



# Fitchburg State University Police Department

<b>Subject:</b> TITLE IX COMPLIANCE	
Reference: MPAC: N/A IACLEA: 18.1.1, 18.1.2, 18.1.3, 18.1.4	
<b>Effective Date:</b> April 23, 2020	<b>Review Date:</b>
<b>By Order of:</b> Michael J Cloutier, Chief of Police	

## General Order

# 18.1

### PURPOSE:

The purpose of this directive is to guide members of the Fitchburg State University Police Department in resolving incidents of Title IX.

### POLICY:

The Fitchburg State University Police Department shall promote and maintain a working environment free from harassment, sexual harassment, and discrimination, as defined by Title IX of the Education Amendments of 1972.

Investigators of incidents defined by Title IX will provide victims with current reference information for reporting to additional entities if they so desire. The Department recognizes, supports, and encourages adherence to applicable University policies, State, and Federal laws.

### DISCUSSION:

Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 et seq., and its implementing regulations, 34 C.F.R. Part 106, prohibit discrimination based on sex in education programs or activities operated by recipients of Federal financial assistance. However, sexual harassment of students, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title IX. Sexual violence is a form of sexual harassment prohibited by Title IX. As used in this chapter, "Title IX" refers to all forms of sexual harassment and sexual violence.

Title IX compliance is an institutional responsibility. However, several areas of the law have clear implications for the University Police Department.

## PROCEDURE

### I. Department Personnel Responsibilities.

- A. It is each employee's responsibility to assist in eliminating all forms of harassment and/or unwanted conduct. It shall be every supervisor's responsibility to prevent such behavior from occurring within his or her span of control. All members of the Department are considered Responsible Employees, i.e. Title IX reporters, according to the Title IX definitions.
- B. All employees who know of a Title IX violation are required to report the matter to the Title IX Coordinator or the Deputy Title IX Coordinator.
- C. All employees should be familiar with this directive and the procedures for forwarding reported Title IX violations to the appropriate department and university personnel.

### II. Title IX Reporting.

Employees of the Department shall comply with the university's policies regarding reporting incidents of Title IX violations.

- A. When an employee is notified of a violation of Title IX, the employee shall complete an incident report and report the incident to their immediate supervisor as soon as possible.
- B. Supervisors shall notify the Chief of Police of any reported or documented violations of Title IX. The Chief of Police or designee will then report the alleged incident to the Title IX office.
  1. When the Title IX incident involves a member of the campus community, the Department's "**Release of Information to Title IX Coordinator**" waiver shall be completed.
- C. It is important to note that a person's conduct may constitute a violation of the Title IX sexual harassment policy, even if there is no evidence of a criminal act. Therefore, it is important that appropriate department personnel not dismiss or overlook behavior that violates Title IX by concluding that a Title IX violation did not occur. Even if a criminal violation has not occurred, the institution still has a duty under Title IX to resolve complaints promptly and equitably, even if the complainant does not request such resolution.
  - D. The Title IX Coordinator and/or the Associate Vice President of Human Resources should be notified if there are allegations of sexual harassment or sexual misconduct involves an employee. If there are, allegations involving a student, the Title IX Coordinator or Deputy Title IX Coordinator should be notified.
  - E. The law and University policy provide sanctions for any employee with supervisory responsibility who fails to report incidents of sexual harassment. Also, there are sanctions for any person who files a false complaint of sexual harassment or who takes retaliatory action against someone who files a sexual harassment complaint.

- F. In instances where a Title IX investigation is conducted outside of the department but reported for a *Timely Warning Notification Determination*, the department will create an incident report with the heading of "Title IX". The report will contain all known facts reported to us by the Title IX Coordinator. This report will also be marked sensitive if personal identifying information is included.

IACLEA 18.1.1

### III. Investigations

Title IX requires institutions to investigate reports of sexual harassment and sexual assault in a **timely manner**. As required by Title IX, the Title IX investigation may be conducted concurrently with the criminal investigation. Collaboration with the institution's Title IX coordinator is critical.

- A. All alleged Title IX violations by a department employee will be investigated by a designated Internal Affairs investigator designated by the Chief of Police.
- B. All alleged Title IX complaints should be investigated by a university Title IX investigator. If there is a concurrent criminal offense, the complaint will be investigated by the department's detective or a designated competent officer who:
1. Understands all relevant confidentiality requirements;
  2. How to investigate non-stranger sexual assault; and
  3. Understands the difference of "preponderance of the evidence" and the standard required for criminal prosecution.

IACLEA 18.1.4

- C. Officers should take all initial information when taking a report for harassment or sexual assault to include:
1. Where the alleged incident occurred?
  2. When did the alleged incident occur?
  3. Who are the involved parties?
  4. What extent of the harassment/assault?
  5. Provide to the victim/ survivor Notice of Rights and Services
- D. When a Title IX investigation and a criminal investigation occur concurrently, Department members will not cause a Title IX investigation to be delayed pending the outcome of a criminal investigation, except for the collection of evidence. Department members may share the notes and findings from the Title IX related investigation with the Title IX Coordinator as necessary, as long as it does not compromise the criminal investigation, and a "**Release of Information to Title IX Coordinator**" waiver has been signed by the victim/survivor.
- E. Department members who investigate a criminal complaint that may also coincide with a Title IX violation, will receive training in conducting civil rights investigations involving sexual violence. The training will also include confidentiality requirements, investigating non-stranger sexual battery, and the difference of "preponderance of the evidence" and the standard required for criminal prosecution.

IACLEA 18.1.3

IV. **Training.**

- A. Title IX training is conducted with all agency personnel biennially, as well as with newly hired personnel. Training consist of the following:
1. How to identify sexual harassment as outlined in the department's General Order **4.1.2 Sexual and Other Unlawful Harassment**
  2. The institution's Title IX and sexual harassment reporting and grievance procedures


IACLEA 18.1.2

V. **Attachment:**

Release of Information to Title IX Coordinator waiver

Approval:

  
\_\_\_\_\_  
Chief of Police

  
\_\_\_\_\_  
Date

**RELEASE OF INFORMATION TO TITLE IX COORDINATOR**

A person subjected to sexual violence has certain rights and protections under state law, federal law and university policy. Pursuant to Mass General Laws Chapter 41, Section 97D, police departments are required to keep reports of sexual assault and domestic violence confidential. In order to ensure that you receive those rights and protections from the university, we request your consent to share your name and information, including the police report, about the reported incident with the University's Title IX Coordinator and Deputy Title IX Coordinator. The Title IX Coordinator is responsible for administering the University's Policy on Affirmative Action, Equal Opportunity and Diversity, which prohibits all forms of sexual violence. All reports to the Title IX Coordinator will be kept confidential.

---

**Please initial one:**

\_\_\_\_\_ **I DO** authorize the University Police Department to release my name and information about the incident, including the police report, to the University's Title IX Coordinator. All reports to the Title IX Coordinator will be kept confidential. I do acknowledge receipt of the University's *Victim/Survivor Notice of Rights and Services* – from the University Police Department.

\_\_\_\_\_ **I DO NOT** authorize the University Police Department to release my name and information about the reported incident to the University's Title IX Coordinator. I do acknowledge receipt of the University's *Victim/Survivor Notice of Rights and Services* – from the University Police Department.

---

Name (print): \_\_\_\_\_

Signature: \_\_\_\_\_ Date & Time: \_\_\_\_\_

Officer's Signature: \_\_\_\_\_ Date & Time: \_\_\_\_\_