

EQUAL OPPORTUNITY AND ANTI-HARASSMENT COMPLAINT PROCEDURE¹
UNIVERSITY OF MASSACHUSETTS DARTMOUTH
January 2024

I. UNIVERSITY POLICY AND CAMPUS RESPONSIBILITY

It is the policy and practice of the University of Massachusetts Dartmouth (hereinafter “UMass Dartmouth” or “University”) to prohibit harassment and discrimination to all regardless of gender, race, color, national origin, religion, age, disability, marital status, veteran status, sexual orientation, gender identity and expression, genetic information or any other classification protected by federal, state, or local law, in employment, admission to and participation in academic programs, activities, and services and the selection of vendors who provide services and products to the University. It is of paramount importance that every member of the UMass Dartmouth community is treated with fairness and respect at all times. UMass Dartmouth strives to provide equal employment and educational opportunities for all in an environment free from discrimination and harassment, including sexual misconduct.

The University will not tolerate discriminatory or harassing conduct that affects employment or educational conditions or interferes unreasonably with an individual’s school or work performance, or that creates an intimidating, hostile, or offensive work or school environment. Harassment of employees or students occurring on campus or its satellite facilities, online, or in connection with work-related travel, and/or at University-sponsored events, whether hosted on or off campus, will not be tolerated. Furthermore, retaliation against an individual who has reported a complaint or cooperated with an investigation of a complaint of discrimination or harassment based on protected class status is similarly a violation of policy and will not be tolerated.

The University takes allegations of harassment and violations of equal opportunity seriously and will respond promptly to complaints. Where it is determined that inappropriate conduct has occurred, the University will act promptly to eliminate the offensive conduct and will impose corrective measures as necessary, including disciplinary action where appropriate, which may include termination of employment or the initiation of the student conduct process.

II. DEFINITIONS

Advisor is an individual who accompanies a Complainant or Respondent and provides advice and counsel to the party in an investigative interview, grievance proceeding, hearing, or other meetings related to the matter. The advisor may not advocate on behalf of the party or interfere with or restrain the University from conducting a legitimate investigation or inquiry. For Title IX matters related to sexual misconduct/harassment, please see the Title IX Grievance Procedure as it pertains to the role and responsibilities of the Advisor.

<https://www.umassd.edu/media/umassdartmouth/eeo/UMass.Dartmouth.Title.IX.Grievance.Procedure.pdf>

Harassment is conduct by a person or persons against another person or persons based upon their legally protected class that adversely has the effect of:

¹ This procedure may be modified, revised or amended at the discretion of the University.

- Unreasonably interfering with a person’s employment, educational benefits, academic grades or opportunities, or participation in University programs or activities; or
- Unreasonably interfering with a person’s work or academic performance; or
- Unreasonably creating an intimidating, hostile, or offensive working or academic environment. (Please also see the definition of sexual harassment included in the University’s Title IX Grievance Procedure).

Protected Classes are groups of individuals afforded legal and University policy protection from discrimination on the basis of sex (including sexual misconduct, pregnancy, childbirth, or related medical condition), race, color, age, religion or creed, national origin, ancestry, disability status, protected veteran status, gender identity or expression, sexual orientation, genetic information, or any other characteristic protected by law.

Retaliation is interference through intimidation, threats, coercion, or unlawful discrimination, with an individual’s right or privilege secured under law to report or a make a complaint, testify, assist, or participate or refuse to participate in any manner in an investigation, grievance proceeding or hearing, or to intervene to prevent a violation of this policy.

Sexual misconduct is unwelcome conduct of a sexual nature when:

- Submission to or rejection of such conduct by a person or persons is used as a basis for employment or educational decisions affecting such person or persons, or participation in University programs or activities, or
- Such conduct unreasonably (a) interferes with a person or person’s work or academic performance; (b) interferes with or limits a person or person’s ability to participate in or benefit from a work or academic program or activity; or (c) creates an intimidating, or offensive working or academic environment.

Unlawful discrimination is behavior that is directed at a specific person or persons that subjects them to treatment that adversely affects their employment, application for employment, education, admissions, University benefits, programs, or activities, because of their religion or sincerely-held religious beliefs, color, race, marital status, veteran or military status, age, sex (including sexual misconduct), pregnancy or related conditions, gender identity or expression, sexual orientation, national origin, disability, and genetic information.

III. CONTACT INFORMATION TO REPORT AN EQUAL OPPORTUNITY CONCERN OR FILE A COMPLAINT

A concern about, or complaint of discrimination or retaliatory harassment based on membership in a protected class may be made by contacting the Office of Diversity, Equity & Inclusion (“ODEI”) at 508-999-8810. ODEI is located in the Foster Administration Building, Suite 307, 285 Old Westport Road, Dartmouth, MA 02747. Concerns or complaints may also be submitted by using the online reporting form:

https://cm.maxient.com/reportingform.php?UMassDartmouth&layout_id=34

Individuals with concerns of discrimination also have the right to file a complaint with:

United States Department of Education Office of Civil Rights
5 Post Office Square, 8th Floor
Boston, MA 02109-3921
Telephone: (617) 289-0111
Facsimile: (617) 289-0150
E-mail: OCR.Boston@ed.gov

United States Equal Employment Opportunity Commission
Boston Area Office
JFK Federal Building
25 Sudbury Street
Boston, MA 02222
Voice Phone: 800-669-4000
FAX: (617) 565-3196
TTY: 800-669-6820
www.eeoc.gov

Massachusetts Commission Against Discrimination, Boston Office
One Ashburton Place, Room 601
Boston, MA 02108
Telephone: (617) 994-6000
FAX: (617) 994-6024

<https://www.mass.gov/orgs/massachusetts-commission-against-discrimination>

IV. SCOPE

A. Who May File A Complaint

Any member of the UMass Dartmouth community who believes that they have been subjected to unlawful discrimination, harassment, or sexual misconduct based on their membership in a protected class in the course of their educational, work, or other official activities sponsored or sanctioned by the University may file a complaint by following the protocol as outlined herein. Members of the UMass Dartmouth community consist of students, faculty, employees, applicants, visitors, as well as contractors, their agents and employees.

B. Responsible Persons and Covered Individuals

All members of the University community are responsible for avoiding, discouraging and reporting any form of discrimination, harassment, or sexual misconduct. The primary responsibility for ensuring that a proper investigation and resolution of discrimination, harassment, or sexual misconduct complaints rests with the Chief Diversity Officer/Title IX Coordinator (hereinafter "Chief Diversity Officer") in the Office of Diversity, Equity & Inclusion or his/her designee, who will administer the policy and procedures described herein.

Those found to be in violation of the University of Massachusetts Non-Discrimination and Harassment Policy (Doc. T16-040) shall be subject to disciplinary sanctions. Disciplinary sanctions shall be based on the nature and severity of the offense as well as any record of prior disciplinary action imposed on the Respondent. In general, sanctions may include, but are not

limited to, one or more of the following: public apologies, written warnings, letters of reprimand, attendance at appropriate workshops, and, in the case of employees, suspension, denial of merit pay for a specified period of time, involuntary demotion, removal from administrative or supervisory duties, and/or termination of employment. As outlined in the University's Code of Student Conduct, students may also be subject to disciplinary sanctions, including but not limited to, disciplinary probation, removal from residence halls, suspension, dismissal, etc.

In investigating complaints under this procedure, the University may impose discipline for inappropriate conduct without regard to whether the conduct constitutes a violation of the law and may take corrective action even if the conduct does not rise to the level of violating the University's equal opportunity and anti-harassment policies.

C. Initiating Complaints

1. Prompt reporting of discrimination and harassment is in the best interest of the entire University community and is essential to a fair, timely and thorough investigation. Accordingly, with limited exceptions², all complaints must be filed within three hundred (300) calendar days of the action that prompted the complaint.
2. Notwithstanding any provision of this policy, the University reserves the right to investigate and take action on its own initiative in response to behavior and conduct which may constitute discrimination or harassment or otherwise be deemed as inappropriate.

Prior to contacting the Office of Diversity, Equity & Inclusion, an aggrieved party is encouraged to first explore other avenues in an attempt to informally resolve their concern.

- **FOR EMPLOYEES:** Complainants who are employees are encouraged to first consult with their Human Resources Business Partner for their respective department/division who will conduct an initial assessment of the matter. If the Human Resources Business Partner, in consultation with a representative from the Office of Diversity, Equity & Inclusion, determines that the complaint does not rise to the level of unlawful discrimination or harassment as outlined in the University of Massachusetts Non-Discrimination and Harassment Policy (Doc. T16-040) or as described under this procedure, the matter shall be referred to Human Resources for further review, investigation, and/or adjudication.
- **FOR STUDENTS:** Complainants who are students are encouraged to contact the UMassD Care Network within the Division of Student Affairs, where a professional will conduct an assessment of the reported incident and determine if intervention by the Office of Diversity, Equity & Inclusion is warranted.
<https://www.umassd.edu/studentaffairs/umassdcare/>

If the Student Affairs representative, in consultation with a representative from the Office of Diversity, Equity & Inclusion, determines that the complaint does not rise to the level of unlawful discrimination or harassment as outlined in the University of Massachusetts Non-Discrimination and Harassment Policy (Doc.

² Allegations of sexual misconduct, as promulgated under Title IX, may be filed at any time, regardless of when the violation occurred.

T16-040) or as described under this procedure, the matter shall be referred to the Office of Community Standards within the Division of Student Affairs for further review, investigation, and/or adjudication.

3. Initiating the Process: If it is determined that the alleged conduct warrants intervention by the Office of Diversity, Equity & Inclusion, the Complainant is directed to complete the online complaint form and include the following information:
 - a. All relevant facts, including the date(s) and time(s) of the occurrence(s), the identity of all parties, the location(s) and circumstances of the behavior at issue, and any other information the Complainant feels is relevant;
 - b. The specific nature of the discrimination or harassment involved in the complaint;
 - c. Other individuals who might be aware of or have knowledge of the situation;
 - d. What actions, if any, the Complainant has taken as a result of the incident(s); and
 - e. What remedy or relief is being sought (although the imposition of any particular remedy is at the discretion of the University).

https://cm.maxient.com/reportingform.php?UMassDartmouth&layout_id=34

D. Preliminary Intervention and Review

The University reserves the right to institute immediate safety measures or temporary supportive measures after an incident or formal complaint is received or prior to the completion of an investigation. Such supportive measures may include, but are not limited to, the following:

- Imposing a no contact order, whereupon the parties shall have no in-person, verbal, written, electronic, digital or third-party communication with the other;
- Changing work schedules, job assignments, living arrangements, course schedules, assignments, or tests; or
- Limiting access to certain University facilities or activities pending resolution of the matter.

(Please see the University's Title IX Grievance Procedure for information about supportive measures for matters involving sexual harassment).

<https://www.umassd.edu/media/umassdartmouth/eeo/UMass.Dartmouth.Title.IX.Grievance.Procedure.pdf>

The specific supportive measures implemented and the process for implementing those measures will vary depending on the facts of each case. The University will consider a number of factors in determining what supportive measures to take, including, for example, the specific needs of the Complainant, the severity or pervasiveness of the allegations; any continuing effects on the Complainant; whether the Complainant and Respondent share the same job location, and whether other measures have been taken to protect the Complainant.

E. Review Process

The individual reporting the concern must provide all known information relevant to the alleged violation, including their name, University affiliation (e.g., faculty, staff, student), job title, contact information, the name of the person(s) alleged to have violated the policy; the date(s), time(s), and location(s) of the alleged occurrence(s); the names and contact information of any witnesses of the alleged occurrence(s), a detailed description of the occurrence(s), and a list of relevant supporting documentation. The supporting documentation must be provided as quickly as possible.

After the Complainant has provided the appropriate information, the Chief Diversity Officer (or his/her designee) will determine, based on the allegations, whether there will be a full investigation conducted by the Office of Diversity, Equity and Inclusion or resolved through informal means, including alternate dispute resolution (e.g., mediation, conciliation, etc.). The Chief Diversity Officer will assign a trained investigator who will conduct a review as appropriate to determine whether there has been a violation of University policy. All individuals (i.e., parties, third party witnesses) are expected to fully cooperate with this procedure. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances.

Each party will be required to meet with the assigned investigator. Both parties may be accompanied by an advisor of their choice. The parties will be afforded the opportunity to respond to the allegation(s), to provide names and contact information of witnesses, and to provide documentation in support of their account. All documentation will be confidentially retained by the assigned investigator.

F. Investigation Findings

1. **FOR EMPLOYEES:** Following the conclusion of investigation, the assigned investigator will generate a confidential report including a recommendation of a finding of “Responsible” or “Not Responsible” based on the preponderance of the evidence (or more likely than not) standard as well as the recommendation of any imposition of sanctions (if appropriate). The investigator will generate a response letter and provide it to both parties, concurrently, to the extent possible. In the case of a faculty or staff Respondent, a summary of findings report will be made available to the appropriate Vice Chancellor, Department Head or Dean for their consideration for execution of the recommended course of action. The Vice Chancellor, Department Head or Dean will provide their decision letter to the Office of Diversity, Equity and Inclusion for record keeping purposes.
2. **FOR STUDENTS:** In the case of a student Respondent, the confidential report, including a recommendation of a finding of “Responsible” or “Not Responsible”, will be forwarded to the Division of Student Affairs for review, adjudication, and sanctioning in accordance with the provisions of the Code of Student Conduct.

If the conclusion of the investigation supports a finding that a violation of University policy has occurred, the University will promptly and effectively implement measures to end the prohibited behavior, prevent its recurrence, and address its effects. These measures may include appropriate disciplinary action, up to including dismissal from the University.

G. Appeal

1. **FOR EMPLOYEES:** Any party to the action may file a written appeal to the Chancellor (or their designee) within ten (10) business days of the imposition of the action by the responsible Vice Chancellor, Department Head, or Dean. The parties may appeal the determination based on the following:
 - Procedural irregularity that affected the outcome of the matter;
 - New evidence that was not reasonably available at the time the determination was made, and that could affect the outcome of the matter; or
 - The responsible Office of Diversity, Equity & Inclusion staff member (e.g., Chief Diversity Officer, Investigator) or decision maker had a conflict of interest or bias for against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

Appeals may be submitted online at:

https://cm.maxient.com/reportingform.php?UMassDartmouth&layout_id=49

The Chancellor or designee will review the results of the confidential investigation report, the decision of the Vice Chancellor, Department Head, or Dean, the recommended corrective actions imposed, the grounds for the appeal, etc. and will render a decision regarding the appeal. The decision of the Appeal Officer will be final.

2. **FOR STUDENTS:** In the case of a student Respondent, the written appeal will be reviewed by the Vice Chancellor for Student Affairs or their designee. The appeal process, including the grounds for an appeal, for a student Respondent shall be governed by the Code of Student Conduct. The decision of the reviewer of the appeal shall be final.

Appeals may be submitted online at:

https://cm.maxient.com/reportingform.php?UMassDartmouth&layout_id=48

Nothing in these procedures is intended to interfere with the right of any member of the University community to utilize other applicable grievance or appeal procedures following the imposition of corrective action.

H. False Complaints

The University reserves the right to discipline members of the University community who bring false complaints of discrimination. No complaint will be considered “false” solely because it cannot be corroborated.

THE FOLLOWING IS PROVIDED AS A GENERAL OUTLINE OF STATE AND FEDERAL ANTI-DISCRIMINATION LAWS; IT DOES NOT CONSITUTE LEGAL ADVICE OR THE LEGAL POSITION OF THE UNIVERSITY:

Title VII of the Civil Rights Act of 1964, as amended (Title VII) prohibits discrimination in employment on the basis of race, sex, religion, color, or national origin.

Age Discrimination in Employment Act of 1967 (ADEA), amended in 1978 and 1986, states that it is unlawful to discriminate in employment against persons aged 40 and over on the basis of age.

Americans with Disabilities Act of 1990 (ADA) and Rehabilitation Act of 1973 prohibit discrimination in employment and education against qualified individuals with mental or physical disabilities.

Massachusetts Anti-Discrimination Law (M.G.L. Chapter 151B) prohibits discrimination in employment on the basis of race, sex, religion, age, color, national origin, sexual orientation, reserve status, and disability.

TYPES OF DISCRIMINATION:

Age – All persons over 40 years of age are protected from job discrimination on the basis of their age.

Disability – A disability is any physical or mental impairment that substantially limits one or more major life activities. Major life activities are defined as walking, talking, caring for oneself, breathing, speaking, etc. Disabilities may be “visible,” such as use of wheelchair or cane, or “hidden,” such as a heart condition, mental illness, seizure disorder, or HIV-related condition. Qualified disabled individuals are protected. The University is obligated to provide a reasonable accommodation for the disability of an applicant, employee, and/or student unless doing so would create an undue burden for the employer.

Genetic Information - This law makes it illegal to discriminate against employees or applicants because of genetic information. Genetic information includes details about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about any disease, disorder or condition of an individual's family members (i.e. an individual's family medical history). The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

Military Status – Discrimination on the basis of military status involves denying equal employment opportunity to any person because of that person's past, current or future membership, service or obligation in a uniformed service. An employer must reemploy a person who leaves employment for specified time periods for military deployment, service or training unless the employer can prove a statutory defense. Military status discrimination could take the form of refusing to hire, failing to reemploy, discharging, failing to promote, harassing, or discriminating against a person with respect to any other term, condition or privilege of employment.

National Origin / Ancestry – It is unlawful to discriminate against any employee or applicant because of the individual’s national origin. No one can be denied equal employment opportunity because of birthplace, ancestry, culture, linguistic characteristics common to a specific ethnic group, or accent. Equal employment opportunity cannot be denied because of marriage or association with persons of a national origin group; membership or association with specific ethnic promotion groups; attendance or participation in schools, churches, temples or mosques generally associated with a national origin group; or a surname associated with a national origin group.

Race – Non-Whites, including African, Hispanic, Asian, and Native American individuals, are often collectively referred to people of color or minorities. However, the law prohibits discrimination against any racial group, including Whites.

➤ **Color** – The law refers specifically to skin color because a shade of skin color may be perceived as being more or less preferable.

Religion – This term refers not only to “traditional” religious beliefs but also to any set of personal beliefs that are “sincere” and “consistently held.” Situations involving religion may often relate to work schedule or dress. The University is obligated to provide a reasonable accommodation for the sincerely-held religious belief of an applicant, employee, and/or student unless doing so would create an undue burden for the employer.

Retaliation – An individual who is engaged in a protected activity is protected against retaliation. A protected activity consists of the following: 1) opposing a practice made unlawful by one of the employment discrimination statutes; or 2) filing a charge, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under the applicable statute.

Sex – Sex discrimination may result when co-worker or management behaviors and decisions affecting hiring or terms and conditions of employment are influenced by attitudes about a person’s gender.

➤ **Gender Identity** - A person’s gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person’s physiology or assigned sex at birth. Gender identity is internal and a central part of a person’s sense of self.

➤ **Gender Expression** - How an individual outwardly shows their gender identity, including, but not limited to, physical and social expressions such as a person’s clothing, hairstyle, and name and pronoun choice.

➤ **Pregnancy** - Discrimination on the basis of pregnancy, childbirth or related medical conditions constitutes unlawful sex discrimination under Title VII.

➤ **Sexual Harassment** – Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of sexual nature constitute sexual harassment when: 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or academic work; 2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual; or 3) such conduct has the purpose or effect of unreasonably interfering with an

individual's work performance or creating an intimidating, hostile or offensive working or academic environment.

- **Sexual Orientation** – A person's identity in relation to the gender or genders to which they are sexually attracted.

Veteran Status

- **Vietnam Era Veteran** – A person who (1) Served on active duty for a period of more than 180 days, and was discharged or released therefrom with other than a dishonorable discharge, if any part of such active duty occurred: (i) In the Republic of Vietnam between February 28, 1961, and May 7, 1975; or (ii) Between August 5, 1964, and May 7, 1975, in all other cases; or (2) Was discharged or released from active duty for a service-connected disability if any part of such active duty was performed: (i) In the Republic of Vietnam between February 28, 1961 ad May 7, 1975; or (ii) Between August 5, 1964, and May 7, 1975, in all other cases.
- **Special Disabled Veteran** – a (1) veteran of the U.S. military ground, naval or air service who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Department of Veterans' Affairs for a disability (A) rated at 30 percent or more, or (B) rated 10 or 20 percent in the case of a veteran who has been determined under Section 38 U.S.C. 3106 to have a serious employment handicap or (ii) a person who was discharged or released from active duty because of a service-connected disability.
- **Newly Separated Veteran** – any veteran who served on active duty in the U.S. military, ground, naval or air service during the one-year period beginning on the date of such veteran's discharge or release from active duty.
- **Other Protected Veteran** – Any other veteran who served on active duty in the U.S. military, ground, naval, or air service during a war or in a campaign or expedition for which a campaign badge has been authorized, other than a special disabled veteran, veteran of the Vietnam era, or recently separated veteran.