

UNIVERSITY OF MASSACHUSETTS CHAN MEDICAL SCHOOL
Title IX Grievance Procedure

Introduction and Scope

The Grievance Procedure set forth herein applies to allegations of Sexual Harassment under Title IX (as defined below) that occurred on or after August 14, 2020. Prior policies or procedures will apply for allegations that occurred before August 14, 2020.

The University of Massachusetts Chan Medical School (“UMass Chan Medical School”) prohibits Sexual Harassment in accordance with Title IX as published in Part 106 of Title 34 of the Code of Federal Regulations and sexual misconduct in accordance with M.G.L. c. 6 §§ 168D and 168E.

This Title IX Grievance Procedure (“Grievance Procedure”) follows the UMass Chan Medical School’s Title IX Policy and applies to complaints filed by or on behalf of a UMass Chan Medical School student or employee for Sexual Harassment, as that term is defined under Title IX and in this document. This Grievance Procedure provides for the prompt and equitable resolution of such complaints in compliance with Title IX regulations and Massachusetts law. Complaints by UMass Chan Medical School students or employees that are deemed not to be an alleged Title IX violation may be governed and managed, if applicable, by UMass Chan Medical School’s Sexual Harassment Policy or other UMass Chan Medical School policies and as may be required by applicable federal and state law.

Questions about this Grievance Procedure, the Title IX policy (as well as the Sexual Harassment Policy), and other related UMass Chan Medical School policies and procedures may be referred to UMass Chan Medical School’s designated Title IX Coordinator. For additional information, the contact information for the Title IX Coordinator and a list of support resources on campus and off campus, please see: <https://www.umassmed.edu/title-ix/>

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I. Definitions

Advisor means an individual chosen by a party (the Complainant or the Respondent), who may provide support to that party as detailed in Sections V and VII of this Grievance Procedure. Both parties (Complainant and Respondent) are highly encouraged to have an Advisor of their choice with them throughout the grievance process, which person may, but is not required to be an attorney at law.¹ If a party needs assistance identifying an Advisor, they are encouraged to contact the Title IX Coordinator. UMass Chan Medical School will provide an Advisor for the Live Hearing if a party has not yet selected one for the limited purpose of conducting cross-examination of the other party and witnesses during the Live Hearing, which cross-examinations must be conducted by an Advisor. Because the Advisor may need to review personally identifiable information from the Complainant's and Respondent's educational records, the parties and witnesses who are students may need to consent in writing to the disclosure of this information to the Advisor in accordance with the Family Educational Rights and Privacy Act (FERPA), 20 USC § 1232g; 34 CFR Part 99). The consent would specify that the information may only be used for purposes of this grievance process and cannot be further disclosed.

Complainant means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.²

Confidential Employee means an employee who, because of their position, *may not* reveal an individual's identity or other information without permission, even to the Title IX Coordinator or designee. The following categories of employees are considered confidential employees:

- Licensed sexual assault counselors, psychologists, psychotherapists, social workers, clergy and attorneys, and those persons working under the supervision of such individuals, when acting in their professional role providing services to a patient or client;
- UMass Chan Medical School employees bound by statutory privilege obligations under Massachusetts law; and
- UMass Chan Medical School employees providing administrative, operational and/or related support for a confidential employee in the performance of such services.
- Confidential Resource Provider

Confidential Resource Provider means an employee or other individual designated to provide information on: reporting options of Sexual Harassment and the effects of each option; counseling services available on and off campus; medical and health services available on and off campus; supportive measures; the UMass Chan Medical School's disciplinary process; and the legal process carried out through local law enforcement agencies. If requested, the Confidential Resource Provider shall coordinate with the Title IX Coordinator to arrange supportive measures. The

¹ The Advisor may, but is not required to be, a union representative, advocate, or legal counsel.

² Under certain circumstances, such as where the Complainant is a minor or the parent or guardian has the legal authority to act on behalf of the Complainant, a parent or legal guardian may file and execute a complaint on behalf of the Complainant.

Confidential Resource Provider may notify Complainants, Respondents, or other community members of their rights and the UMass Chan Medical School's responsibilities regarding a protection order, no contact order, and any other lawful orders issued by UMass Chan Medical School or a civil, criminal, and tribal court. Confidential Resource Provider's services are confidential unless a party, in writing, requests that certain information be disclosed, or as otherwise required by state or federal law. A list of Confidential Resource Providers is available by contacting the Title IX Coordinator or by visiting <https://www.umassmed.edu/title-ix/>

Domestic Violence: See Sexual Harassment.

Formal Complaint means a document, completed, signed, and filed by a Complainant or by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that UMass Chan Medical School initiate the grievance process. When the Title IX Coordinator executes the Formal Complaint to begin the grievance process, the Title IX Coordinator does not become a party.

Official with Authority means an employee who has the authority to institute corrective measures for Sexual Harassment on behalf of the UMass Chan Medical School. Officials with Authority include the Title IX Coordinator, Deans, Vice Chancellors, the Chancellor, Vice Provosts, and the Provost. Officials with Authority must report notice of Sexual Harassment or allegations of Sexual Harassment to the Title IX Coordinator or designees.

Respondent means an individual who has been reported to have engaged in conduct that is alleged to constitute Sexual Harassment.

Responsible Employee is an employee (a) who, because of their position within the UMass Chan Medical School, must report known or possible incidents of Sexual Harassment or sexual misconduct by students or employees to the Title IX Coordinator or other appropriate school designee, including the known details of the incident(s) and the name(s) of alleged victim(s), Respondent(s), and any witnesses; or (b) who has the authority to take action to redress Sexual Harassment/misconduct or who a student reasonably believes has this authority or duty. UMass Chan Medical School's Responsible Employees include the following categories of employees:

- Chancellor;
- Provost;
- Vice Chancellors;
- Vice Provosts;
- Deans;
- Associate Deans;
- Faculty directors of Centers, Institutes, and Programs;
- Faculty who directly oversee student activities sanctioned by the UMass Chan Medical School;
- All Department heads and Chairs;
- Campus police officers (but see exception in footnote below);³ and

³ **Exception for public safety personnel:** Although campus police officers are designated as Responsible Employees, if a student or employee reporting sexual assault or domestic violence requests confidentiality, the campus police officer must not disclose the name of the reporting party to the Title IX Coordinator(s).

- Employees specifically tasked with responding to sexual harassment and sexual violence (excluding confidential employees).

Retaliation is the interference through intimidation, threats, coercion, or unlawful discrimination, with an individual’s right or privilege secured under the law [Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1964, Massachusetts anti-discrimination laws, or other laws] to report or make a complaint, testify, assist or participate or refuse to participate in any manner in an investigation or grievance proceeding or hearing, or to intervene to prevent a violation of this policy.

Sexual Assault: See Sexual Harassment.

Sexual Harassment under Title IX means conduct on the basis of sex that satisfies one or more of the following:

- (i) An employee of UMass Chan Medical School conditioning the provision of an aid, benefit, or service of UMass Chan Medical School on an individual's participation in unwelcome sexual conduct;
- (ii) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the UMass Chan Medical School's education program or activity; or
- (iii) "Sexual assault" as defined in 20 U.S.C. § 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. § 12291(a)(10), "domestic violence" as defined in 34 U.S.C. § 12291(a)(8), or "stalking" as defined in 34 U.S.C. § 12291(a)(30), as amended, and as are listed separately below in alphabetical order:

Dating Violence: The term “dating violence” means 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:

- (i) The length of the relationship;
- (ii) The type of relationship;
- (iii) The frequency of interaction between the persons involved in the relationship.

Domestic Violence: The term “domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the

jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Sexual Assault: The term "sexual assault" means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Sexual assault is any attempted or actual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent. More specifically, sexual assault is:

- Any attempted or actual sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent.
- **Rape** is the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes the rape of both males and females and regardless of the age of the victim. If the victim consented, the offender did not force or threaten the victim, and the victim was under the statutory age of consent, defined as statutory rape.
- **Fondling** is 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 his/her age or because of his/her temporary or permanent mental incapacity.
- **Incest** is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape** is sexual intercourse with a person who is under the statutory age of consent.
- **Stalking.** The term "stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to--
 - (A) fear for his or her safety or the safety of others; or
 - (B) suffer substantial emotional distress.

Stalking: See Sexual Harassment.

Undesignated Employee is an employee who is not designated as an Official with Authority, a Responsible Employee, or a Confidential Employee. Undesignated employees are encouraged to practice bystander awareness and to bring any incidents of sexual harassment to the attention of the Title IX Coordinator.

II. Jurisdiction

This Grievance Procedure applies to allegations of Sexual Harassment, as defined in Section I of this

Procedure, when the allegations of Sexual Harassment occur in a UMass Chan Medical School's educational program or sponsored activity, against a UMass Chan Medical School student or employee in the United States. This includes allegations of Sexual Harassment that occurred:

1. On property owned or controlled by UMass Chan Medical School or property owned or controlled by a student organization that is officially recognized by the UMass Chan Medical School; or
2. At or in locations, events, or circumstances over which UMass Chan Medical School exercised substantial control over both the Respondent and the context in which the Sexual Harassment occurred.

III. Reporting Sexual Harassment

Sexual Harassment is prohibited as defined in Section I of this Procedure. Sexually harassing behavior should be reported in accordance with this Grievance Procedure in order to provide immediate supportive measures to both parties, grievance options for the Complainant, and whenever possible, to prevent any recurrence. An individual need not have filed a Formal Complaint to receive supportive measures, and supportive measures are available regardless of whether the alleged Sexual Harassment occurred on or off campus, or within a UMass Chan Medical School program or activity.

The Complainant is encouraged but not required to report sexually harassing behavior to the Title IX Coordinator, a Responsible Employee, or by completing the online complaint form: <https://www.umassmed.edu/title-ix/>. Please note that these employees cannot guarantee confidentiality.

Upon the Title IX Coordinator, or designee being informed of allegations of Sexual Harassment, the Title IX Coordinator or designee will contact the alleged victim to meet and review the reported information, discuss and supportive measures (as appropriate), and provide and review this Grievance Procedure. Either before or after consultation with the Title IX Coordinator, the alleged victim will decide whether they wish to submit a Formal Complaint.

The following is information to help one determine to whom you may wish to report, or to whom you must report, based on your role and needs:

A. Confidential Reporting Options

An individual (other than someone acting in the capacity of a Responsible Employee) may file a report or a concern anonymously about potential Sexual Harassment by using UMass Chan Medical School's online complaint form <https://www.umassmed.edu/title-ix/> or the Title IX Hotline (508-856-8499), neither of which require that the name of the reporter be provided. Please note, however, that anonymous reporting limits the UMass Chan Medical School's ability to respond or pursue appropriate action against the Respondent. Filing an anonymous report online is **not** considered filing a Formal Complaint under this Grievance Procedure.

Note – Officials with Authority and Responsible Employees cannot guarantee confidentiality,

including anonymity, and are required to report to the Title IX Coordinator potential concerns of Sexual Harassment, as defined under this Grievance Procedure, or sexual misconduct under M.G.L. c. 6 sections 168(d) and (e). An anonymous online report submitted by an Official with Authority or a Responsible Employee does not fulfill their requirement to notify the Title IX Coordinator of potential concerns of Sexual Harassment

B. Filing a Formal Complaint of Sexual Harassment

In order to initiate the Grievance Procedure outlined in Section VIII, the Complainant or the Title IX Coordinator must execute a Formal Complaint.

Formal Complaints must be in writing and signed by the Complainant, either physically or electronically. Formal Complaints must be submitted to the Title IX Coordinator in person, by mail, by email, or by use of the following online reporting form <https://www.umassmed.edu/title-ix/>. To the extent possible, Formal Complaints should include the conduct that forms the basis for the allegations of Sexual Harassment, the identity of the Respondent(s), and any witnesses, if known, and the date(s) and location(s) of the alleged conduct, if known.

In circumstances where the Title IX Coordinator files a Formal Complaint, the Title IX Coordinator or their designee will, to the extent possible, inform the persons affected by the alleged Sexual Harassment of their rights, options, and the availability of supportive measures. Although the Title IX Coordinator may file the Formal Complaint, they are not considered the Complainant.

For information about how to file a Formal Complaint or to learn more about this Grievance Procedure, contact the Title IX Coordinator. Contact information for the Title IX Coordinator is listed below and at <https://www.umassmed.edu/title-ix/>.

University of Massachusetts Chan Medical School Title IX Coordinator:

Jeanna R. Lee, PhD
Asst. Director of Equity, Inclusion and Campus Climate
Office of Diversity and Inclusion
TitleIX@umassmed.edu
Email: TitleIX@umassmed.edu

Please note that if a Complainant files a Formal Complaint, UMass Chan Medical School is required to provide relevant information about the Complaint to the Respondent, in writing, prior to any interview of the Respondent.

Complainants may, but are not required to, notify law enforcement authorities, including campus, local, or state police, of the alleged sexually harassing conduct. UMass Chan Medical School encourages Complainants to notify both the Title IX Coordinator and law enforcement when sexually harassing conduct occurs that may also be considered a criminal act. However, the choice of whether and where to report conduct belongs to each individual, and Complainants may decline to file a report with law enforcement or with the Title IX Coordinator. On-campus law enforcement's contact information is below:

UMass Chan Medical School Police Department:⁴

55 Lake Avenue North
Worcester, MA 01655
Emergency: 911
Non-emergency: (508)856-1629

If a Complainant has filed a Title IX Formal Complaint with UMass Chan Medical School, the Complainant has the option to (1) withdraw their Formal Complaint from the UMass Chan Medical School process at any time and to file a complaint with an external agency such as those listed below, or other antidiscrimination agency; or (2) the Complainant may continue with their Formal Complaint at UMass Chan Medical School while simultaneously having a complaint with an outside agency. Depending on the circumstances, UMass Chan Medical School may determine to continue with its review of the initially alleged incidents even if the Complainant decides to withdraw their Formal Complaint.

External enforcement agencies:

The United States Department of Education Office for Civil Rights
5 Post Office Square, 8th Floor
Boston, MA 02109-3921
Telephone: (617) 289-0111
Facsimile: (617) 289-0150
Email: OCR.Boston@ed.gov
<https://www2.ed.gov/about/offices/list/ocr/index.html>

The United States Equal Employment Opportunity Commission
JFK Federal Building,
25 Sudbury Street
Boston, MA 02222
voice phone: 800-669-4000, TTY: 800-669-6820
<https://www.eeoc.gov/>

The Massachusetts Commission Against Discrimination, Boston Office
One Ashburton Place, Room 601
Boston, MA 02108
voice phone: 617-994-6000, TTY: 617-994-6196
<https://www.mass.gov/orgs/massachusetts-commission-against-discrimination>

⁴ UMass Chan Medical School complies with Massachusetts General Law in recognizing Abuse Prevention Orders (209A) and Harassment Prevention Orders (258E) and directs any person who obtains an order of protection from domestic or dating abuse, harassment, stalking or sexual assault from any state in the country to provide a copy to the UMass Chan Medical School Police Department and to the Title IX Coordinator. A Complainant may then meet with an officer from the UMass Chan Medical School Police Department to develop a Safety Action Plan, which is a plan for UMass Chan Medical School Police and the victim to reduce risk of harm while on campus or coming and going from campus. This plan may include but is not limited to the temporary measures listed in this document. To apply for a legal Abuse Prevention Order, no contact order or restraining order, the person seeking it must apply directly must apply with the appropriate governmental office.

IV. Reporting Requirements for Officials with Authority and Responsible Employees

Officials with Authority:

1. Officials with Authority must promptly report an incident(s) of alleged Sexual Harassment directly to the Title IX Coordinator. Officials with Authority must report all relevant details including the names of all persons and witnesses involved and relevant facts regarding the alleged incident (including the date, time, and location of the event related to the concern, if known). Officials with Authority must make these reports even if the reporting person requests confidentiality, and regardless of whether a police report has been filed. Officials with Authority are required to report to the UMass Chan Medical School Police, the local police department, or the Massachusetts Department of Children and Families any abuse of a minor, per M.G.L. Ch. 119, § 51A.
2. Officials with Authority cannot guarantee confidentiality. UMass Chan Medical School has a responsibility to respond to Formal Complaints to the extent possible. A decision to keep a concern confidential would prevent UMass Chan Medical School from fully investigating and responding to the complaint. UMass Chan Medical School may review the complaint for the purpose of ending Sexual Harassment, preventing its recurrence, and remedying its effects. For these reasons, confidentiality cannot be assured. Only Confidential Employees can provide confidentiality. However, privacy will be maintained to the extent possible while complying with the requirements of UMass Chan Medical School policies, State, and Federal law.

V. Rights and Expectations for the Parties and Witnesses

Rights

Advisors: Both parties (Complainant and Respondent) may designate and use an Advisor of their choice during all stages of the Grievance Procedure to provide support to the respective party. Such an Advisor is defined in Section I (Definitions) above, and the rights and expectations regarding Advisors are further discussed later in this Section V., and also in Sections VII, and VIII (B) and (C), below. As discussed earlier, neither of the involved parties is obligated to designate and use an Advisor, but if such has not been identified prior to the live hearing, UMass Chan Medical School must provide such a person for the live hearing.

Scheduling: The Title IX Coordinator and/or Investigator shall provide to the party whose participation is invited or expected, written notice of the date, time, location, and participants and purpose of all hearings, investigative interviews, or other meetings with sufficient time for the party to prepare to participate.

Information Provided: Upon receipt of a Formal Complaint, both parties will receive copies of this Grievance Procedure, the allegations potentially constituting Sexual Harassment,⁵ and a list of support resources. Each party will be provided with all information directly related to the allegations, including inculpatory and exculpatory evidence, and the investigative report (when completed) that fairly summarizes all relevant evidence gathered during the investigation.

⁵ The notice of allegations includes the identity of the parties, a description of the alleged conduct constituting Sexual Harassment, including the date(s) and location(s) of the incident(s), if known.

Confidentiality and Gathering of Information: The Investigator, Title IX Coordinator, Hearing Officers, Appeal Officers, or other decision-makers, will not restrict the ability of either party to discuss the allegations under investigation and gather and present relevant evidence, except as is provided by this Grievance Procedure and other UMass Chan Medical School policies. However, a party may not discuss the allegations in a manner that is retaliatory or knowingly present false evidence.

Neutrality: All UMass Chan Medical School Title IX Coordinators, Title IX Deputy Coordinators, Investigators, Hearing Officers, and Appeals Officers involved in the Grievance Procedure shall have no conflict of interest with respect to this process or the involved parties, and they will conduct a neutral review of the Formal Complaint and give equal consideration to the accounts and documentation provided by both parties. The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance proceeding.

Parties with concerns regarding potential bias or conflict of interest may report that concern to the Title IX Coordinator, who shall review and resolve same in the exercise of their sole and exclusive discretion. Such a concern regarding the Title IX Coordinator may be reported to the Deputy Executive Vice Chancellor for Management or to the UMass Chan Medical School Provost.

Privacy: The Investigator, Title IX Coordinator, and other employees involved in the grievance process will maintain the privacy of both parties to the extent possible. While information is only divulged on a need-to-know basis, complete confidentiality cannot be ensured.

Retaliation Protections: Retaliation against any person, including the parties and witnesses, based on their participation in this Grievance Procedure is prohibited by this Grievance Procedure, and State and Federal laws. UMass Chan Medical School will take steps to prevent retaliation and will take strong responsive action if it occurs. A concern of retaliation should be immediately reported to the Title IX Coordinator, who may initiate an investigation. This includes concerns of retaliatory actions taken by UMass Chan Medical School employees, faculty members, or its officials.

Right to File a Criminal Report: Anyone who may have been subjected to Sexual Harassment, which may also constitute a crime, has the right to file a complaint with law enforcement authorities, and will not be dissuaded from doing so. Upon request, the UMass Chan Medical School Police Department may assist students or employees in filing such a complaint or seeking a court protective order.

Right to External Civil or Criminal Processes: Any person who has filed or is participating in the investigation of a complaint under this Grievance Procedure may also utilize external civil or criminal processes available to them from courts or agencies outside of the UMass Chan Medical School.

Appeal Rights: Please see information about the appeal request process at the end of Section IX of this Procedure.

Expectations

Both parties and witnesses are obligated not to retaliate; to update the Investigator if their contact

information changes; to be truthful in presenting information; to provide information or participate within the timeframe provided by the Investigator; to promptly notify the Investigator if someone has attempted to improperly learn of or change their account with the purpose of disrupting the outcome of the review; and to notify the Investigator if they believe they have faced retaliation as a result of their participation in this Grievance Procedure.

UMass Chan Medical School expects Advisors to make themselves available to participate during the Live Hearing, to conduct themselves with decorum and according to the requirements of this Grievance Procedure in all proceedings including the Live Hearing, and to abide by the rulings of the Hearing Officers.

False Information or Complaint: Knowingly filing a false complaint or providing false information in a proceeding under this Grievance Procedure is prohibited and may subject the person doing so to discipline, potentially including up to dismissal for a student and termination for an employee.

VI. Supportive Measures

When the Title IX Coordinator is made aware of Sexual Harassment or allegations of Sexual Harassment, the Title IX Coordinator or designee will discuss supportive measures with the Complainant. An individual need not have filed a Formal Complaint to receive supportive measures, and supportive measures are available regardless of whether the alleged Sexual Harassment occurred on or off campus, or within a UMass Chan Medical School program or activity. To the extent the Respondent is known, and a Formal Complaint is filed, the Title IX Coordinator may provide the Respondent with supportive measures. These measures are short-term, non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available, and without fee or charge to the Complainant or the Respondent.

Supportive measures are designed to restore or preserve equal access to the UMass Chan Medical School's educational program or activity without unreasonably burdening another party, including measures designed to protect the safety of all parties or the UMass Chan Medical School's educational or employment environment, or deter sexual harassment. Supportive measures may include, but are not limited to:

- Counseling
- Course-related adjustments, including extensions of deadlines or section transfers
- Modifications of work or class schedules
- Mutual restrictions on contact between the parties
- Changes in work or housing locations
- Changes in transportation arrangements
- Leaves of absences
- Assistance notifying law enforcement of alleged sexual harassment
- Assistance in seeking a court-issued protective order

In addition to providing supportive measures, the Title IX Coordinator or designee will discuss the UMass Chan Medical School's Title IX Grievance Procedure with the parties as appropriate. To the extent there is a continuing need for supportive measures after the conclusion of the Grievance Procedure process, the Title IX Coordinator will work with appropriate UMass Chan Medical

School resources to provide continued assistance to the parties. Supportive measures may be re-evaluated on a periodic basis.

UMass Chan Medical School will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of UMass Chan Medical School to provide the supportive measures. UMass Chan Medical School will maintain records of supportive measures for seven years from their implementation.

Emergency Removal

Supportive measures may include removal of a party from UMass Chan Medical School or a UMass Chan Medical School program or activity on an emergency basis when UMass Chan Medical School has determined that a party poses an immediate threat to any person's physical health or safety arising out of the Sexual Harassment allegations.

When supportive measures include emergency removal, the individual being removed will be given a written description of the reasons for the emergency removal. The individual being removed has the right to be heard regarding the application or scope of the emergency removal whether before the measure(s) is imposed, or immediately thereafter by contacting the Title IX Coordinator.

VII. Informal Resolution

The parties may, but are not required to, participate in an Informal Resolution process. At any time after a Formal Complaint has been filed, but prior to the decision-makers reaching a determination regarding responsibility, either the Complainant or the Respondent may request that UMass Chan Medical School facilitate Informal Resolution of a Formal Complaint. The parties may be accompanied by an Advisor at any and all stages of the Informal Resolution process. The Informal Resolution process may include, but is not limited to, mediated discussions or other restorative justice measures. UMass Chan Medical School will **not** facilitate Informal Resolution in cases involving allegations that a UMass Chan Medical School employee sexually harassed a student. UMass Chan Medical School may facilitate Informal Resolution when:

- All parties have been informed in writing of the allegations of the Formal Complaint and this Grievance Procedure as it applies to both the adjudication of a Formal Complaint and Informal Resolution;
- All parties have consented in writing to participate in the Informal Resolution process; and
- The Title IX Coordinator, in consultation with the appropriate administrators, has determined that Informal Resolution is appropriate.

Upon determining that Informal Resolution is appropriate, the Title IX Coordinator will assign the Informal Resolution to a facilitator who has been trained in the impartial Informal Resolution of Sexual Harassment complaints. The facilitator will attempt to aid the parties to find a mutually acceptable resolution.

At any point prior to such an express agreement between the parties, either party may withdraw from the Informal Resolution process, and the matter will proceed pursuant to **Section VIII** of this Procedure.

If an Informal Resolution agreement is reached and the matter is deemed satisfactorily resolved, a written Informal Resolution agreement will be signed by and provided to the Complainant, the Respondent, and the Title IX Coordinator, and the Formal Complaint will be dismissed. The Title IX Coordinator will maintain the Informal Resolution agreement for seven years from its execution and will share it only to the extent necessary to carry out its purposes.

Ordinarily, the parties will have ten (10) calendar days from the date that a facilitator is assigned to reach an Informal Resolution agreement. This timeframe may be extended for good cause by the facilitator or Title IX Coordinator, and written notice of such extensions shall be provided to each party.

Participation in Informal Resolution is voluntary and will not be made a condition of either party's enrollment or employment.

VIII. Grievance Procedure Process

A neutral, trained Investigator will conduct a timely and impartial review to assess the allegations reported in the Formal Complaint and may conduct preliminary interviews to determine whether the allegations, if true, would reasonably constitute a finding that Sexual Harassment occurred. The Investigator will review the stated allegations and results of their preliminary interviews (if any) with the Title IX Coordinator, and the Title IX Coordinator will determine if a Formal Complaint will be dismissed or proceed to a full investigation.

A. Potential Dismissal

Pursuant to 34 Code of Federal Regulations §106.45(b)(3)(i), UMass Chan Medical School **MUST** dismiss a Formal Complaint if:

- The conduct would not constitute Sexual Harassment even if proved;
- The conduct did not occur in a UMass Chan Medical School educational program or sponsored activity; or
- The conduct did not occur in the United States.

UMass Chan Medical School **MAY** dismiss a Formal Complaint if:

- The Complainant withdraws the Formal Complaint in writing;
- The Respondent is no longer affiliated with UMass Chan Medical School as a student or employee; or
- There are circumstances that prevent UMass Chan Medical School from gathering evidence

sufficient to reach a determination.

When an allegation is dismissed, UMass Chan Medical School must send written notice of the dismissal including a rationale to both parties simultaneously. Both parties will have the right to appeal the dismissal in accordance with the appeal proceeding outlined in Section IX of this Procedure. When a Formal Complaint is dismissed, referrals to other resources will be provided as appropriate.

A dismissal of a Formal Complaint under Title IX does not preclude actions under other UMass Chan Medical School's policies and regulations including, but not limited to, the Student Code of Conduct, the relevant Honor Code, the Sexual Harassment Policy, the Acceptable Treatment of Learners policy, and/or the Principles of Employee Conduct.

B. Investigation

If the Title IX Coordinator determines that an investigation should proceed and not be dismissed, the Investigator will conduct a thorough and fair investigation of the Formal Complaint in a timely manner and based on the preponderance of the evidence standard.⁶ The Investigator must interview each party and may interview others the Investigator deems have relevant information related to the allegations and if they are available and willing to be interviewed. Prior to interviewing either party, the Investigator will provide each party with this Grievance Procedure and written notice of the allegations potentially constituting Sexual Harassment, including the date, time, and location (if known) of the alleged conduct. The written notice will also inform both parties of their right to an Advisor of their choice, the prohibition on providing false information, and the presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Prior and subsequent to the Live Hearing, the Advisor's participation in this Grievance Procedure, including but not limited to attendance at any meetings and/or interviews, is both at the discretion of the party who selected the Advisor and also as permitted by UMass Chan Medical School (which must be the same application for both parties). During the investigation, the Advisor's role is limited, and they may not speak on behalf of a party. During investigatory meetings and interviews, the parties will have the opportunity to take a break and confer with their Advisors, should they wish to do so. If a party does designate an Advisor during the investigation process, and at the request of that party, the Advisor will be furnished with a copy of the Complaint, the evidence gathered during the course of the investigation (when completed), and prior to the live hearing, a copy of the final investigative report. The Advisor is prohibited from disseminating the evidence and/or Investigator's report without both parties' written consent.

Prior to completion of the investigative report, the Investigator must provide to each party and the party's Advisor, if any, an opportunity to inspect and review the evidence gathered during the investigation in an electronic format or a hard copy. The parties will have ten (10) calendar days to inspect and review the evidence and submit a written response by email to the Investigator, should they wish to do so. The Investigator will consider the parties' written responses before completing

⁶ In order to find that conduct occurred under the preponderance of the evidence standard, the Investigator must find that the evidence gathered indicates that it is more likely than not that the conduct occurred.

the investigative report.

The Investigator will draft an investigative report that fairly summarizes the relevant evidence, including inculpatory and exculpatory evidence, and considers any responses about the evidence from the parties, and the Investigator will send this draft report to each party and the party's Advisor, and the parties will have ten (10) calendar days to review and provide a written response to this draft report to the Investigator.

After receiving any written responses to the draft investigative report, the Investigator will provide the final draft of the report and the parties' previously received written responses thereto to the Hearing Officers, the parties, and the parties' Advisors, and the Investigator shall refer the matter to the Hearing Officers for a Live Hearing.

During the above-described two 10-day review periods, the Title IX Coordinator or designee will work on scheduling the Live Hearing, which will be scheduled no sooner than 10 days from when the final investigative report is sent to each party and their Advisor.

If a party has not designated an Advisor prior to the scheduling of the Live Hearing, UMass Chan Medical School must provide such a person for the Live Hearing for the limited purpose of conducting any cross-examinations of the other party and any witnesses.

C. Live Hearing

Once the Title IX Coordinator decides that the Formal Complaint shall not be dismissed, and while the investigation is proceeding, the UMass Chan Medical School Provost shall appoint three disinterested and non-conflicted UMass Chan Medical School employees to serve as the Hearing Officers for the grievance, including naming one of these persons as Chair. The Title IX Coordinator and/or the Deputy Executive Vice Chancellor for Management or designee shall meet with the Hearing Officers and provide them with relevant training to conduct the Hearing and to confirm that none has a conflict of interest or bias related to the parties and the case. The Chair and the Title IX Coordinator, or designee, shall then facilitate a Live Hearing, which will be presided over by the Chair.

At the outset of the Live Hearing, the Investigator shall present a summary of the case to the Hearing Officers. The Hearing Officers may inquire of the Investigator any aspect of the Investigative Report and the investigation. Next, the Complainant and the Respondent, but not their respective Advisor, will have the opportunity to present their positions to the Hearing Officers. The parties may also present any relevant witnesses. The Hearing Officers will have the opportunity to ask any questions to the parties and any witnesses.

The Chair of the Hearing Officers must permit each party's Advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the Live Hearing must be conducted directly, orally, and in real time by the party's Advisor and never by a party personally. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Chair must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless they are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

During the Live Hearing, both parties and their Advisors will have access to all the evidence gathered during the investigative process for their reference. During the Live Hearing, either party may request a break at any time to confer with their Advisor, and/or to examine the evidence.

The Hearing Officers may not draw any inference about the determination regarding responsibility based solely on a party's or witness's absence from the Live Hearing or refusal to participate in cross-examination. Neither the Hearing Officers nor the Advisor may request or demand that either party provide evidence that is subject to a legal privilege, unless the party has waived the privilege. Employees with a legal privilege may include, but are not limited to:

- Licensed sexual assault counselors, psychologists, psychotherapists, social workers, clergy, and attorneys, and those persons working under the supervision of such individuals, when acting in their professional role providing services to a patient or client.
- UMass Chan Medical School employees that are bound by statutory privilege obligations under Massachusetts law.

At the request of either party, UMass Chan Medical School must provide for the Live Hearing to occur with the parties located in separate rooms with technology enabling the Hearing Officers and parties to simultaneously see and hear the party or the witness answering questions. Live hearings may be conducted with all parties physically present in the same geographic location or, at UMass Chan Medical School's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other. UMass Chan Medical School must create an audio or audiovisual recording, or transcript, of the live hearing and make it available to the parties for inspection and review.

After the Live Hearing, the Hearing Officers will prepare a written report, which they will provide to the parties simultaneously within seven (7) business days after the conclusion of the Live Hearing. The written report must include the following:

- The identification of the allegations potentially constituting Sexual Harassment;
- A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the relevant Definitions in Section I to the facts found;
- A statement of, and rationale for, the result as to each allegation.

The "results" shall include a determination regarding responsibility; and in the event there is a determination of responsibility against the Respondent, any recommended disciplinary sanctions to be imposed on the Respondent; and if the Complainant is a student, whether remedies designed to

restore or preserve equal access to UMass Chan Medical School’s educational program or activity will be provided to the Complainant. The “results” shall also determine whether the allegations must be dismissed as discussed earlier in Section VIII.A;⁷.

The Hearing Officers’ findings of fact, conclusions, and determinations must be based on the “preponderance of the evidence” (more likely than not) standard and should be the result of an evaluation of all evidence, including inculpatory and exculpatory evidence. Determinations regarding credibility may not be based just on a person’s status as a Complainant, Respondent, or witness. The final report, including recommended disciplinary sanctions, will be provided to the parties. The final report (results) will also include the procedure and permissible bases for appeal of the Hearing Officers’ determination.

Disciplinary sanctions that may be recommended for employees include, but are not limited to, a documented verbal warning, written warning, unpaid leave, suspension, or termination from UMass Chan Medical School. Disciplinary sanctions will be issued in accordance with UMass Chan Medical School policy and, in the case of employees who are union bargaining unit members, the applicable collective bargaining agreement. Any such disciplinary recommendation shall be forwarded, along with a copy of the Hearing Officers’ “report”, to the Office of Human Resources and the UMass Chan Medical School senior leader under whom the Respondent works, and a final decision shall be made by them on such recommendation.

Disciplinary sanctions that may be recommended for students are not reviewed or governed by any relevant Honor Code or Student Code of Conduct, and may include, but are not limited to: exclusion from participation in specified UMass Chan Medical School programs or activities, probation, suspension, or expulsion from the UMass Chan Medical School. Any such disciplinary recommendation shall be forwarded, along with a copy of the Hearing Officers’ “report”, to the Office of Student Affairs (Student Life) and the Dean of the involved “school”, and a final decision shall be made by them on such recommendation.

Additional remedies that UMass Chan Medical School may provide for either students or employees should be designed to restore or preserve equal access to the UMass Chan Medical School’s programs and activities, and may include, but are not limited to: the extension of support measures for a specified period of time, or imposition of additional support measures; training for the parties or a specified group of UMass Chan Medical School community members; and/or dissemination of materials related to Sexual Harassment awareness in specified areas of the UMass Chan Medical School. The Title IX Coordinator is responsible for effective implementation of any such remedies⁸.

Any timeframe referenced in this section can be extended for good cause, and with written notice to the parties, by the Investigator or the Hearing Officers.

⁷ In this circumstance, the allegations will be forwarded to the Title IX Coordinator to review with the appropriate designee within the Office of Human Resources to make a determination whether any follow-up investigation or a referral to another UMass Chan Medical School policy or process is necessary.

⁸ More information about employee discipline may be found in the collective bargaining agreement applicable to the Respondent’s employment, if any. Nothing in this Procedure shall preclude the University from imposing discipline for conduct that is not subject to this Procedure. Nothing in this Procedure shall preclude any bargaining unit member from utilizing the applicable grievance procedure in their collective bargaining agreement to challenge disciplinary sanctions.

IX. Appeal

Both parties have the right to appeal the Hearing Officers' determination of responsibility within ten (10) calendar days of receiving the decision (which can be extended by the Title IX Coordinator for good cause shown, and with written notice to both parties). The parties can appeal the Hearing Officers' determination on and/or dismissal of the allegations on the following bases:

- (A) Procedural irregularity that affected the outcome of the matter;
- (B) New evidence that was not reasonably available at the time the determination was made, and that could reasonably affect the outcome of the matter;
- (C) The Title IX Coordinator, Investigator(s), or Hearing Officer(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter; and/or
- (D) The Hearing Officers' determination on and/or dismissal of the allegations is against the great weight of the collective credible evidence.

The parties must submit the appeal, which must be in writing and signed, to the Title IX Coordinator within ten (10) calendar days of receipt of the determination.⁹ The Title IX Coordinator will assign the appeal to a trained Appeal Officer who will conduct a review and issue a decision. If the Appellant is a student or faculty member, the Appeal Officer shall be the UMass Chan Medical School Provost, or designee, and if the Appellant is some other employee, the Appeal Officer shall be the UMass Chan Executive Vice Chancellor for Administration and Finance, or designee. The Appeal Officer or Title IX Coordinator must provide the other party (Appellee) with a copy of the appeal. The party who did not file the appeal will have ten (10) calendar days to submit any written response to the appeal. The Appeal Officer will then issue a written decision, including the rationale for their findings on appeal to both parties simultaneously. The decision of the Appeal Officer is final.

X. Sources of Assistance, Counseling, and Support

Support services are available to UMass Chan Medical School community members who have experienced Sexual Harassment, regardless of whether they report the incident or file a Title IX Formal Complaint. Below are on-campus and off-campus resources which may be available to respond, assist, and/or provide support. Inclusion in this list is not an endorsement of same by UMass Chan Medical School. This information is not intended to be complete and is subject to change.

A. Police Resources:

FOR IMMEDIATE EMERGENCY ASSISTANCE, DIAL 911.

UMass Chan Medical School Police Department: Emergency 911; (508) 856-1629
55 Lake Ave North, Worcester – Main Level of the South Road Parking Garage

⁹ If the grounds for appeal include conflict of interest or bias by the Title IX Coordinator, the appeal may be submitted to the Vice Chancellor for Human Resources.

<https://www.umassmed.edu/publicsafety/>

Worcester Police Department: Emergency 911; (508) 799-8466
9-11 Lincoln Square
Worcester, MA 01608

Shrewsbury Police Department: Emergency 911; (508) 841-8577
106 Maple Avenue
Shrewsbury, MA 01545

B. ON-CAMPUS CONFIDENTIAL RESOURCES:

- 1. Student and GME Residents and Fellows:** In the event of an emergency, new and established patients can call Emergency Mental Health at 508-856-3562 your local ER or 911.

Student Counseling Services: (508) 856-3220

Email: SCS@umassmed.edu

<https://www.umassmed.edu/psychiatry/clinicalservices/studentcounseling/>

UMass Chan Medical School Campus Room S1-160: Monday-Friday 8:30-5:00

UMass Chan Medical School GME residents and fellows only: (508) 334-2149

- 2. For Faculty and Staff:**

Employee Assistance Program: 1-800-322-5327 (toll free: 24/7/365); Inhouse 6-1327

Email: eap@umassmed.edu

www.umassmed.edu/eap

Anderson House

382 Plantation Street

Worcester, MA 01605

C. ON-CAMPUS NON-CONFIDENTIAL RESOURCES

Title IX Coordinator:

Jeanna R. Lee, PhD

Asst. Director of Equity, Inclusion and Campus Climate

Office of Diversity and Inclusion

TitleIX@umassmed.edu

Alan Acosta, PhD, Assistant Vice Provost for Student Life and Director of Positive Learning Environments

Alan.Acosta@umassmed.edu

David LaChappelle, Director of Employee & Labor Relations

David.LaChappelle@umassmed.edu

Marlina Duncan, EdD
Vice Chancellor, Diversity and Inclusion
Marlina.Duncan@umassmed.edu

D. EXTERNAL RESOURCES

Attorney General's Office Victim Compensation Division: (617) 727-2200

Worcester County District Attorney: (508) 755-8601

Daybreak Domestic Violence: (508) 755-9030 (staffed 24 hours/ 7 days a week)

Online Chat: www.ywcahelp.com

URL: www.ywacentralmass.org/domestic-violence/

Worcester County Victims Assistance: (508) 792-0214

URL: worcesterda.com/victim-resources/

Worcester Intervention Network (WIN) - partnership between Daybreak and domestic violence unit of Worcester Police

(508) 799-8610

<https://ywcaacm.org/domestic-violence/>

Infolink-National Victim Resource Line

1-800-FYI-CALL

www.victimsofcrime.org/

Rape Abuse Incest National Network (RAINN): 1-800-656-HOPE

www.rainn.org

Safelink (Statewide Domestic Violence Hotline): 1-877-785-2020

E. SANE RESOURCES

In cases of sexual assault, the Massachusetts Sexual Assault Nurse Examiner (SANE) Program provides trauma-informed, expert forensic nursing care. For assaults that occurred within the past 5 days, SANE nurses may provide a medical forensic examination and forensic evidence collection kit. SANE services are available at the following healthcare providers in Central Massachusetts:

Harrington Memorial Hospital

100 South St.

Southbridge, MA 01550

(508) 765-9771

Milford Regional Medical Center

14 Prospect St.

Milford, MA 01757

(508) 473-1190
St. Vincent's Hospital
123 Summer St.
Worcester, MA 01608
(508) 363-5000

UMass Memorial Medical Center - University Campus
55 Lake Avenue North
Worcester, MA 01655

UMASS Memorial Health Care
(508) 334-5214
<http://www.umassmemorial.org>

UMASS Memorial Medical Center – Memorial Campus
119 Belmont Street
Worcester, MA 01605

SANE CENTRAL REGION RAPE CRISIS CENTERS

Pathways for Change
588 Main St.
Worcester, MA 01608
24/7 Hotline: (800) 870-5905
TTY: (888) 887-7130
Office: (508) 852-7600

Rape Crisis Center of Central MA — Fitchburg
275 Nichols Road
Fitchburg, MA 01420
Hotline: (800) 870-5905
TTY: (508) 852-7600
Office: (978) 343-5683

Wayside Trauma Intervention Services
Valley Rape Crisis Program
10 Asylum St.
Milford, MA 01757
24/7 Hotline: (800) 511-5070
TTY: (508) 478-4205
Office: (508) 478-6888

SMOC
Voices Against Violence
300 Howard St.
Framingham, MA 01702
24/7 Hotline: (800) 593-1125

TTY: (508) 626-8686 – Office: (508) 820-0834

Additional information about the SANE program, including state-wide SANE sites, and recommendations about the preservation of evidence, can be found here: <https://www.mass.gov/ma-sexual-assault-nurse-examiner-sane-program>.

XI. Required Training

Required Training: Title IX Coordinators, Investigators, Hearing Officers, Appeal Officers, Officials with Authority, and any other employees involved in this Grievance Procedure are required to participate annually in Title IX training. Training will be posted on UMass Chan Medical School’s Title IX webpage or will be made available for inspection during regular business hours.

Additional training required by Title IX and other federal and state regulations, and other UMass Chan Medical School policies, including the Non-Discrimination and Harassment Policies, will be provided upon matriculation or employment, and periodically thereafter, to all students and employees.

Related Documents

Title IX Policy