potential conflict of interest concerns. Any determinations that are required concerning whether a conflict of interest exists shall be made by the EVC & Chief Operating Officer (COO) in consultation with the VC of Human Resources & CHRO.

4. Notice of Appeal.

A request for appeal shall be submitted in writing to civilrightscorrections@umassglobal.edu within five (5) business days of the receipt of the written notice of dismissal and must clearly demonstrate the grounds for appeal, including documentation and/or reasoning as to why the ground(s) is (are) met.

Upon receipt of the request for appeal, it will be referred for review to the Title IX Appeal Committee (or Officer). The Title IX Committee (or Officer) will:

- (i) Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- (ii) Implement appeal procedures equally for the parties;
- (iii) Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- (iv) Notify the parties of the result of the appeal and the rationale for the result.

When a complaint is dismissed, the Title IX Coordinator will, at a minimum:

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

E. Investigation

The University will provide for adequate, reliable, trauma-informed, and impartial investigation of complaints.

The burden is on the University—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

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

The Investigator will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

The Investigator will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sexual misconduct and not otherwise impermissible, in the following manner:

- The Title IX Coordinator will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. If the Title IX Coordinator provides a description of the evidence, the parties will be provided with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request;
- The Title IX Coordinator will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
- The Title IX Coordinator will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

F. Questioning the Parties and Witnesses

The University will provide a process that enables the Decision-maker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination, including sex-based harassment and sexual harassment.

The Decision-maker will conduct an objective evaluation of all relevant evidence— including both inculpatory and exculpatory evidence. At no stage of the grievance process will credibility determinations be made based on a person's status as a complainant, respondent, or witness. Complaints of sex discrimination (including sex-based harassment and sexual harassment) often involve allegations with competing plausible narratives and no eyewitnesses. Such credibility assessment will be evaluated by objectively evaluating relevant and not otherwise impermissible evidence that is available, regardless of whether that evidence consists of the parties' own statements, statements of witnesses, or other evidence. This does not mean that corroborating evidence is required, but the availability of relevant and permissible corroborating evidence may bolster a party's credibility in support of or in opposition to the allegations contained in the complaint.

G. Determination Whether Sex Discrimination Occurred

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence:

- The Decision-maker will use the preponderance of the evidence standard of proof to determine whether sex discrimination (including sex-based harassment or sexual harassment) occurred. The preponderance of the evidence standard is met if the University determines that it is more likely than not that the alleged misconduct occurred, based on the facts available at the time of the decision. This standard of proof requires the Decision-maker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the Decision-maker is not persuaded under the applicable standard by the evidence that sex discrimination (including sex-based harassment or sexual harassment) occurred, whatever the quantity of the evidence is, the Decision-maker will not determine that such misconduct occurred.
- The Decision-maker will notify the parties in writing of the determination whether sex discrimination (including sex-based harassment or sexual harassment) occurred under Title IX or applicable State Law, including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal.
- The University will not impose discipline on a respondent for sex discrimination prohibited by Title IX or applicable State Law unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination, sex-based harassment, and/or sexual harassment.
- If there is a determination that sex discrimination (including sex-based harassment and sexual harassment) occurred, the Title IX Coordinator will, as appropriate:
 - Coordinate the provision and implementation of remedies to a complainant and other people the University identifies as having had equal access to the University's education program or activity limited or denied by sex discrimination;
 - Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
 - Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the University's education program or activity.
- The University will comply with the grievance procedures before the imposition of any disciplinary sanctions against a respondent.

H. Appeal of the Decision-maker's Determination

1. Grounds for Appeal.

The University will offer an appeal from a dismissal or determination whether sex discrimination (including sex-based harassment and sexual harassment) occurred on the

following bases:

- (1) The party has new evidence which was previously unavailable and could affect the outcome of the matter;
- (2) The party alleges that there was a procedural error that affected the outcome of the matter;
- (3) The party challenges the assertion that the evidence presented during the investigation process was sufficient/insufficient to support the outcome; or
- (4) The party alleges unfair bias by the investigator, Title IX Coordinator, or Title IX Hearing Committee (or officer) which affected the outcome of the matter.

2. Title IX Appeal Committee.

The Title IX Appeal Committee is appointed by the Executive Vice Chancellor(EVC) & Chief Operating Officer (COO), and the Vice-Chancellor (VC) of Human Resources & CHRO. The Title IX Appeal Committee shall consist of any combination of three administrators, faculty, and/or staff members. It is responsible for reviewing and adjudicating all Title IX hearing appeals. Depending on the circumstances of the appeal, the University in its sole discretion may elect to designate an external hearing officer to preside over the appeal instead of an Appeal Committee consisting of UMass Global community members.

The members constituting the Title IX Appeal Committee, or the external hearing officer, shall not have any conflict of interest or bias and shall not be a person who either investigated the complaint or rendered a decision at the hearing that is the subject of the appeal. Parties and their advisors shall have five (5) days from the date the University notifies the parties of the names of the Hearing Committee members and/or officer to raise any potential conflict of interest concerns. Any determinations that are required concerning whether a conflict of interest exists shall be made by the EVC & Chief Operating Officer (COO) in consultation with the VC of Human Resources & CHRO.

3. Notice of Appeal.

A request for appeal shall be submitted in writing to civilrightscomplaints@umassglobal.edu within five (5) business days of the receipt of the written hearing outcome and must clearly demonstrate the grounds for appeal, including documentation and/or reasoning as to why the ground(s) is (are) met.

Upon receipt of the request for appeal, it will be referred for review to the Title IX Appeal Committee (or Officer). The Title IX Committee (or Officer) will:

- Notify the parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- Implement appeal procedures equally for the parties;

- Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Communicate to the parties in writing that the University will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging the outcome, and
- Notify the parties in writing of the result of the appeal and the rationale for the result.

A request for appeal shall be limited to review of the documentation associated with the investigation and initial hearing, including any documents and testimony presented at the hearing. If the appeal is based on material new evidence, which was previously unavailable, the request for appeal must provide or describe the evidence, explain how or why the evidence might affect the determination of whether a violation occurred or the appropriate sanctions, and explain why the evidence was previously unavailable to the party and any efforts made by the party to identify or obtain the evidence during the pendency of the investigation or hearing. If the Title IX Appeal Committee (or Officer) determines that none of the criteria for an appeal have been met, the Title IX Appeal Committee (or Officer) shall sustain the decision of the original hearing. If, however, any of the conditions are found to exist, the Title IX Appeal Committee (or Officer) may:

1. Hear the full appeal.
2. Hear only a portion of the appeal; or
3. Render a decision without a hearing involving the parties.

In determining whether to modify any given sanction(s), the Title IX Appeal Committee (or Officer) has the option to take either of the following actions:

1. Elect not to change any of the sanctions imposed by the Title IX Hearing Committee (or Officer); or
2. Reduce the severity of the sanctions imposed (the severity of the sanctions cannot be increased).

Should a party not appeal within the timeframe for appeal, the hearing decision, findings, and sanctions will be final and binding.

All appeal decisions will be final and binding. The outcome will be simultaneously communicated to the parties in writing, explaining the rationale for the outcome, within five (5) business days from the completion of the appeal process.

I. Informal Resolution

Informal Resolution presents the opportunity for the complainant and respondent to resolve allegations of sexual misconduct without an investigation. Participation in Informal Resolution in lieu of an applicable grievance procedure is purely voluntary. The University does not require that the complainant enter a voluntary resolution agreement or any other form of resolution as a prerequisite to receiving supportive measures which safeguard the complainant's access to education.

Informal Resolution may be used only with the approval of the Title IX Coordinator, who may deem its use inappropriate based on applicable statutes, specific allegations involved, or other factors. State Law prohibits informal resolution, even on a voluntary basis, to resolve a student's allegations of sexual violence.

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

- (1) The allegations;
- (2) The requirements of the informal resolution process;
- (3) That any party has the right to withdraw from the informal resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
- (4) That if the parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume grievance procedures arising from the same allegations;
- (5) The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties. Potential terms that may be included in an informal resolution agreement include but are not limited to:
 - (i) Restrictions on contact; and
 - (ii) Restrictions on the respondent's participation in one or more of the University's programs or activities or attendance at specific events, including restrictions the University could have imposed as remedies or disciplinary sanctions had the University determined at the conclusion of the applicable grievance procedures that sex discrimination occurred.
- (6) What information the University will maintain and whether and how the University could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed.

The facilitator for the informal resolution process will not be the same person as the Investigator or the Decision-maker in the University's grievance procedures. Any person designated to facilitate an informal resolution process will receive training under this Policy and must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

J. Supportive Measures

1. Examples of Supportive Measures.

The University will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to the University's education program or activity or provide support during the applicable grievance procedures or during the informal resolution process. For complaints of sex-based harassment or sexual harassment, these supportive measures may include, but are not

limited to:

- counseling;
- extensions of deadlines and other course-related adjustments;
- escort services;
- increased security and monitoring at university events;
- mutual or non-mutual no-contact directives applied to one or more parties;
- leaves of absence;
- changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative;
- training and education programs related to sex-based harassment; or
- any other supportive measures tailored to the individual to achieve the goals of this Policy.

The University may use these Supportive Measures in any combination thereof, or create new measures as needed. The University will take responsive action to enforce the Supportive Measures.

In cases involving allegations solely of sex-based harassment or sexual harassment, the University may also impose an immediate interim suspension (for students) or administrative leave (for employees), or take other appropriate interim action, even if it may have a burden or impact on the respondent or may otherwise be deemed to temporarily separate the respondent from an educational program or activity and without following the procedures for “Emergency Removals and Administrative Leaves” under Section XV of this Policy.

2. Request to Challenge Supportive Measures.

The University will provide a complainant or respondent with a timely opportunity to seek modification or reversal of the University’s decision to provide, deny, modify, or terminate supportive measures applicable to them. Such request must be sought from an appropriate and impartial employee. The impartial employee must be someone other than the employee who made the challenged decision and must have authority to modify or reverse the decision, if the impartial employee determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measures as provided above.

A party may only challenge the approval, denial, modification or termination of a supportive measure that applies to them. For instance, a respondent may not challenge the approval, denial, modification, or termination of a supportive measure that applies only to the complainant, and vice versa. If a supportive measure applies to both the complainant and the respondent, either party could challenge the decision to approve, deny, modify, or terminate such supportive measure.

The University will also provide a party with the opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change materially. “Materially changed” circumstances may vary, depending on the particular context of the Complainant and Respondent. For instance, if a respondent is required, as a supportive measure, to transfer to a different classroom or section so that the respondent and complainant are not in the same class, the respondent may seek to terminate

that supportive measure if the complainant withdraws from the class.

The University may also, as appropriate, modify or terminate supportive measures at the conclusion of the grievance process or at the conclusion of the informal resolution process, or the University may continue them beyond that point.

3. *Confidentiality of Supportive Measures.*

The University will not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a Party's access to the education program or activity, or when an exception provided in this Policy applies.

If the complainant or respondent is a student with a disability, the Title IX Coordinator may consult, as appropriate, with the individual or office that the University has designated to provide support to students with disabilities to determine how to comply with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) in the implementation of supportive measures.

K. Disciplinary Sanctions and Remedies

1. *Disciplinary Sanctions for Students.*

Any of the following disciplinary sanctions may be imposed upon any student found responsible for violating the Title IX Policy. There is no requirement that sanctions be progressive in nature. The University may, at its discretion, impose severe discipline for a student's first violation.

Each case should be evaluated based upon its individual circumstances:

- Formal Warning – This is a written reprimand to the student that the student is violating or has violated the Title IX Policy and that any future violation(s) may result in more serious sanctions.
- Interim Suspension – A temporary separation of the student from the University during the investigation and hearing process.
- No-Trespassing Order – The student will be prohibited from entering University property and/or attending university sanctioned events and can be applied to any probation, suspension or expulsion status.
- No-Contact Directive – The student will be prohibited from contacting the Complainant or, where applicable, other members of the University community. This order may limit all contact or contact of a specific type or regarding a specific subject. No-contact directives issued following a finding responsibility will not be mutual and will only be implemented against a responsible party.
- Probation – This reprimand is in effect for a prescribed period of time and includes the probability of more severe sanctions for any future violation(s) of the Title

IX Policy. Additional education sanctions may be issued in conjunction with probationary status.

- Suspension – Separation of the student from the University for a defined period of time, after which the student is eligible to return. Conditions for re-admission will be specified. Suspensions will be noted on the student’s transcript. Students will be held responsible for meeting their financial obligations to the University and may not visit the University while under suspension.
- Deferred Suspension – A suspension may be deferred by the Title IX Committee (or Officer) allowing the student to remain at the University provided specified conditions are adhered to by the student. Failure to meet those conditions or further violations of the Title IX Policy will result in automatic suspension from the University.
- Expulsion – Permanent surrender of all rights and privileges of membership in the University community and exclusion from the campus, from any University property, and from all University functions. Students will be held responsible for meeting their financial obligations to the University and may not visit any University property or event while under expulsion. Expulsions will be noted on the student’s transcript. Students who have been expelled from the university are not eligible for readmission at any time.
- Academic Sanctions – Revocation of degree, and/or holding transcripts, and/or removal from classroom/courses.
- Reflective assignments – Apology letters, research paper on an assigned topic, written responses to posed questions.
- Restitution – Compensation for loss, damage, or injury (may take the form of appropriate service and/or monetary or material replacement).
- Service benefiting the surrounding community.
- Workshops – Decision-making skills workshops, anger management, alcohol and/or drug education, or other formal coaching or counseling.
- Sanctions for prospective students not yet enrolled may include but are not limited to:
 - Admission and/or enrollment under probationary status, additional requirements considered
 - Temporary denial of admission and/or enrollment for a period to be determined
 - Permanent denial of admission and/or enrollment

Other Actions – In addition to or in place of the above sanctions, the University may assign

any other sanctions as deemed appropriate.

Sanctions imposed are implemented immediately unless the EVC of Enrollment and Student Affairs delays their implementation in extraordinary circumstances or pending the outcome of an appeal as described below.

2. Disciplinary Sanctions for Staff and Faculty.

If, after the formal investigation and hearing process above is completed, it is determined that by a preponderance of the evidence a violation of the Title IX Policy has occurred by an administrator, staff, or faculty respondent, the Title IX Coordinator(s) will refer the complaint, investigation and hearing findings based on the processes below:

For Staff and Administrators. Any findings pertaining to respondents who are non-faculty employees of the University will be referred to the Vic-Chancellor (“VC”) of Human Resources (“HR”) & CHRO (or designee). The VC of HR will review the investigation and hearing findings, including but not limited to, documents, evidence, witness statements, etc., and may meet with the complainant or, where applicable, the Title IX Coordinator (as signatory on a formal complaint), and respondent. The VC of HR, after consulting with the respondent’s direct supervisor, will issue a written decision concerning corrective action or discipline, if any, to the Executive Vice Chancellor of Finance and Administration. The complainant and respondent will be informed of any relevant corrective action or disciplinary action implemented based on a violation of this Policy simultaneously and via UMass Global email, usually within five (5) working days of the decision.

For Faculty. Consistent with the Full-Time Faculty Manual, any findings pertaining to Respondent faculty members will be referred to the respective dean of the school in which the faculty member holds a primary appointment. The dean (or designee) will review the investigation and hearing findings, including but not limited to, documents, evidence, witness statements, etc. and may meet with the complainant or, where applicable, the Title IX Coordinator (as signatory on a formal complaint), and respondent. The dean will issue a written decision concerning disciplinary action if any. The University will follow disciplinary, dismissal, and grievance procedures as more fully set forth in the Full-Time Faculty Manual. The complainant and respondent will be informed of any relevant corrective action or disciplinary action implemented based on a violation of this Policy simultaneously and via UMass Global email, usually within five (5) working days of the decision.

Examples of Disciplinary Sanctions. Any of the following disciplinary sanctions may be imposed upon any administrator, staff, or faculty member found responsible for violating the Title IX Policy. There is no requirement that sanctions be progressive in nature. The University may, at its discretion, impose severe discipline for an administrator, staff, or faculty member’s first violation. Each case should be evaluated based upon its individual circumstances:

- Verbal, Written, or Final Written Warning – These are all levels of a written reprimand to the administrator, staff, or faculty member that individual is violating or has violated the Title IX Policy and that any future violation(s) may result in more serious sanctions.

- Interim Suspension (with or without pay) – A temporary separation of the administrator, staff, or faculty member from the University during the investigation and hearing process.
- No-Trespassing Order – The administrator, staff, or faculty member will be prohibited from entering onto campus or other University property and can be applies to any probation, suspension, or termination status.
- No-Contact Directive – The administrator, staff, or faculty will be prohibited from contacting the complainant or other members of the University community. This order may limit all contact or contact of a specific type or regarding a specific subject.
- Restitution – Compensation for loss, damage, or injury (may take the form of appropriate service and/or monetary or material replacement).
- Workshops – Decision-making skills workshops, anger management, alcohol and/or drug education, or other formal coaching or counseling.
- Loss of Annual Pay Increase – A loss of an upcoming expected annual pay increase.
- Loss of Oversight or Supervisory Responsibility – This reprimand could mean loss of oversight of a particular area or supervisory responsibility for a particular employee or group of employees.
- Demotion – A loss of title to a level deemed appropriate by the VC of HR or the appropriate dean.
- Non-Renewal of Contract – An independent contractor or faculty member may not have their contract renewed.
- Termination – Loss of status as an administrator, faculty, or staff member with the University, including the termination of a contract of an independent contractor or faculty member.
- Other Action – In addition to or in place of the above sanctions, the University may assign any other sanction as deemed appropriate.

3. *Disciplinary Sanctions for Other Individuals Whose Conduct is Subject to the University's Disciplinary Authority.*

UMass Global students may report sexual harassment by a third-party. The University will respond to those reports to address or prevent a hostile educational environment or to ensure students' access to education.

Third parties whose conduct is subject to the University's disciplinary authority who are found to have violated this Policy will be subject to corrective action deemed appropriate by the University, which may include removal from the campus and termination of any applicable contractual or other arrangements.

In instances where the University is unable to take disciplinary action in response to a violation of this Policy because a complainant insists on confidentiality or for some other reason, the University will nonetheless pursue other steps to limit the effects of the conduct at issue and prevent its recurrence.

Nothing in this subsection shall establish any duty or obligation owed by the University to non-student parties that does not already exist by statute or agreement.

4. *Other Considerations Related to Disciplinary Sanctions.*

There is no limit to the number of sanctions that may be imposed for any single violation. Other than expulsion and/or suspension, sanctions will not be made part of the student's permanent transcript but will become part of the student's confidential conduct record.

Failure to complete or comply with all sanctions as prescribed may result in an Administrative Hold and/or further sanctions, including suspension or termination, until such time as full compliance of sanctions is obtained.

Unless otherwise specified, all sanctions take effect upon notification of results of the determination; however, sanction deadlines may be alerted pending outcome of a potential appeal. Sanctions will be tracked by the Executive Vice Chancellor & Chief Operating Officer (COO) or designee.

5. *Remedies.*

The Title IX Coordinator is responsible for the implementation of remedies designed to restore or preserve equal access to the University's education program or activity. While remedies might constitute Supportive Measures, they also might be in the form of Sanctions.

GRIEVANCE PROCEDURES FOR COMPLAINTS OF SEX-BASED HARASSMENT OR SEXUAL HARASSMENT INVOLVING A UMASS GLOBAL STUDENT

UMass Global has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator. These grievance procedures address complaints of sex-based harassment or sexual harassment that involve a student party.

When a party is both a student and an employee of the University, the Title IX Coordinator shall make a fact-specific inquiry to determine whether the requirements of the Section of the Policy (in accordance with 34 CFR § 106.46 of Title IX as well as applicable State Law) apply. In making this determination, the Title IX Coordinator shall, at a minimum, consider whether the party's primary relationship with the University is to receive an education and whether the alleged sex-based harassment and/or sexual harassment occurred while the party was performing employment-related work.

A. Complaints

The following individuals have a right to make a complaint of sex-based harassment or sexual harassment, requesting that the University investigate and make a determination about such alleged misconduct under this Policy:

- (1) A complainant;
- (2) A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- (3) The University's Title IX Coordinator.

Note that an individual is entitled to make a complaint of sex-based harassment and/or sexual harassment only if they themselves are alleged to have been subjected to such conduct, if they have a legal right to act on behalf of such individual, or if the Title IX Coordinator initiates a complaint consistent with the requirements of Title IX.

B. Basic Requirements of Title IX Grievance Procedures

The investigation and adjudication of alleged misconduct under this Policy is not an adversarial process between the complainant, the respondent, and the witnesses, but rather a process for the University to comply with its obligations under existing law. The complainant does not have the burden to prove, nor does the respondent have the burden to disprove, the underlying allegation(s) of misconduct.

The University will treat Complainants and Respondents equitably.

The University requires that any Title IX Coordinator, Investigator, or Decision-maker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. A Decision-maker may be the same person as the Title IX Coordinator or Investigator.

The Investigator presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

The University has established the following major stages of the grievance procedures, which will be implemented with reasonable promptness:

Evaluation (*i.e.*, the decision whether to dismiss or investigate a complaint)

Investigation

Determination

Appeal

The University will provide periodic status updates on the investigation consistent with the major steps referenced above to the complainant and respondent.

The University has also established the following reasons that allow for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the Parties that includes the reason for the delay. "Good cause" may include the complexity of the circumstances surrounding an allegation; scheduled and unscheduled breaks³ campus closures; the absence of a Party, a Party's

³ The University will not unreasonably deny a student party's request for an extension of a deadline related to a complaint during periods of examinations or University closures.

advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities; appeal of a dismissal; or an attempt at Informal Resolution. The University will provide notice in writing to the parties regarding any extension of a time period granted in the investigation and fact-finding process that would change the prospective timeframes for the major stages of the complaint process, and the reason for that extension.

The Investigator will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

The Investigator and/or Decision-maker will objectively evaluate all evidence that is relevant and not otherwise impermissible— including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person’s status as a complainant, respondent, or witness.

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

- (1) Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a Confidential Employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- (2) A party’s or witness’ records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the University obtains that party’s or witness’s voluntary, written consent for use in its grievance procedures; and
- (3) Evidence that relates to the complainant’s sexual interests or prior sexual conduct, unless:
 - a. evidence about the complainant’s prior sexual conduct is offered to prove that someone other than the respondent committed the alleged misconduct;
 - b. evidence about prior or subsequent sexual history between the complainant and anyone other than the respondent is offered to prove that physical injuries alleged to have been inflicted by the respondent were inflicted by another individual;
 - c. evidence about specific incidents of the complainant’s prior sexual conduct with the respondent is offered to prove consent to the alleged misconduct. (NOTE: The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant’s consent to the alleged sexual misconduct or preclude determination that the sexual misconduct occurred); or

- d. evidence about the existence of a dating relationship or prior or subsequent consensual sexual relations between the complainant and the respondent is offered to prove how the parties communicated consent in prior or subsequent consensual sexual relations.

Before allowing the consideration of any evidence proffered pursuant to this subsection, the Investigator or Decision-maker shall provide a written explanation to the parties as to why consideration of the evidence is consistent with this Policy.

C. Written Notice of Allegations

Upon initiation of the University's grievance procedures, the Title IX Coordinator will notify the Parties in writing of the following with sufficient time for the Parties to prepare a response before any initial interview:

- (i) The University may have received a report that the student may have been a victim of sex-based harassment and/or sexual harassment, as defined in this Policy;
- (ii) The University's Title IX grievance procedures (including a description of potential disciplinary sanctions) and, where applicable, any informal resolution process;
- (iii) A request for the student to meet with the Title IX Coordinator or other designee to discuss options for responding to the report;
- (iv) Sufficient information available at the time to allow the parties to respond to the allegations, including:
 - a. the identities of the parties involved in the incident(s),
 - b. the conduct alleged to constitute sex-based harassment and/or sexual harassment, and
 - c. the date(s) and location(s) of the alleged incident(s);
- (v) Retaliation is prohibited;
- (vi) The respondent is presumed not responsible for the alleged misconduct until a determination is made at the conclusion of the grievance procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial Decision-maker;
- (vii) Potential interim measures, such as no-contact directives, and academic schedule changes, where applicable.
- (viii) The parties have a right to consult with an attorney, at their own expense, at any stage of the process if they wish to do so;
- (ix) Where a crime may have occurred, notice that the student has the right, but not the

obligation, to report the matter to law enforcement;

- (x) The importance of preserving evidence;
- (xi) The parties are entitled to an equal opportunity to access an investigative report that accurately summarizes this evidence. (The Parties are entitled to an equal opportunity to access the relevant and not impermissible evidence upon the request.);
- (xii) The parties will receive a notice regarding appropriate counseling resources [*Refer to Appendix A for a list of off-campus resources*]; and
- (xiii) Section 8(e) of the University's Student Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance procedures.

If, in the course of an investigation, the Investigator decides to investigate additional allegations of sex discrimination, sex-based harassment and/or sexual harassment by the respondent toward the complainant that are not included in the notice provided or that are included in a complaint that is consolidated, the Title IX Coordinator will notify the parties of the additional allegations.

If at any point in the investigation (for student-related matters), decision-making, or appeal process the Title IX Investigator, Title IX Coordinator, Title IX Hearing Committee, or Title IX Appeal Committee (or any externally designated hearing officer) determines that the alleged conduct does not result in a violation of the Title IX Policy, they may refer the case to the Regional Conduct Board for it to consider whether the conduct constitutes a violation of the Student Conduct Code.

D. Dismissal of a Complaint

1. Grounds for Dismissal of a Complaint.

The Title IX Coordinator may dismiss a complaint of sex discrimination if:

- (1) The Title IX Coordinator is unable to identify the respondent after taking reasonable steps to do so;
- (2) The respondent is not participating in the University's education program or activity and is not employed by the University;
- (3) The Title IX Coordinator obtains the complainant's voluntary withdrawal in writing of any or all of the allegations, the Title IX Coordinator declines to initiate a complaint, and the Title IX Coordinator determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination, sex-based harassment, or sexual harassment under Title IX and/or applicable State Law even if proven; or
- (4) The Title IX Coordinator determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination, sex-based harassment, or sexual

harassment under Title IX and/or applicable State Law. Before dismissing the complaint, the Title IX Coordinator will make reasonable efforts to clarify the allegations with the complainant.

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

3. Title IX Appeal Committee.

The Title IX Appeal Committee is appointed by the Executive Vice Chancellor(EVC) & Chief Operating Officer (COO), and the Vice-Chancellor (VC) of Human Resources & CHRO. The Title IX Appeal Committee shall consist of any combination of three administrators, faculty, and/or staff members. It is responsible for reviewing and adjudicating all Title IX hearing appeals. Depending on the circumstances of the appeal, the University in its sole discretion may elect to designate an external hearing officer to preside over the appeal instead of an Appeal Committee consisting of UMass Global community members.

The members constituting the Title IX Appeal Committee, or the external hearing officer, shall not have any conflict of interest or bias and shall not be a person who either investigated the complaint or rendered a decision at the hearing that is the subject of the appeal. Parties and their advisors shall have five (5) days from the date the University notifies the parties of the names of the Hearing Committee members and/or officer to raise any potential conflict of interest concerns. Any determinations that are required concerning whether a conflict of interest exists shall be made by the EVC & Chief Operating Officer (COO) in consultation with the VC of Human Resources & CHRO.

4. Notice of Appeal.

A request for appeal shall be submitted in writing to civilrightscomplaints@umassglobal.edu within five (5) business days of the receipt of the written dismissal decision and must clearly demonstrate the grounds for appeal, including documentation and/or reasoning as to why the ground(s) is (are) met.

Upon receipt of the request for appeal, it will be referred for review to the Title IX Appeal Committee (or Officer). The Title IX Committee (or Officer) will:

- (i) Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- (ii) Implement appeal procedures equally for the parties;
- (iii) Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- (iv) Notify the parties of the result of the appeal and the rationale for the result.

When a complaint is dismissed, the Title IX Coordinator will, at a minimum:

- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and

- Take other prompt and effective steps, as appropriate to ensure that sex discrimination does not continue or recur within the University’s education program or activity.

Should a party fail to appeal within the timeframe for appeal, the dismissal will be final and binding.

All appeal decisions will be final and binding. The outcome will be simultaneously communicated to the parties in writing, explaining the rationale for the outcome, within five (5) business days from the completion of the appeal process.

E. Investigation

The University will provide for adequate, reliable, trauma-informed, and impartial investigation of complaints.

The burden is on the University—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

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

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

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

The Title IX Coordinator will provide the parties with the same opportunities, if any, to have people other than the advisor of the parties’ choice present during any meeting or proceeding.

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

The Investigator will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

The Title IX Coordinator will provide each party and the party’s advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of sex-based harassment or sexual harassment and not otherwise impermissible, in the following manner:

- The Title IX Coordinator will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or the same written investigative report that accurately summarizes this evidence. If the Title IX Coordinator provides access to an investigative report, the Title IX Coordinator

will further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request;

- The Title IX Coordinator will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
- The Title IX Coordinator will take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through sex-based harassment or sexual harassment grievance procedures.

F. Questioning the Parties and Witnesses

The University will provide a process that enables the Decision-maker to question parties and witnesses to adequately assess a party's or witness' credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination, sex-based harassment, or sexual harassment.

The University's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will:

- Allow the Investigator or Decision-maker to ask such questions during individual meetings with a party or witness;
- Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the Investigator or Decision-maker during one or more individual meetings, including follow-up meetings, with a party or witness, subject to the procedures for evaluating and limiting questions discussed below; and
- Provide each party with an audio or audiovisual recording or transcript with enough time for the party to have a reasonable opportunity to propose follow-up questions.

1. Procedures for the Decision-maker to evaluate the questions and limitations on questions.

The Decision-maker will determine whether a proposed question is relevant and not otherwise impermissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible. Questions that are repetitive, irrelevant, or harassing of the party or witness being questioned will not be permitted. The Decision-maker will give a party an opportunity to clarify or revise a question that the Decision-maker determines is unclear or harassing. If the Party sufficiently clarifies or revises the question, the question will be asked.

2. Refusal to respond to questions and inferences based on refusal to respond to questions.

The Decision-maker may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The

Decision-maker will not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

G. Determination Whether Sex Discrimination Occurred

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence:

- The Decision-maker will use the preponderance of the evidence standard of proof to determine whether sex discrimination (including sex-based harassment or sexual harassment) occurred. The preponderance of the evidence standard is met if the University determines that it is more likely than not that the alleged misconduct occurred, based on the facts available at the time of the decision. This standard of proof requires the Decision-maker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the Decision-maker is not persuaded under the applicable standard by the evidence that sex discrimination, sex-based harassment, or sexual harassment occurred, whatever the quantity of the evidence is, the Decision-maker will not determine that such alleged misconduct occurred.
- The Decision-maker will notify the parties in writing of the determination whether sex discrimination, sex-based harassment, and/or sexual harassment occurred under Title IX and/or applicable State Law including:
 - (i) A description of the alleged sexual misconduct;
 - (ii) Information about the policies and procedures that the Decision-maker used to evaluate the allegations;
 - (iii) The Decision-maker's evaluation of the relevant and not otherwise impermissible evidence and determination whether such alleged misconduct occurred;
 - (iv) When the Decision-maker finds that sex discrimination, sex-based harassment, or sexual harassment occurred, any disciplinary sanctions the University will impose on the Respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by the University to the complainant, and, to the extent appropriate, other students identified by the University to be experiencing the effects of the such misconduct; and
 - (v) The University's procedures and permissible bases for the complainant and respondent to appeal.
- The University will not impose discipline on a respondent for sex discrimination, sex-based harassment, or sexual harassment prohibited by Title IX and/or applicable State Law unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in such misconduct.
- If there is a determination that sex discrimination (including sex-based harassment and sexual harassment) occurred, the Title IX Coordinator will, as appropriate:

- Coordinate the provision and implementation of remedies to a complainant and other people the University identifies as having had equal access to the University's education program or activity limited or denied by sex discrimination;
 - Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
 - Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the University's education program or activity.
- The University will comply with the grievance procedures before the imposition of any disciplinary sanctions against a respondent.

H. Appeals

1. Grounds for Appeal.

The University will offer an appeal from a dismissal or determination whether sex discrimination (including sex-based harassment and sexual harassment) occurred on the following bases:

- (1) The party has new evidence which was previously unavailable and could affect the outcome of the matter;
- (2) The party alleges that there was a procedural error that affected the outcome of the matter;
- (3) The party challenges the assertion that the evidence presented during the investigation process was sufficient/insufficient to support the outcome; or
- (4) The party alleges unfair bias by the investigator, Title IX Coordinator, or Title IX Hearing Committee (or officer) which affected the outcome of the matter.

2. Title IX Appeal Committee.

The Title IX Appeal Committee is appointed by the Executive Vice Chancellor(EVC) & Chief Operating Officer (COO), and the Vice-Chancellor (VC) of Human Resources & CHRO. The Title IX Appeal Committee shall consist of any combination of three administrators, faculty, and/or staff members. It is responsible for reviewing and adjudicating all Title IX hearing appeals. Depending on the circumstances of the appeal, the University in its sole discretion may elect to designate an external hearing officer to preside over the appeal instead of an Appeal Committee consisting of UMass Global community members.

The members constituting the Title IX Appeal Committee, or the external hearing officer, shall not have any conflict of interest or bias and shall not be a person who either

investigated the complaint or rendered a decision at the hearing that is the subject of the appeal. Parties and their advisors shall have five (5) days from the date the University notifies the parties of the names of the Hearing Committee members and/or officer to raise any potential conflict of interest concerns. Any determinations that are required concerning whether a conflict of interest exists shall be made by the EVC & Chief Operating Officer (COO) in consultation with the VC of Human Resources & CHRO.

3. *Notice of Appeal.*

A request for appeal shall be submitted in writing to civilrightscorrections@umassglobal.edu within five (5) business days of the receipt of the written hearing outcome and must clearly demonstrate the grounds for appeal, including documentation and/or reasoning as to why the ground(s) is (are) met.

Upon receipt of the request for appeal, it will be referred for review to the Title IX Appeal Committee (or Officer). The Title IX Committee (or Officer) will:

- Notify the parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- Implement appeal procedures equally for the parties;
- Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Communicate to the parties in writing that the University will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging the outcome, and
- Notify the parties in writing of the result of the appeal and the rationale for the result.

A request for appeal shall be limited to review of the documentation associated with the investigation and initial hearing, including any documents and testimony presented at the hearing. If the appeal is based on material new evidence, which was previously unavailable, the request for appeal must provide or describe the evidence, explain how or why the evidence might affect the determination of whether a violation occurred or the appropriate sanctions, and explain why the evidence was previously unavailable to the party and any efforts made by the party to identify or obtain the evidence during the pendency of the investigation or hearing. If the Title IX Appeal Committee (or Officer) determines that none of the criteria for an appeal have been met, the Title IX Appeal Committee (or Officer) shall sustain the decision of the original hearing. If, however, any of the conditions are found to exist, the Title IX Appeal Committee (or Officer) may:

1. Hear the full appeal.
2. Hear only a portion of the appeal; or
3. Render a decision without a hearing involving the parties.

In determining whether to modify any given sanction(s), the Title IX Appeal Committee (or Officer) has the option to take either of the following actions:

1. Elect not to change any of the sanctions imposed by the Title IX Hearing Committee (or Officer); or
2. Reduce the severity of the sanctions imposed (the severity of the sanctions cannot be increased).

Should a party not appeal within the timeframe for appeal, the hearing decision, findings, and sanctions will be final and binding.

All appeal decisions will be final and binding. The outcome will be simultaneously communicated to the parties in writing, explaining the rationale for the outcome, within five (5) business days from the completion of the appeal process.

I. Informal Resolution

Informal Resolution presents the opportunity for the complainant and respondent to resolve allegations of sexual misconduct without an investigation. Participation in Informal Resolution in lieu of an applicable grievance procedure is purely voluntary. The University does not require that the complainant enter a voluntary resolution agreement or any other form of resolution as a prerequisite to receiving supportive measures which safeguard the complainant's access to education.

Informal Resolution may be used only with the approval of the Title IX Coordinator, who may deem its use inappropriate based on applicable statutes, specific allegations involved, or other factors. State Law prohibits informal resolution, even on a voluntary basis, to resolve a student's allegations of sexual violence.

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

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

Informal Resolution can be commenced at any point prior to a finding as to responsibility. It is conducted by an Informal Resolution Facilitator appointed by the Title IX Coordinator. The complaint, respondent, Title IX Coordinator or Facilitator may terminate Informal Resolution at

any time prior to its completion. If Informal Resolution is terminated, the applicable grievance procedure will promptly commence or resume, as appropriate.

Informal Resolution may take many forms as agreed to between the complainant, respondent and Title IX Coordinator, including, but not limited to:

- Mediation: Mediation may involve the complainant and respondent being in the same or different rooms, but they will never be required to be in the same room. Mediation typically does not require an admission of responsibility for the sexual misconduct by the respondent.
- Restorative Justice: Restorative Justice may involve the complainant and respondent being in the same or different rooms, but they will never be required to be in the same room. Restorative Justice typically requires an admission of responsibility for the sexual misconduct, or certain allegations, by the respondent.

If the Informal Resolution is terminated such that the matter resumes the applicable grievance processes, no information shared or utilized during informal resolution may be used during such grievance process and the Informal Resolution Facilitator may not be called as a witness.

The outcome of the Informal Resolution will be documented in an agreement or other form that is signed by both the complainant and the respondent. If the respondent accepts responsibility and it is part of the parties' agreement, the outcome will be part of the respondent's disciplinary/employment record.

J. Supportive Measures

1. Examples of Supportive Measures.

The University will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to the University's education program or activity or provide support during the applicable grievance procedures or during the informal resolution process. For complaints of sex-based harassment or sexual harassment, these supportive measures may include, but are not limited to:

- counseling;
- extensions of deadlines and other course-related adjustments;
- campus escort services;
- increased security and monitoring of certain areas of the campus;
- mutual or non-mutual no-contact directives applied to one or more parties;
- leaves of absence;
- changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and
- training and education programs related to sex-based harassment or sexual harassment.

The University may use these Supportive Measures in any combination thereof, or create new measures as needed. The University will take responsive action to enforce the Supportive Measures.

In cases involving allegations solely of sex-based harassment or sexual harassment, the University may also impose an immediate interim suspension (for students) or administrative leave (for employees), or take other appropriate interim action, even if it may have a burden or impact on the respondent or may otherwise be deemed to temporarily separate the respondent from an educational program or activity and without following the procedures for Emergency Removals and Administrative Leaves under Section XV of this Policy.

No-Contact Directives. When requested by a complainant or otherwise determined to be appropriate, State Law requires the University to issue an interim no-contact directive prohibiting the respondent from contacting the complainant during the pendency of the investigation. The University will not issue an interim mutual no-contact directive automatically, but instead shall consider the specific circumstances of each case to determine whether a mutual no-contact directive is necessary or justifiable to protect the non-complaining party's safety or well-being, or to respond to interference with an investigation. A no-contact directive issued after a decision of responsibility has been made shall be non-mutual and only apply against the party found responsible.

Upon the issuance of a mutual no-contact directive, the University will provide the parties with a written justification for the directive and an explanation of the terms of the directive. Upon the issuance of any no-contact directive, the University will provide the parties with an explanation of the terms of the directive, including the circumstances, if any, under which violation could be subject to disciplinary action.

2. Request to Challenge Supportive Measures.

The University will provide a complainant or respondent with a timely opportunity to seek modification or reversal of the University's decision to provide, deny, modify, or terminate supportive measures applicable to them. Such request must be sought from an appropriate and impartial employee. The impartial employee must be someone other than the employee who made the challenged decision and must have authority to modify or reverse the decision, if the impartial employee determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measures as provided above.

A party may only challenge the approval, denial, modification or termination of a supportive measure that applies to them. For instance, a respondent may not challenge the approval, denial, modification, or termination of a supportive measure that applies only to the complainant, and vice versa. If a supportive measure applies to both the complainant and the respondent, either party could challenge the decision to approve, deny, modify, or terminate such supportive measure.

The University will also provide a party with the opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change materially. "Materially changed" circumstances may vary, depending on the particular context of the complainant and respondent. For instance, if a respondent is required, as a supportive measure, to transfer to a different classroom or section so that the respondent and complainant are not in the same class, the Respondent may seek to terminate that supportive measure if the complainant withdraws from the class.

The University may also, as appropriate, modify or terminate supportive measures at the

conclusion of the grievance process or at the conclusion of the informal resolution process, or the University may continue them beyond that point.

3. Confidentiality of Supportive Measures.

The University will not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a party's access to the education program or activity, or when an exception provided in this Policy applies.

If the complainant or respondent is a student with a disability, the Title IX Coordinator may consult, as appropriate, with the individual or office that the University has designated to provide support to students with disabilities to determine how to comply with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) in the implementation of supportive measures.

K. Disciplinary Sanctions and Remedies

1. Disciplinary Sanctions for Students.

Any of the following disciplinary sanctions may be imposed upon any student found responsible for violating the Title IX Policy. There is no requirement that sanctions be progressive in nature. The University may, at its discretion, impose severe discipline for a student's first violation.

Each case should be evaluated based upon its individual circumstances:

- Formal Warning – This is a written reprimand to the student that the student is violating or has violated the Title IX Policy, and that any future violation(s) may result in more serious sanctions.
- Interim Suspension – A temporary separation of the student from the University during the investigation and hearing process.
- No-Trespassing Order – The student will be prohibited from entering onto campus or other University property and can be applied to any probation, suspension or expulsion status.
- No-Contact Directive – The student will be prohibited from contacting the Complainant or, where applicable, other members of the University community. This order may limit all contact or contact of a specific type or regarding a specific subject. No-contact directives issued following a finding responsibility will not be mutual and will only be implemented against a responsible party.
- Probation – This reprimand is in effect for a prescribed period of time and includes the probability of more severe sanctions for any future violation(s) of the Title IX Policy. Additional education sanctions may be issued in conjunction with probationary status.

- Suspension – Separation of the student from the University for a defined period of time, after which the student is eligible to return. Conditions for re-admission will be specified. Suspensions will be noted on the student’s transcript. Students will be held responsible for meeting their financial obligations to the University and may not visit the University while under suspension.
- Deferred Suspension – A suspension may be deferred by the Title IX Committee (or Officer) allowing the student to remain at the University provided specified conditions are adhered to by the student. Failure to meet those conditions or further violations of the Title IX Policy will result in automatic suspension from the University.
- Expulsion – Permanent surrender of all rights and privileges of membership in the University community and exclusion from the campus, from any University property, and from all University functions. Students will be held responsible for meeting their financial obligations to the University and may not visit any University property or event while under expulsion. Expulsions will be noted on the student’s transcript. Students who have been expelled from the university are not eligible for readmission at any time.
- Academic Sanctions – Revocation of degree, and/or holding transcripts, and/or removal from classroom/courses.
- Reflective assignments – Apology letters, research paper on an assigned topic, written responses to posed questions.
- Restitution – Compensation for loss, damage, or injury (may take the form of appropriate service and/or monetary or material replacement).
- Service benefiting the surrounding community.
- Workshops – Decision-making skills workshops, anger management, alcohol and/or drug education, or other formal coaching or counseling.
- Sanctions for prospective students not yet enrolled may include but are not limited to:
 - Admission and/or enrollment under probationary status, additional requirements considered
 - Temporary denial of admission and/or enrollment for a period to be determined
 - Permanent denial of admission and/or enrollment

Other Actions – In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

Sanctions imposed are implemented immediately unless the EVC of Enrollment and

Student Affairs delays their implementation in extraordinary circumstances or pending the outcome of an appeal as described below.

2. *Disciplinary Sanctions for Staff and Faculty.*

If, after the formal investigation and hearing process above is completed, it is determined that by a preponderance of the evidence a violation of the Title IX Policy has occurred by an administrator, staff, or faculty respondent, the Title IX Coordinator(s) will refer the complaint, investigation and hearing findings based on the processes below:

For Staff and Administrators. Any findings pertaining to respondents who are non-faculty employees of the University will be referred to the Vice-Chancellor (“VC”) of Human Resources (“HR”) & CHRO (or designee). The VC of HR will review the investigation and hearing findings, including but not limited to, documents, evidence, witness statements, etc., and may meet with the complainant or, where applicable, the Title IX

Coordinator (as signatory on a formal complaint), and respondent. The VC of HR, after consulting with the respondent’s direct supervisor, will issue a written decision concerning corrective action or discipline, if any, to the Executive Vice Chancellor of Finance and Administration. The complainant and respondent will be informed of any relevant corrective action or disciplinary action implemented based on a violation of this Policy simultaneously and via UMass Global email, usually within five (5) working days of the decision.

For Faculty. Consistent with the Full-Time Faculty Manual, any findings pertaining to Respondent faculty members will be referred to the respective dean of the school in which the faculty member holds a primary appointment. The dean (or designee) will review the investigation and hearing findings, including but not limited to, documents, evidence, witness statements, etc. and may meet with the complainant or, where applicable, the Title IX Coordinator (as signatory on a formal complaint), and respondent. The dean will issue a written decision concerning disciplinary action if any. The University will follow disciplinary, dismissal, and grievance procedures as more fully set forth in the Full-Time Faculty Manual. The complainant and respondent will be informed of any relevant corrective action or disciplinary action implemented based on a violation of this Policy simultaneously and via UMass Global email, usually within five (5) working days of the decision.

Examples of Disciplinary Sanctions. Any of the following disciplinary sanctions may be imposed upon any administrator, staff, or faculty member found responsible for violating the Title IX Policy. There is no requirement that sanctions be progressive in nature. The University may, at its discretion, impose severe discipline for an administrator, staff, or faculty member’s first violation. Each case should be evaluated based upon its individual circumstances:

- Verbal, Written, or Final Written Warning – These are all levels of a written reprimand to the administrator, staff, or faculty member that individual is violating or has violated the Title IX Policy, and that any future violation(s) may result in more serious sanctions.
- Interim Suspension (with or without pay) – A temporary separation of the administrator, staff, or faculty member from the University during the

investigation and hearing process.

- No-Trespassing Order – The administrator, staff, or faculty member will be prohibited from entering onto University property or any University sanctioned event and can be applied to any probation, suspension, or termination status.
- No-Contact Directive – The administrator, staff, or faculty will be prohibited from contacting the complainant or other members of the University community. This order may limit all contact or contact of a specific type or regarding a specific subject.
- Restitution – Compensation for loss, damage, or injury (may take the form of appropriate service and/or monetary or material replacement).
- Workshops – Decision-making skills workshops, anger management, alcohol and/or drug education, or other formal coaching or counseling.
- Loss of Annual Pay Increase – A loss of an upcoming expected annual pay increase.
- Loss of Oversight or Supervisory Responsibility – This reprimand could mean loss of oversight of a particular area or supervisory responsibility for a particular employee or group of employees.
- Demotion – A loss of title to a level deemed appropriate by the VC of HR or the appropriate dean.
- Non-Renewal of Contract – An independent contractor or faculty member may not have their contract renewed.
- Termination – Loss of status as an administrator, faculty, or staff member with the University, including the termination of a contract of an independent contractor or faculty member.
- Other Action – In addition to or in place of the above sanctions, the University may assign any other sanction as deemed appropriate.

3. *Disciplinary Sanctions for Other Individuals Whose Conduct is Subject to the University's Disciplinary Authority.*

UMass Global students may report sexual harassment by a third-party. The University will respond to those reports to address or prevent a hostile educational environment or to ensure students' access to education.

Third parties whose conduct is subject to the University's disciplinary authority who are found to have violated this Policy will be subject to corrective action deemed appropriate by the University, which may include removal from the campus and termination of any applicable contractual or other arrangements.

In instances where the University is unable to take disciplinary action in response to a

violation of this Policy because a complainant insists on confidentiality or for some other reason, the University will nonetheless pursue other steps to limit the effects of the conduct at issue and prevent its recurrence.

Nothing in this subsection shall establish any duty or obligation owed by the University to non-student parties that does not already exist by statute or agreement.

4. Other Considerations Related to Disciplinary Sanctions.

There is no limit to the number of sanctions that may be imposed for any single violation. Other than expulsion and/or suspension, sanctions will not be made part of the student's permanent transcript but will become part of the student's confidential conduct record.

Failure to complete or comply with all sanctions as prescribed may result in an Administrative Hold and/or further sanctions, including suspension or termination, until such time as full compliance of sanctions is obtained.

Unless otherwise specified, all sanctions take effect upon notification of results of the determination; however, sanction deadlines may be alerted pending outcome of a potential appeal. Sanctions will be tracked by the Executive Vice Chancellor for Enrollment and Student Affairs or designee.

5. Remedies.

The Title IX Coordinator is responsible for the implementation of remedies designed to restore or preserve equal access to the University's education program or activity. While remedies might constitute Supportive Measures, they also might be in the form of Sanctions.

X. GUIDELINES FOR STUDENTS REGARDING PREGNANCY OR RELATED CONDITIONS

Under Title IX, it is unlawful to discriminate against a student in an education program or activity based on the student's current, potential, or past pregnancy or related conditions or current, potential, or past parental, family, or marital status.

It is the responsibility of the student, or an individual who has legal right to act on behalf of the student, to inform the Title IX Coordinator of the student's pregnancy or related conditions. Upon receiving such notification, the Title IX Coordinator will provide the student with the University's Notice of Non-discrimination and the student's rights under Title IX.

1. Notification Requirements for Confidential and Non-Confidential Employees.

When a UMass Global student, or a person who has a legal right to act on behalf of the student, informs any Confidential Employee or Non-Confidential Employee of the student's pregnancy or related conditions, the employee must promptly provide that person with the Title IX Coordinator's contact information and must inform that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the University's education program or activity.

2. Reasonable modifications.

The University shall make reasonable modifications to its policies, practices, or procedures as necessary to prevent sex discrimination and ensure equal access to the University's education program or activity. Each reasonable modification shall be based on the student's individualized needs. In determining what modifications are required, the Title IX Coordinator will consult with the student. A modification that the University can demonstrate would fundamentally alter the nature of its education program or activity is not a reasonable modification.

The student has discretion to accept or decline each reasonable modification offered by the University. If a student accepts a University's offered reasonable modification, the University shall implement it.

Reasonable modifications may include, but are not limited to:

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

3. Voluntary access to separate and comparable portion of an education program or activity.

The University shall allow the student to voluntarily access any separate and comparable portion of the University's education program or activity, where available.

4. Voluntary leaves of absence.

The University shall allow the student to voluntarily take a leave of absence from the University's program or activity to cover, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider. When the student returns to the University's education program or activity, the student must be reinstated to the academic status and, as practicable, to the extracurricular status that the student held when the voluntary leave began.

5. Lactation space.

The University shall ensure that the student can access a lactation space, which will be a space other than a bathroom, that is clean, shielded from view, free from intrusion from others, and may be used by a student for expressing breast milk or breastfeeding as needed.

6. Limitation on supporting documentation.

The University will not require supporting documentation for the above accommodations related to a student's pregnancy or related condition unless the documentation is necessary and reasonable for the University to determine the reasonable modifications to make or whether to take additional specific actions regarding such accommodations.

Examples of situations when requiring supporting documentation is *not* necessary and reasonable include, but are not limited to:

- when the student's need for a specific action is obvious, such as when a student who is pregnant needs a bigger uniform;
- when the student has previously provided the University with sufficient supporting documentation;
- when the reasonable modification because of pregnancy or related conditions at issue is allowing a student to carry or keep water nearby and drink, use a bigger desk, sit or stand, or take breaks to eat, drink, or use the restroom;
- when the student has lactation needs; or
- when the specific accommodation is available to students for reasons other than pregnancy or related conditions without submitting supporting documentation.

7. Comparable treatment to other temporary medical conditions.

The University will treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions with respect to any medical or hospital benefit, service, plan, or policy the University administers, operates, offers, or participates in with respect to students admitted to the University's education program or activity.

8. Certification to participate.

The University shall not require a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in the University's class, program, or extracurricular activity *unless*:

- i. The certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity;
- ii. The University requires such certification of all students participating in the class, program, or extracurricular activity; and
- iii. The information obtained is not used as a basis for discrimination prohibited.

XI. GUIDELINES FOR EMPLOYEES REGARDING PREGNANCY OR RELATED CONDITIONS

Under Title IX, it is unlawful to discriminate against an employee or applicant for employment based on the individual's current, potential, or past pregnancy or related conditions or current, potential, or past parental, family, or marital status.

1. Comparable treatment to other temporary medical conditions.

The University shall treat pregnancy or related conditions as any other temporary medical conditions for all job-related purposes, including commencement, duration and extensions of leave; payment of disability income; accrual of seniority and any other benefit or service; and

reinstatement; and under any fringe benefit offered to employees by virtue of employment.

2. Voluntary leave of absence without pay.

In the case that an employee has insufficient leave under the University's Leave of Absence Policies or has not accrued employment time to qualify for leave under such policy, the University will treat pregnancy or related conditions as a justification for a voluntary leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

3. Lactation time and space.

- (1) The University shall provide reasonable break time for an employee to express breast milk or breastfeed as needed.
- (2) The University shall ensure that an employee can access a lactation space, which will be a space other than a bathroom that is clean, shielded from view, free from intrusion from others, and may be used by an employee for expressing breast milk or breastfeeding as needed.

XII. RETALIATION

A. Prohibition of Retaliation

The University strictly prohibits retaliation (including peer retaliation), intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX or the Title IX Regulations, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation or proceeding under such regulations.

B. Conduct Constituting Retaliation

Retaliation is defined as intimidation, threats, coercion, or discrimination against any person by the University, a student, or an employee or other person authorized by the University to provide aid, benefit, or service under the University's education program or activity for the purpose interfering with any right or privilege secured by Title IX, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation or proceeding, including in an informal resolution process, in grievance procedures for complaints of sex discrimination or sex-based harassment, and in any other actions taken by the University in response to conduct that falls under Title IX.

Retaliation includes "peer retaliation," which is retaliation by one student against another student.

In evaluating whether retaliation has occurred, the University may consider whether the conduct in question constituted the exercise of rights protected under the First Amendment or was covered by another University policy, including with respect to freedom of expression or academic freedom.

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

C. Complaints of Retaliation

Complaints alleging retaliation under this Policy may be filed according to the grievance procedures for sex discrimination that are set forth in this Policy.

D. Penalties for Retaliation

A violation of this Policy may result in disciplinary action. The same range of disciplinary actions that are described in this Policy as available for a finding of sex discrimination can be imposed as result of a finding that prohibited retaliation has occurred.

XIII. PROHIBITED DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION

Title IX prohibits the University from disclosing personally identifiable information obtained in the course of complying with Title IX regulations, except in the following circumstances:

- (1) When the University has obtained prior written consent from a person with the legal right to consent to the disclosure;
- (2) When the information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
- (3) To carry out the purposes of Title IX, including action taken to address conduct that reasonably may constitute sex discrimination under Title IX in the University's education program or activity;
- (4) As required by Federal law, Federal regulations, or the terms and conditions of a Federal award, including a grant award or other funding agreement; or
- (5) To the extent such disclosures are not otherwise in conflict with Title IX, when required by State or local law, or when permitted under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, or its implementing regulations, 34 CFR part 99.

Nothing in this Section shall be construed to prohibit a complainant or respondent from freely discussing the details of a report or complaint of sex discrimination, including sex-based harassment.

XIV. EMERGENCY REMOVALS AND ADMINISTRATIVE LEAVES

If at any point following the receipt of a complaint of sex-based harassment or sex-based harassment, the University determines that the respondent poses an immediate threat to the physical health or safety of the complainant or any other person(s), including the respondent, the University may temporarily remove the respondent from any or all of its programs or activities. The imposition of an Emergency Removal does not suggest a finding of responsibility for any sexual misconduct.

Before imposing an Emergency Removal, the COO in conjunction with the EVC, Academic Affairs & Provost and the VC, Human Resources & CHRO will designate an individual in its office or an external

individual to undertake an individualized safety and risk analysis concerning Respondent at the request of the Title IX Coordinator. An Emergency Removal will be imposed only if the designated individual concludes that the threat to physical health or safety arises from the allegations of sex-based harassment or sexual harassment and warrants the removal.

An Emergency Removal may involve the denial of access to some or all of the University's campus facilities, academic program, or other programs or activities. While the University may provide alternative academic or employment opportunities during an Emergency Removal, it is not required to do so. Non-punitive actions taken as Supportive Measures (e.g., changes in housing) do not constitute Emergency Removals.

The Title IX Coordinator will notify respondent of the terms imposed in connection with an Emergency Removal. The respondent has the opportunity to challenge the Emergency Removal upon receipt of that notice. In order to challenge the Emergency Removal, the respondent shall submit an appeal via email to civilrightscomplaints@umassglobal.edu within 5 business days from the date of the notice of Emergency Removal, explaining why Emergency Removal is not appropriate. In evaluating the appeal, the COO in conjunction with the EVC, Academic Affairs & Provost and the VC, Human Resources or designee or external individual, as appropriate, may seek additional information from the respondent or any other individual. The Emergency Removal will remain in place while the appeal is pending. The COO in conjunction with the EVC, Academic Affairs & Provost and the VC, Human Resources or designee or external individual shall issue a decision as soon as possible under the circumstances. The decision is final and not subject to further appeal.

Separate from the Emergency Removal process, the Title IX Coordinator may request that Vice President of Administration place an employee-respondent on an administrative leave, with or without pay during the pendency of the applicable grievance process. Furthermore, nothing in this Policy is intended to, or shall be construed to, modify the at-will nature of any employment relationship with the University.

XV. RETENTION OF RECORDS

The University shall maintain for a period of at least seven years:

- For each complaint of sex discrimination, records documenting the informal resolution process or the applicable grievance procedures and resulting outcome.
- For each notification the Title IX Coordinator receives of information about conduct that reasonably may constitute sex discrimination under Title IX, including notifications and records documenting the actions the University took to meet its obligations under Title IX.
- All materials used to provide training. The University shall make these training materials available upon request for inspection by members of the public.

XVI. VIOLATIONS OF LAW

Sex-based harassment may also violate the laws of the city, state or country where the incident occurred and subject the person engaging in sex-based harassment to criminal prosecution by the presiding authority. The University will comply with laws of these various jurisdictions.

APPENDIX A

SEXUAL ASSAULT RESOURCES, PREVENTION AND EDUCATION

CONFIDENTIAL SUPPORT (OFF-CAMPUS)

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

1. Inside California, you may contact:

CALCASA (California Coalition Against Sexual Assault)
916- 446-2520
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)
360- 754-7583
www.wcsap.org

They can direct you to support in your community.

3. Nationally, you may contact:

RAINN (Rape, Abuse & Incest National Network)
1-800- 656-HOPE (4673)
www.rainn.org

National Sexual Violence Resource Center
at 877-739-3895
www.nsvrc.org

National Domestic Violence Hotline
1-800-799-7233
www.thehotline.org

4. Employees may contact the Employee Assistant Program administered by:

CompPsych
800-311-4327
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.