

**FITCHBURG STATE UNIVERSITY
POLICY AGAINST SEXUAL HARASSMENT
(Including Sexual Assault and Sexual Violence)**

Introduction

It is the goal of Fitchburg State University to promote a working, living and learning environment that is free of all forms of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation. The University prohibits any student, faculty or staff member, visitor or contractor, regardless of gender, from sexually harassing, stalking, engaging in sexual violence toward or committing domestic or dating violence against another community member or anyone having dealings with the Universities. Any member of the University community who believes that s/he has been subjected to such misconduct is encouraged to report it as described in this policy.

Please see the Equal Opportunity Plan for full policy at:

<http://www.fitchburgstate.edu/offices/administration/human-resources-payroll/affirmative-action-plancomplaint-procedure/>. Upon receiving a report, the University will respond quickly and seriously, and, where appropriate, will take steps to prevent the recurrence of the behavior, remedy its effects, and discipline individuals who violate this policy. For full Equal Opportunity plan and policy regarding Sexual Harassment (including Sexual Assault and Sexual Violence) please review at:

Further, any retaliation against an individual who has complained about sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking or retaliation against individuals for cooperating with an investigation complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a community free from any forms of harassment, the conduct that is described in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered by members of the University.

The university takes allegations of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation seriously, we will respond promptly to complaints and where it is determined that such inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this policy sets forth our goals of promoting a working, living and learning environment that is free of sexual harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

II. Definition Of Sexual Harassment

In Massachusetts, the legal definition for sexual harassment is this: "sexual harassment" means sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

- (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or,
- (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

Under these definitions, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

The legal definition of sexual harassment is broad and in addition to the examples below, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

Sexual Harassment

Unwelcome conduct of a sexual nature is prohibited when:

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

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

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

All employees should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated by this organization.

Complaints of Sexual Harassment

If any student, faculty or staff member believes that he or she has been subjected to sexual harassment, the employee has the right to file a complaint with our organization. This may be done in writing or orally.

If you would like to file a complaint you may do so by contacting Jessica Murdoch, Associate Vice President, Human Resources/Affirmative Action/Title IX officer at 978-665-3338 or jmurdoch@fitchburgstate.edu. Title IX requires that each campus designate responsible employees, the RE's at the University include persons holding the following positions:

- Members of the Boards of Trustees;
- The President and Vice Presidents;
- Assist./Assoc. Vice Presidents;
- Title IX Coordinator/ Deputy Coordinators;
- EO Officer;
- Campus Police;
- Institutional Security Officers;
- Athletic Coaches, Assistant Coaches and Athletics Administrators;
- Studio Managers;
- Lab Managers;
- Deans and Assistant/Associate Deans
- Academic Department Chairs;
- Academic and Non-Academic Program

- Director and Assist./Assoc. Director of Human Resources;
- Departmental Directors and Assist./Assoc. Directors¹;
- Residence Life Staff (including RDs and RAs);
- Directors/ Coordinators;
- Faculty/Staff Leading or Chaperoning Travel or Overnight Trips; and
- Faculty/Staff Advisors to Student Organizations.

If the University receives a report of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking or retaliation, it must investigate the report. If one is unsure of someone's duty to report or ability to maintain one's privacy, one should ask them before one talks to them about an incident. They will be able to explain if they are required to make a report, and they can identify others who can help.

IV. Sexual Harassment Investigation

When we receive the complaint we will promptly investigate the allegation in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. Our investigation will include a private interview with the person filing the complaint and with witnesses. We will also interview the person alleged to have committed sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation. When we have completed our investigation, we will, to the extent appropriate inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation per policy procedures.

The complaint process is as outlined below: Informal Resolution Procedure

Formal Investigation Procedure

Submission of Complaint and Initial Review

When a person believes that s/he has been harassed, discriminated or retaliated against, stalked or subjected to violence in violation of the EO Plan and/or the Student Code of Conduct, s/he may file a written complaint, preferably using the Complaint Form attached to these Procedures. Individuals are encouraged to file complaints directly with the EO Officer, but complaints may also be filed with other offices, such as the Title IX Coordinator, Student Conduct, Human Resources, Residence Life or Campus Police. Any complaint that is initially filed with other offices will be reported to the EO/Title IX Officer.

In certain circumstances, the University may initiate the complaint investigation and resolution procedures without the filing of a written complaint or the active participation of a complainant. Complaints may be generated upon receipt of a report by a complainant or by a third-party reporter, such as, but not limited to, a friend, spouse, family member, advisor, parent or coworker.

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

The EO Officer or designee will determine if the complaint falls within the jurisdiction of these procedures. When complaints allege sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and/or retaliation, the EO Officer or designee will refer them to the Title IX Coordinator for jurisdictional evaluation and review. At this point, the University will implement any necessary and/or appropriate interim protective measures, or monitor and/or revise any measures already in place. If the University determines that the complaint is not properly filed pursuant to these Procedures, it will provide written notice to the complainant (or third party reporter).

If it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the offending conduct, and where it is appropriate we will also impose disciplinary action.

Disciplinary Action

If it is determined that inappropriate conduct has been committed by one of our employees, we will take such action as is appropriate under the circumstances. Such action may range from counseling to termination from employment, and may include such other forms of disciplinary action as we deem appropriate under the circumstances.

State and Federal Remedies

In addition to the above, if you believe you have been subjected to sexual harassment, you may file a formal complaint with either or both of the government agencies set forth below. Using our complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim (EEOC - 300 days; MCAD - 300 days).

1. [The United States Equal Employment Opportunity Commission \("EEOC"\)](#)
2. [The Massachusetts Commission Against Discrimination \("MCAD"\)](#)