



**University of Massachusetts- Boston
Office of Civil Rights and Title IX**

**Internal Procedures and Process for Complaints Alleging Unlawful Discrimination,
Harassment, or Hostile Environment in the Workplace**

A. Complaint Procedures.

These internal complaint procedures and process provide an internal mechanism through which the University of Massachusetts Boston ("UMass Boston" or the "University") may identify, respond to, and prevent incidents of unlawful discrimination and harassment. Depending on the individuals and nature of the allegations involved in an incident, other policies or procedures may apply, including but not limited to the Title IX Grievance Procedure, Student Code of Conduct, and/or Procedure for Complaints Alleging Sexual or Gender-Based Misconduct in the Workplace. Individuals are strongly encouraged to come forward with complaints regarding any form of unlawful discrimination or harassment and to seek assistance from a UMass Boston official or contact the Office of Civil Rights and Title IX ("CRTIX"). UMass Boston is committed to taking prompt, corrective action when it becomes aware of alleged unlawful discrimination or harassment. The University prohibits any retaliation towards employees who engage in protected activities (such as filing a complaint, participating in an investigation as a witness, requesting an accommodation, etc.).

These UMass Boston internal complaint procedures do not in any way deprive an individual of the right to file with any of the outside enforcement agencies listed in Section VI below at any time before, during, or after this process. Any individual who files a complaint with any outside agency or court may be deemed to have waived their rights to initiate or continue the internal complaint process at UMass Boston. Employees are entitled to bring someone to meetings as an advisor or for support, but only in cases of Title IX or sexual or gender-based misconduct may this advisor be an attorney. All formal complaints are subject to legally defined reporting timelines.

This *Internal Procedures and Process for Complaints Alleging Unlawful Discrimination, Harassment, or Hostile Environment in the Workplace* shall be conducted in accordance with applicable collective bargaining agreements of the University as well as any University-system policies.

UMass Boston prohibits discrimination and harassment (hostile work environment) based upon a legally defined protected class such as an individual's race, creed, color, national origin, ancestry, age, religion, sex, gender, religion, marital status, veteran status, sexual orientation, gender identity and expression, genetic information, disability, and any other class of individuals protected from discrimination under applicable federal, state, or local law, in employment, admission to and

participation in academic programs, activities, and services, and in the selection of vendors who provide services or products to the University.

For the purposes of these procedures, below are examples of activities that may be considered hostile work/learning environment harassment if unwelcome and depending upon the specific facts and circumstances. The list is not inclusive or exhaustive:

- Verbal: Epithets, slurs, innuendos, stereotyping, jokes, or other verbal conduct made with the intention of, or having the effect of, denigrating or showing hostility toward an individual or group based upon an individual's race, creed, color, national origin, ancestry, age, religion, marital status, veteran status, genetic information, disability, and any other class of individuals protected from discrimination under federal, state, or local law.
- Nonverbal: Display or creation of written or graphic materials, symbols, or other objects with the intention of, or having the effect of, denigrating or showing hostility toward an individual or group based upon an individual's race, creed, color, national origin, ancestry, age, religion, marital status, veteran status, genetic information, disability, and any other class of individuals protected from discrimination under federal, state, or local law
- Physical: Gestures or threatening, intimidating, or hostile acts made with the intention of, or having the effect of denigrating or showing hostility toward an individual or group based upon an individual's race, creed, color, national origin, ancestry, age, religion, marital status, veteran status, genetic information, disability, and any other class of individuals protected from discrimination under federal, state, or local law.

Disability

According to the EEOC a person can show that they have a disability in one of three ways:

- A person may be disabled if they have a physical or mental condition that substantially limits a major life activity (such as walking, talking, seeing, hearing, or learning).
- A person may be disabled if they have a history of a disability (such as cancer that is in remission).
- A person may be disabled if they are believed to have a physical or mental impairment that is not transitory (lasting or expected to last six months or less) and minor (even if they do not have such an impairment).

Below are examples of Disability Discrimination

Discrimination occurs when a covered employer or other entity treats an applicant or employee less favorably because they have a history of a disability (such as cancer that is controlled or in remission) or because they are believed to have a physical or mental impairment that is not transitory (lasting or expected to last six months or less) and minor (even if they do not have such an impairment).

Disability Discrimination & Harassment

Harassment can include, for example, offensive remarks about a person's disability. Harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted). The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

* Not everyone with a medical condition is protected by the law. In order to be protected, a person must be qualified for the job and have a disability as defined by the law.

B. The Complaint Process

I. Who May File A Complaint.

Any member of the UMass Boston community who believes that they have been unlawfully discriminated against or harassed in violation of the University of Massachusetts Non-Discrimination and Harassment Policy (Board of Trustees policy T16-040 as amended) may file a complaint by following this internal process. Members of the "UMass Boston community" may include faculty members, visiting faculty members, teaching or research assistants, applicants for employment, applicants for admission, administrators, students, employees, student employees, users of University services and programs or individuals who are authorized to conduct business with and/or perform other services on behalf of the University.

The designated investigator, on behalf of CRTIX and UMass Boston may proceed to investigate a complaint without the consent of the complainant who originally made a written or verbal complaint. The Director of the Office of Civil Rights and Title IX on behalf of UMass Boston may also institute an investigation where no complaint has been filed.

II. Where May A Complaint Be Filed.

The Director of the Office of Civil Rights and Title IX or their designee serves as the discrimination and harassment Officer for the University, as well as the Title IX Coordinator, providing oversight of the process. The Director of the Office of Civil Rights and Title IX and the designated investigator administer the University's internal policies on Non-Discrimination and Harassment (Board of Trustees policy T16-040 as amended), ADA/504 and Title IX. In any instance where the Director of the Office of Civil Rights and Title IX, or their designee, determines the designated investigator has a conflict of interest with respect to a claim brought under this process, the Director of the Office of Civil Rights and Title IX or their designee shall designate an alternate trained investigator to handle the matter.

An individual may initiate the complaint process by contacting the Office of Civil Rights and Title IX, by email, telephone, or mail as provided below:

Director of the Office of Civil Rights and Title IX / Title IX Coordinator
University of Massachusetts Boston Quinn Administration Building, Room 03-41a
Boston, MA 02125
Phone: 617-287-4818
Email: civilrights.titleix@umb.edu

III. Filing the Complaint

Any individual who believes that they have been subjected to unlawful discrimination, harassment, and/or related retaliation (the "complainant") should promptly report the incident(s) to their immediate supervisor or directly to CRTIX. If the alleged harasser (the "respondent") is the complainant's immediate supervisor, the complainant may report the incident(s) to their next level up supervisor or to CRTIX. A complainant is encouraged to file a complaint as soon as possible. A complaint must be reported to a supervisor or CRTIX within three hundred (300) calendar days of the complainant's first knowledge of the alleged discriminatory act. **IT IS THE COMPLAINANT'S RESPONSIBILITY TO BE CERTAIN THAT ANY COMPLAINT IS FILED WITHIN THE THREE HUNDRED (300) DAY PERIOD.** In rare instances verbal complaints may be acted upon, however, this process contemplates the submission of a written complaint that will enable a full and fair investigation of the facts.

Respondents found to be in violation of the UMass Boston policies will be subject to disciplinary action. Disciplinary action shall be based upon 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: written warnings, letters of reprimand, attendance at appropriate workshops, suspension, and removal from administrative or supervisory duties and/or termination of employment. Sanctions are not determined by CRTIX. Ultimately, they are determined by either Human Resources or the Provost's Office and Human Resources.

If a complaint involves allegations of child abuse, it will be reported to law enforcement as required by Massachusetts law.

(a) Informal Complaint Resolution Process

By the Supervisor.

A complainant may informally discuss an allegation of discrimination, harassment, and/or related retaliation with his/her immediate supervisor or, if the alleged harasser is the complainant's immediate supervisor, with the next level up supervisor or CRTIX. Supervisors who receive complaints should attempt to resolve the complaint as quickly as possible. Supervisors may counsel the complainant to take steps on their own behalf (including contacting the Employee Assistance Program), intervene on behalf of the complainant (e.g. discuss the matter with the alleged harasser and offer counseling or training), or escalate the complaint to the internal Formal process. In any such action, supervisors may consult with CRTIX. Matters not resolved within ten (10) working days, will be referred by the supervisor to the CRTIX's designated investigator. If the complainant is alleging a claim of sex discrimination, gender-based harassment, or sexual harassment, the supervisor must contact CRTIX before attempting to resolve the matter.

In the event a complaint is resolved informally, the supervisor shall issue a confidential memorandum to the complainant (and, following any intervention, to the alleged harasser) briefly state the facts alleged and the resolution. A copy of such memorandum shall be forwarded to the Director of the Office of Civil Rights and Title IX. Such memorandum shall not be placed in the complainant's or alleged harasser's personnel file.

If a supervisor feels they have inadequate knowledge of the appropriate ways to handle claims, we urge you to call CRTIX.

By The Office of Civil Rights and Title IX.

In an attempt to encourage prompt resolution of potential complaints, the complainant may request the intervention of CRTIX to resolve a complaint informally. CRTIX will attempt to resolve the matter informally in consultation with the appropriate supervisor of the respondent. Informal resolution attempts will not have precedential effect on any formal complaint filed.

If a confidential informal resolution agreement ("Informal Resolution Agreement") has not been executed by all parties within thirty (30) working days of the informal complaint being received by CRTIX, the complainant or the designated investigator may escalate the complaint to the formal complaint process.

If the complainant and respondent agree upon an informal resolution, the confidential Informal Resolution Agreement will be put into writing and both the complainant and respondent will execute the agreed upon Informal Resolution Agreement. The designated investigator may during the informal process counsel the complainant or respondent including recommending the complainant or respondent contact the Employee Assistance Program. The complainant or the designated investigator may escalate the complaint to the formal complaint process at any time before an Informal Resolution Agreement has been executed. During any stage in the Informal Process, the Director of the Office of Civil Rights and Title IX may recommend and enact an interim action to protect the complainant, the respondent, UMass Boston or any witness. Such action shall not be deemed punitive or disciplinary.

Administration of the Resolution Agreement.

The Director of the Office of Civil Rights and Title IX or designee will monitor compliance with resolution agreements. Resolution agreements will be maintained in CRTIX.

Breach of Resolution Agreements.

If the complainant or respondent believes that either party has failed to comply with the terms of the Resolution Agreement, they shall notify the Director of the Office of Civil Rights and Title IX. Notice must be in writing and submitted within thirty (30) calendar days of the date when the party became aware of the alleged noncompliance. The party in question may request that the terms of the Resolution Agreement be specifically implemented or, alternatively, that the allegation(s) be reinstated for further action from the point the complaint process ceased

For record retention, see Section IV.

(b) Formal Complaint

Complainants who chose to file a formal complaint (either in the first instance or following the informal process, if the complainant remains unsatisfied) with CRTIX shall file a written complaint through the CRTIX online reporting form. Such complaint shall be specific and should contain:

- (a) the name and department/office of the complainant;
- (b) the name and department/office of the respondent;
- (c) a clear statement of the facts in detail which explain what happened and what the complainant believes was the unlawful discriminatory act or acts. The statement should include the date(s) of when the unlawful discriminatory act or acts occurred. The names and addresses or department/office of all known witnesses; the impact of the discriminatory behavior;
- (d) A statement stating whether or not the complainant has filed or reported the incidents outlined in this complaint or similar incidents to any UMass Boston employee or any other person. Provide the name of the employee(s) or other person(s) and their address or department/office and the date when the incident(s) was/were reported. If an external complaint has been filed, the statement should indicate the name of the department or agency with which the information was filed and its address;
- (e) Any other supplemental information or documents as may be requested.

Interim Action

During any stage in the formal process, the Director of the Office of Civil Rights and Title IX may recommend interim action to protect UMass Boston, the complainant, the respondent, or any witness. Such action shall not be deemed punitive or disciplinary.

Initial Interview

The complainant will review the complaint for accuracy and execute the complaint. The designated investigator shall interview the complainant to ascertain any facts, circumstances, or witnesses not contained in the written complaint. The designated investigator will, at the time a complainant makes a complaint, provide the complainant with a copy of the relevant University policies and complaint procedures. Within 10 working days of the filing of the complaint accepted for investigation by CRTIX, the designated investigator will notify the respondent that a complaint has been filed with CRTIX, and a copy of the relevant University policies and complaint procedures will be provided to the respondent.

The Investigation

The primary responsibility for ensuring that a proper investigation and resolution of complaints filed with CRTIX rests with the Director of the Office of Civil Rights and Title IX. The designated investigator or designee shall conduct a confidential investigation into the allegations made by the complainant. In addition to interviewing the complainant and respondent separately, the investigation may include, but is not limited to, an interview with witnesses, persons who may

have knowledge of the events, or a review of written or other materials. The investigation shall, where appropriate, include a review of prior alleged claims of discrimination or harassment by the respondent.

The investigation into a claim of discrimination or harassment will be completed within sixty to ninety (60-90) working days of the respondent being notified of the complaint. For ADA/504 complaints, the investigation will be complete within thirty (30) days. The designated investigator may extend the investigation at his/her discretion. The complainant and respondent will be notified in writing of any extension period.

The designated investigator will weigh all the evidence, make findings of fact, and make a recommendation to the department head of the respondent's department. The designated investigator will determine by a preponderance of the evidence whether there has been a violation of University policy.

If the designated investigator determines that UMass Boston's policy has been violated, in conjunction with the Director of the Office of Civil Rights and Title IX they may make a recommendation which may include formal intervention, including counseling and/or training, disciplinary action up to an including termination or expulsion, or any other such appropriate action as may be recommended. The designated investigator, in conjunction with the Director of the Office of Civil Rights and Title IX may also make a recommendation upon not finding a violation of UMass Boston's policy. The findings of the designated investigator are final and shall not be appealed. While CRTIX may make recommendations on sanctions, they are not imposed or enforced by this office. All sanctions are determined by Human Resources or Human Resources and the Provosts office.

Following the Formal Process, the designated investigator shall issue a finding letter as to the investigative findings ("Finding Letter") to the complainant, respondent, respondent's supervisor if deemed necessary and appropriate Vice Chancellor.

The Finding Letter will be sent to the complainant and respondent within fifteen (15) working days of the conclusion of the investigation. The designated investigator will issue a separate confidential memorandum to the supervisor and appropriate Vice Chancellor regarding any recommendation made.

The appropriate Vice Chancellor in consultation with Human Resources will within ten (10) working days of receiving the findings of CRTIX accept, reject, or modify the recommendation of CRTIX, the supervisor or appropriate superior shall notify the respondent and the complainant in writing within at least fifteen (15) working days of receiving the findings as to the discipline to be imposed. Interim action to protect UMass Boston, the complainant, the respondent, or any witness during the informal or formal process shall not be deemed punitive or disciplinary.

The Findings Letter shall not be placed in the complainant's or respondent's personnel file or student record. However, if disciplinary action is taken a letter describing the disciplinary action may be placed in the appropriate personnel file, containing only such information as necessary (and not including the identity of the complainant).

Confidentiality. The designated investigator upon receipt of a complaint and during an investigation will attempt to limit the dissemination of information relating to a matter to the extent permitted by applicable law; however, confidentiality cannot be guaranteed. The complainant, respondent, witnesses, and other individuals involved in the informal or formal proceedings will be instructed to maintain confidentiality and not disclose any information concerning the complaint, investigation, informal resolution, formal resolution, or findings.

IV. Record Retention

All materials relative to an informal resolution or formal investigation shall be confidential and shall be maintained by CRTIX for a period of 8 years. The Finding Letter, Confidential Informal Resolution Memorandum, and accepted Complaint shall be available to the complainant or respondent. Records held by CRTIX may be subject to judicial subpoena, and subject to applicable laws.

V. False Complaints

UMass Boston reserves the right to discipline an individual who brings a false complaint of discrimination. No complaint will be considered "false" solely because it cannot be corroborated.

VI. Outside State and Federal Agencies.

Equal Employment Opportunity Commission (EEOC)

John F. Kennedy Federal Building
475 Government Center
Boston, MA 02203 (617) 565-3200
<http://www.eeoc.gov/laws/statutes/ada.cfm>

Massachusetts Commission Against Discrimination (MCAD)

One Ashburton Place, Room 601	436 Dwight Street, Room 220
Boston, MA 02108 (617) 727-3990	Springfield, MA 01103 (413) 739-2145

Office for Civil Rights (OCR)

5 Post Office Square
8th floor
Boston, MA 02109
Phone: (617) 289-0111
Customer Response Center: (800) 421-3481
Fax: (617) 289-0150
TDD: (800) 877-8339
Email: ocr.boston@ed.gov