

BOARD OF HIGHER EDUCATION

REQUEST FOR COMMITTEE AND BOARD ACTION

COMMITTEE: Fiscal Affairs and Administrative Policy **NO.:** FAAP 15-16

COMMITTEE DATE: December 2, 2014

BOARD DATE: December 9, 2014

MASSACHUSETTS COMMUNITY COLLEGE SEGMENTAL AFFIRMATIVE ACTION PLAN

MOVED: The Board of Higher Education hereby authorizes and approves the amended Community Colleges' **Affirmative Action, Equal Opportunity and Diversity Plan**. Attached hereto as "Attachment A."

The Board directs the Commissioner to work with the State Universities and the Community Colleges in the coming year to reconcile the segmental Affirmative Action plans to the extent possible, consistent with relevant variations in that nature of individual campuses, with the goal of developing a common, statewide statement of policies and procedures to govern campus responses to campus sexual violence. The Board further asks the University of Massachusetts to participate in those discussions.

The Board directs the Commissioner to report back to the BHE no later than December 2015 on the Commissioner's recommendations in this regard.

Authority: Massachusetts General Laws c. 15A, §9(w); 610 CMR 6

Contact: Constantia T. Papanikolaou, General Counsel

Background

The Board of Higher Education (BHE) is required, by statute, to “establish an affirmative action policy and implement a program necessary to assure conformance with such policy throughout the system.” M.G.L. c.15A, §9(w). In furtherance of this mandate, the BHE has promulgated regulations which set forth its responsibilities in the administration and enforcement of a system wide affirmative action policy and program. 610 CMR 6.

Under federal law, all public and private higher education institutions that receive Federal Title IV funding are required to comply with Title IX. Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in any federally funded education program or activity. All forms of sexual violence, including rape, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation, are prohibited forms of sex based discrimination under Title IX.

Dating back to at least 1986, the BHE has historically approved segmental affirmative action plans for the State Universities and the Community Colleges. These segmental affirmative action plans include policy statements and procedures which address an institution’s Title IX legal responsibilities. Among other things, the segmental affirmative action plans: 1) prohibit all forms of discrimination, discriminatory harassment, sexual violence, domestic and dating violence, stalking and retaliation; 2) delineate institutions’ efforts to prevent such behaviors; and 3) describe the procedures institutions will use in respond to such behaviors, including the investigation and resolution of complaints.

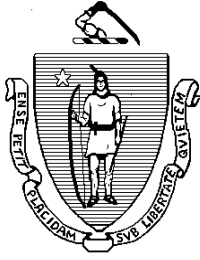
Although Title IX has always prohibited all forms of sex discrimination in the higher education setting, the following recent federal guidance documents have provided institutions with additional mandates and recommendations regarding their legal obligations in addressing student sexual violence:

- an April 2011 “Dear Colleague Letter” from the United States Department of Education (US DOE) reinforcing the principle that sexual violence is a form of sexual harassment which interferes with students’ rights to receive an education free from discrimination and is prohibited under Title IX;
- the March 2013 reauthorized Violence Against Women Act (VAWA), which included the Campus Sexual Violence Elimination Act (SaVE), and called for, among other things, increased transparency, prevention efforts and staff training on campus sexual violence;
- October 2014 Clery Act regulatory amendments at 34 CFR part 668 (effective July 1, 2015) which implements the SaVE Act and imposes increased reporting and response requirements on all institutions of higher education that participate in federal Title IV aid programs;
- An April 20, 2014 “significant guidance document” issued by the US DOE’s Office for Civil Rights and entitled “Questions and Answers on Title IX and Sexual Violence;” and

- An April 2014 White House Task Force Report entitled, *Not Alone*, recommending, among other things, campus climate surveys, increased dissemination of information, effective response training and increased prevention efforts to protect students from sexual assault.

As a result, institutions across the country have revised their policies, procedures and practices for addressing sexual violence.

The Community Colleges have updated their segmental Affirmative Action plan in conformance with these new federal mandates and recommendations; a compliance checklist is attached. (Attachment B).



The Commonwealth of Massachusetts
Board of Higher Education
Massachusetts Community Colleges

**POLICY ON AFFIRMATIVE ACTION,
EQUAL OPPORTUNITY & DIVERSITY**

- Berkshire Community College
- Bristol Community College
- Bunker Hill Community College
- Cape Cod Community College
- Greenfield Community College
- Holyoke Community College
- Massachusetts Bay Community College
- Massasoit Community College
- Middlesex Community College
- Mount Wachusett Community College
- North Shore Community College
- Northern Essex Community College
- Quinsigamond Community College
- Roxbury Community College
- Springfield Technical Community College

Effective Date: October 11, 2013

Amended & Reissued Date: September 2014

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**CERTIFICATE OF APPROVAL
FOR MASSACHUSETTS COMMUNITY COLLEGES
POLICY ON AFFIRMATIVE ACTION, EQUAL OPPORTUNITY & DIVERSITY**

The Commonwealth of Massachusetts' Community Colleges' Policy on Affirmative Action, Equal Opportunity & Diversity has been approved for implementation by the Colleges and the Board of Higher Education, effective October 11, 2013, with subsequent amendments made in accordance with requirements imposed under federal law and reissued in September 2014.

This Policy shall replace the previous Policy, which was approved by the Chancellor of the Board of Higher Education on July 1, 2004. This Policy shall remain in full force and effect until a successor Policy is approved or as amended pursuant to state or federal law.



Richard M. Freeland
Commissioner
Department of Higher Education

A. OVERALL POLICY STATEMENT

The Community Colleges have carefully developed and outlined the major elements of an effective Affirmative Action, Equal Opportunity & Diversity Policy with the understanding that a successful policy requires more than the knowledge of laws, regulations and current government requirements. It demands leadership, vision, and commitment to fully comprehend what challenges Community Colleges face in preparing students for the twenty-first century. The Colleges, both collectively and individually, commit themselves to not only the valuing of human dignity, but to the appreciation of the necessity of providing all members of the College Community an experience that equips them to relate to all persons and groups in the increasingly global and diverse world in which we all live and work.

The Community Colleges wish to take a role of leadership in providing an environment where equity and diversity are truly valued beyond verbal commitments and mere tolerance. This leadership role requires that we all share responsibility for making constructive campus-wide changes in response to the principles set forth in this Policy. By turning our collective energies into making Affirmative Action an integral part of campus life, we continue to fulfill our mission in developing the talents and potential of all members of our College Communities and our society.

B. POLICY STATEMENT ON AFFIRMATIVE ACTION, EQUAL OPPORTUNITY & DIVERSITY

The Board of Higher Education of the Commonwealth of Massachusetts is responsible under Chapter 15A of the General Laws of the Commonwealth of Massachusetts for the overall governance of the public higher education system, which includes the fifteen Community Colleges. The Board of Higher Education and the Boards of Trustees of the Community Colleges maintain and promote a policy of non-discrimination on the basis of race, creed, religion, color, gender, gender identity, sexual orientation, age, disability, genetic information, maternity leave, military service and national origin (“protected class(s)/classification(s).” Further, this policy prohibits retaliation and incorporates by reference, and where applicable, the requirements of Titles VI and VII of the Civil Rights Act of 1964; Title VI of the Civil Rights Act of 1968; Titles I and II of the Civil Rights Act of 1991; Title IX of the Education Amendments of 1972 and its regulations found at 34 C.F.R. part 106; Equal Pay Act of 1963; Civil Rights Restoration Act of 1988; Sections 503 and 504 of the Rehabilitation Act of 1973; Americans with Disabilities Act of 1990; Section 402 of the Vietnam-era Veterans Readjustment Act of 1974, Uniformed Services Employment and Reemployment Rights Act (USERRA); Age Discrimination Act of 1975; Age Discrimination in Employment Act of 1967, as amended; Family and Medical Leave Act of 1993; Federal Executive Order 11246 of 1965, as amended by Executive Order 11375 of 1967; Federal Executive Order 12900 of 1994; Federal Executive Order 13145 of 2000; Federal Executive Order 13160 of 2000; Federal Executive Order 13166 of 2000; Massachusetts Civil Rights Act; Massachusetts General Laws Chapters 151B, 151C, and Chapter 149; directives of the BHE, the Boards of Trustees of the Community Colleges and the Commonwealth of Massachusetts; and other applicable local, state and federal constitutions, statutes, regulations and executive orders.

Non-discrimination requires the elimination of all existing unlawful discriminatory conditions, whether purposeful or inadvertent. The Community Colleges are continuing to systematically examine all policies and procedures to be sure that they do not, if implemented as stated, operate to the detriment of any person on the basis of a protected classification. The Colleges shall require that the practices of those responsible in matters of employment and education, including all supervisors and faculty, are non-discriminatory. Should the College discover discrimination in treatment or effect in any employment, educational or service decision, action, inaction or practice within the College, all appropriate corrective and/or disciplinary actions shall be taken under the direction of the President of the College subject to any applicable collective bargaining agreement or other policy or procedure of the College.

The Community Colleges are committed to a policy of Affirmative Action, equal opportunity, equal education, non-discrimination, and diversity. They are committed to providing a learning, working and living environment for their students, employees and other members of the College Community, which values the diverse backgrounds of all people. The Colleges are committed to assuring that the “College Experience” is one that challenges, empowers, supports, and prepares its students to live in, work in, and value our increasingly global and diverse world. The Colleges believe that the diversity of socio-economic, racial, ethnic, religious, gender, sexual orientation, age and disability backgrounds of members of the College Community enriches the institutions

and their various constituencies. The Colleges will not tolerate behavior based on bigotry, which has the effect of discriminating unlawfully against any member of their communities.

The Community Colleges provide equal access to educational, co-curricular and employment opportunities at the Colleges for all applicants, students and employees in compliance with all applicable laws, regulations and policies. All benefits, privileges and opportunities offered by the Colleges are available to all students, employees and other persons having dealings with the institutions on a non-discriminatory basis. The Colleges are committed to taking a pro-active Affirmative Action posture with respect to their recruitment, selection and promotion of students and employees.

The purpose of the Affirmative Action component of this Policy is to establish a set of programmatic objectives, which shall provide for the recruitment, access and advancement of qualified persons from within the protected classes/classifications recognized under this Policy with respect to employment and enrollment opportunities. The intent of this Policy is to responsibly recognize, and to whatever extent possible, resolve the effects of past societal discrimination and the impact which that discrimination has had, not only on victims of such discrimination, but on the total academic, educational and social system as well. It is not intended and should not be used to discriminate against any applicant, employee, or student because of a protected classification.

In response to that recognition, the Colleges, through their Boards of Trustees and Presidents, fully endorse the plan of action set forth in this Policy and shall oversee and monitor its implementation through the Affirmative Action Officer and other assigned personnel.

The following specific policies are established:

- Equal opportunity and affirmative action shall apply to all segments of the College; full and part-time employment; day and continuing education; the curriculum and offerings of the College.
- Equal opportunity and affirmative action shall be applied to the recruitment process for employment and/or access to education.
- Students will have access to the College, programs of study, activities, and other resources intended to serve them, according to the policies of the individual Colleges.
- Equal employment opportunity and affirmative action will be realized in all personnel employment, including recruitment, application for employment, hiring, benefits, compensation, training, promotion, and termination.
- All policies, procedures, privileges, and conditions of the College will follow and incorporate applicable equal opportunity and affirmative action rules and regulations.

The above-stated policies are intended to be applied broadly with the goal of promoting equal opportunity and diversity in Community Colleges. The Community Colleges pledge to apply all

policies consistently, fairly, and vigorously. Attempts to subvert or abuse these policies will not be tolerated. Appropriate disciplinary action will be taken in the case of an infraction. Such disciplinary action shall be consistent with the appropriate collective bargaining agreement, if applicable.

All policies are made in compliance with laws and regulations and executive orders promulgated by the federal and state governments and other appropriate agencies and authorities, where applicable.

C. DEFINITIONS

ADA/504 COORDINATOR: A College employee assigned the responsibility for maintaining the College's compliance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. Alleged violations of the ADA or Section 504 shall be subject to the Affirmative Action Policy's Complaint Procedure as administered by the Affirmative Action Officer. The ADA/504 Coordinator is _____ and can be contacted at _____.

AFFIRMATIVE ACTION OFFICER ("AAO"): A College employee assigned the responsibility of administering the College's Affirmative Action Policy. The Affirmative Action Officer may also serve as the College's Title IX Coordinator and/or the ADA/504 Coordinator. If the Affirmative Action Officer is the person against whom the complaint is filed, the President shall designate another College official to act as the Affirmative Action Officer for purposes of administering the Affirmative Action Policy. The Affirmative Action Officer is _____ and can be contacted at _____.

COMPLAINT: A written complaint alleging a violation of the Affirmative Action Policy.

COMPLAINANT: The student(s) or employee(s), or applicant for admission or employment, filing the complaint.

CONSENT: "Consent" must be informed, voluntary, and mutual, and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption that meets this standard, or being asleep or unconscious. (*source: NotAlone.gov*)

DAY: As used in this policy, shall mean a calendar day.

EQUAL OPPORTUNITY: A College's effort to ensure that all personnel and academic decisions, programs and policies are formulated and conducted in a manner which will ensure equal access for all people and prevent discrimination. As part of this effort, a College will ensure that employment and academic decisions, programs and policies will be based solely on the individual eligibility, merit or fitness of applicants, employees and students without regard to race, color, creed, religion, national origin, age, disability, sex, marital status, military service, gender identity, genetic information, sexual orientation or political or union affiliation.

INSTRUCTIONAL PERIOD: The academic semester, summer session or intersession when a Complainant knows or should have known of an act or inaction in violation of this Policy. The Instructional Period shall end on the last day of final exams.

PREPONDERANCE OF EVIDENCE: The evidentiary standard used in resolving a complaint filed under this Policy's Complaint Procedure. Preponderance of Evidence means more likely than not that sexual violence or another Title IX Offense occurred.

PERSONAL ADVISOR: As referred to under the Complaint Procedure of this Policy, a personal advisor for a unit member shall be a union representative or College employee, for a non-unit employee it shall be a College employee, and for a student it shall be another student, a College administrator or faculty member. In cases involving allegations of Title IX Offenses, the personal advisor may be an attorney.

PROHIBITED CONDUCT: The following conduct is prohibited under this policy:

1. **DISCRIMINATION:** An intentional or unintentional act which adversely affects employment and/or educational opportunities because of a person's membership in a protected class or association with a member(s) of a protected class. Discrimination may be classified as either disparate impact (practices that are facially neutral in their treatment of different groups but that in fact fall more harshly on one group than another and cannot be justified by business necessity) or disparate treatment (treatment of an individual that is less favorable than treatment of others based on discriminatory reasons). A single act of discrimination or discriminatory harassment may be based on more than one protected class status. For example, discrimination based on anti-Semitism may relate to religion, national origin, or both; discrimination against a pregnant woman may relate to sex, marital status, or both; or discrimination against a transgender individual may relate to gender identity, sex or sexual orientation.

Examples of behavior that may constitute discrimination, include, but are not limited to:

- a. Differences in salaries or other benefits that are paid to one or more men or women if the differences are not based on a bona fide occupational qualification.
- b. Differences in terms, conditions and privileges of employment (including, but not limited to hiring, promotion, reassignment, termination, salary, salary increases, discipline, granting of tenure, selection for awards, etc.) on a prohibited basis.
- c. Unlawful disparity of treatment in educational programs and related support services on the basis of membership in a legally protected class.
- d. Developing position descriptions or qualifications, which, without lawful justification, are so specific as to have a disparate exclusionary impact on a group of individuals because of their membership in a protected class.
- e. Singling out, treating or causing to treat persons of one protected class differently from others because of assumptions about or stereotypes of the intellectual ability, interest, or aptitudes of persons of those aforementioned groups.

- f. Limiting access to housing, or participation in athletic, social, cultural or other activities to students because of membership in a protected class not based on a bona fide requirement or distinction.
- g. Failing or refusing to hire or promote a person because of their age.
- h. Classifying a position or positions as unsuitable for persons of certain religions.
- i. Forcing employees or students to participate or not participate in a religious activity as a condition of their employment or education.
- j. Excluding members of a certain race or national origin from a category of positions or from a department or division.
- k. Restricting the number of Vietnam era veterans or qualified persons with disabilities in a category of positions or in a department or division.
- l. Using information on marital or parental status for employment decisions where the use of such information has a disparate impact on persons of one gender or sexual orientation.
- m. Advising students of similar interests and backgrounds differently because of their gender or gender identity.
- n. Diverting a discussion of a student's or employee's work toward a discussion of his or her physical attributes or appearances.
- o. Forcing female students to sit in the back of the class on the stereotyped assumption that each of them has a lower aptitude for learning that particular subject than male students.
- p. Placing unreasonable expectations upon students of particular races or national origins on the basis of stereotyped assumptions that members of those protected classes have a better aptitude for certain academic subjects than students not of those races or national origins.

2. **DISCRIMINATORY HARASSMENT:** Discriminatory harassment. A form of unlawful discrimination including verbal and/or physical conduct based on legally protected characteristics and/or membership in a protected class that:

- a. has the purpose or effect of creating an objectively intimidating, hostile or offensive work or educational environment;
- b. has the purpose or effect of unreasonably interfering with an individual's work or learning performance; or
- c. otherwise unreasonably adversely affects an individual's employment or educational opportunities.

For purposes of this Policy, conduct constitutes hostile environment harassment when it:

- a. is targeted against an individual(s) on the basis of his or her membership in a protected class;
- b. is not welcomed by the individual(s); and
- c. is sufficiently severe or pervasive that it alters the conditions of education or employment and creates an environment that a reasonable person would find intimidating, hostile or offensive.

The determination of whether an environment is “hostile” is based on the totality of the circumstances. These circumstances could include the frequency of the conduct, its severity, and whether it is threatening or humiliating. Simple teasing, offhand comments and isolated incidents (unless extremely serious) will not amount to hostile environment harassment under this Policy.

Examples of behavior that may constitute discriminatory harassment include, but are not limited to:

- a. Physically harassing another individual (or group of individuals) because of that person’s or persons’ membership in a protected class by assaulting, touching, patting, pinching, grabbing, staring, leering at them, making lewd gestures, invading their personal space, blocking their normal movement, or other physical interference.
 - b. Encouraging others to physically or verbally abuse an individual (or group of individuals) because of that person or persons’ membership in a protected class.
 - c. Threatening to harm an individual (or group of individuals) because of that person or persons’ membership in a protected class.
 - d. Directing epithets, or slurs at an individual (or group of individuals) because of that person or persons’ membership in a protected class.
 - e. Displaying hostile, derogatory and/or intimidating symbols/objects, to an individual (or group of individuals) because of that person or persons’ membership in a protected class.
3. **GENDER-BASED HARASSMENT**: Unwelcome conduct of a nonsexual nature based on a student’s actual or perceived sex, including conduct based on gender identity, gender expression, and nonconformity with gender stereotypes, where: (*source: NotAlone.gov*)
- a. submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or education; and/or
 - b. submission to, or rejection of, such conduct by an individual is used as a basis for academic or employment decisions affecting that individual; and/or
 - c. such conduct has the purpose or effect of substantially interfering with an individual’s academic or professional performance or creating an intimidating, hostile, or offensive employment, educational, or living environment based on gender.
4. **RETALIATION**: Taking adverse employment or educational action against a person who files claims, complaints or charges under these procedures, or under applicable local, state or federal statute, who is suspected of having filed such claims, complaints or charges, who has assisted or participated in an investigation or resolution of such claims, complaints or charges, or who has protested practices alleged to be violative of the non-discrimination policy of the College, the BHE, or local, state or federal regulation or statute. Retaliation, even in the absence of provable discrimination in the original complaint or charge, constitutes as serious a violation of this Policy as proved discrimination under the original claim, complaint or charge.

Examples of behavior that may constitute retaliation, include, but are not limited to:

- a. Terminating an employee for expressing an intention to file or for filing a charge of discrimination.
- b. Refusing to hire an employee due to the employee's pursuit of a discrimination charge against a former employer.
- c. Denying a promotion to an employee for complaining to anyone about alleged discrimination or harassment.
- d. Refusing tenure to a faculty member for filing a complaint of discrimination or harassment pursuant to the Discrimination Complaint Procedures.
- e. Issuing an unjustified negative evaluation to an employee for testifying in a legal proceeding concerning a complaint of discrimination, harassment or retaliation.
- f. Assigning a student an unearned, poor grade for requesting a reasonable course accommodation based on religion.
- g. Assigning a student an unearned, failing grade for cooperating with an internal investigation of alleged discriminatory practices or a complaint of discrimination or harassment.
- h. Refusing to admit a student for requesting a reasonable accommodation based on disability in the admission process.
- i. Refusing to hire a job applicant for requesting a reasonable accommodation based on disability in the application process.

Members of the academic community should not assume that any of the forms of speech described above are protected by the principles of academic freedom or the First Amendment to the United States Constitution.

5. **SEXUAL HARASSMENT:** Sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

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

Under these definitions, direct or implied requests by a supervisor or instructor for sexual favors in exchange for actual or promised job or academic benefits constitute sexual harassment. The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment.

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

- a. Unwelcome sexual advances - whether they involve physical touching or not.
 - b. Repeated, unsolicited propositions for dates and/or sexual intercourse.
 - c. Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess.
 - d. Displaying sexually suggestive objects, pictures, cartoons.
 - e. Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments.
 - f. Verbal harassment or abuse on the basis of sex.
 - g. Inquiries into another person's sexual activities, practices or experiences.
 - h. Discussion of one's own sexual activities, practices or experience.
6. **SEXUAL VIOLENCE:** Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (*e.g.*, due to the person's age or use of drugs or alcohol, or because an intellectual or other disability prevents the person from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be perpetrated by employees, students, or third parties. All such acts of sexual violence are forms of sex discrimination and are prohibited by Title IX. (*source: OCR Title IX Advisory, dated April 29, 2014*) ()

Sexual Violence under this Policy includes, but is not limited to:

- a. **Rape** Defined by the Federal Bureau of Investigation as follows: 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. (*source – VAWA Final Regulations 2014 and FBI definitions*)
- b. **Sexual Assault** - Actual or attempted sexual contact with another person without that person's consent. Sexual assault includes, but is not limited to:
 - **Fondling** - 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** - Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law;
 - **Rape**; and
 - **Statutory Rape** - Sexual intercourse with a person who is under the statutory

age of consent.

(source – VAWA Final Regulations 2014 and FBI definitions)

c. Sexual Exploitation - Occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person without that person's consent. Examples of behavior that could rise to the level of sexual exploitation include:

- Prostituting another person;
- Recording images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent;
- Distributing images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure and objects to such disclosure; and
- Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent, and for the purpose of arousing or gratifying sexual desire. *(source: NotAlone.gov)*

d. Aiding in the Commission of Sexual Violence - The aiding or assisting in the commission of an act(s) of sexual violence is prohibited.

7. STALKING - Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: fear for the person's safety or the safety of others; or suffer substantial emotional distress. For the purposes of this definition, "course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. For the purposes of this definition, "substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. *(source – VAWA Final Regulations 2014)*

8. DATING VIOLENCE – 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; and (iii) the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence. *(source – VAWA Final Regulations 2014)*

- 9. DOMESTIC VIOLENCE** - A felony or misdemeanor crime of violence including, but not limited to, attempting to cause or causing physical harm; placing another in fear of imminent serious physical harm; or causing another to engage involuntarily in sexual relations by force, threat or duress, which is committed by (a) a current or former spouse or intimate partner of the victim; (b) a person with whom the victim shares a child in common; (c) a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; (d) a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or (e) 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 in which the crime of violence occurred. (*source – VAWA Final Regulations 2014*)

PROTECTED CLASS(S)/CLASSIFICATION(S): Characteristics or groups of persons protected from discrimination by law and under this Policy, including:

- a. Age - Persons 40 years of age or older.
- b. Color - Variations in skin tone among persons of the same race.
- c. Disability - A person with a disability is one who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment. Examples include, but are not limited to, the following: Acquired Immune Deficiency Syndrome (AIDS), Alcoholism; Asthma; Blindness or other visual impairments; Cancer; Cerebral palsy; Depression; Diabetes, Epilepsy; Hearing or speech impairments; Heart Disease; Migraine Headaches; Multiple sclerosis; Muscular dystrophy; Orthopedic impairments; Paralysis; Thyroid gland disorders; Tuberculosis; loss of body parts.
- d. Ethnicity - See National Origin.
- e. Gender - A person's sex, either male or female.
- f. Gender Identity - Gender identity is a term that covers a multitude of sexual identities including, but not limited to, transgender individuals, who are persons whose gender identity or gender presentation falls outside of stereotypical gender norms.
- g. Genetic Information - Any written, recorded individually identifiable result of a genetic test or explanation of such a result or family history pertaining to the presence, absence, variation, alteration, or modification of a human gene or genes.
- h. National Origin - A "national origin group" or "ethnic group" is a group sharing a common language, culture, ancestry, and/or other similar social characteristics.
- i. Persons of Color - Members of the following racial classifications: Black, American Indian/Native Alaskan, Asian/Pacific Islander, and Hispanic/Latino.

- j. Race - Discrimination laws do not contain a definition of “race,” but are interpreted to prohibit discrimination on the basis of ancestry or physical or cultural characteristics associated with a certain race, such as skin color, hair texture or styles, or certain facial features, and on the basis of stereotypes and assumptions about abilities, traits, or the performance of individuals of certain racial groups. All individuals, including persons of more than one race and the following racial classifications, are protected from discrimination:
- Black: All persons having origins in any of the Black racial groups of Africa.
 - White (not of Hispanic origin): Persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
 - Hispanic/Latino: All persons of Mexican, Puerto Rican, Cuban, Central, Latin or South American or other Spanish culture or origin, regardless of race.
 - Cape Verdean: All persons having origins in the Cape Verde Islands.
 - Asian or Pacific Islander: All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands, including, for example, the areas of China, India, Japan, Korea, the Philippine Islands and Samoa.
 - American Indian or Alaskan Native: All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.
- k. Religion - “Religion” and “creed” have the same or equivalent meaning: all religious and spiritual observances, practices, and sincerely held beliefs.
- l. Sexual Orientation - Actual or perceived heterosexuality, homosexuality or bisexuality, either by orientation or by practice.
- m. Veteran - Any person who is a member of, applies to perform, or has an obligation to perform, service in a uniformed military service of the United States, including the National Guard.

If at any time subsequent to the implementation of this Policy additional protected classifications are established under applicable law, individuals in those classifications shall be protected against discrimination under this Policy.

RESPONDENT OR RESPONDING PARTY: The person against whom a complaint is directed.

RESPONSIBLE EMPLOYEES: Allegations involving Title IX offenses, including sex discrimination, sexual harassment, sexual violence, stalking, domestic and dating violence, shall

be reported by all “Responsible Employees” to the Title IX coordinator or official designee as soon as the employee becomes aware of it. A Responsible Employee includes any College employee: who has the authority to take action to redress Title IX offenses; who has been given the duty of reporting Title IX offenses to the Title IX Coordinator or other appropriate school designee; or whom a student could reasonably believe has this authority or duty. Responsible Employees shall include, but are not be limited to, College trustees, administrators, department chairs, program coordinators, campus police, club/activity advisors, coaches, managers or supervisors. (*source: OCR Title IX Advisory, dated April 29, 2014*)

TIME: The number of days indicated at each level shall be considered as a maximum. All reasonable efforts shall be made to expedite the process, but the President or his/her designee may extend the time limits in extenuating circumstances with notice to both parties in writing, or by mutual written agreement between the Complainant and the Responding Party.

TITLE IX COORDINATOR: A College employee assigned the responsibility for maintaining the College’s compliance with Title IX. The Title IX Coordinator is responsible for administering this Policy concerning all Title IX Offenses . The Title IX Coordinator may also serve as the College’s Affirmative Action Officer. If these positions are held by different individuals, the AAO and the Title IX Coordinator may collaborate on the enforcement of any aspect of this Policy. The Title IX Coordinator should not have other job responsibilities that may create a conflict of interest. For example, serving as the Title IX Coordinator and a disciplinary hearing board member or general counsel may create a conflict of interest. There may also be a Deputy Title IX Coordinator designated to assist the Title IX Coordinator in the performance of his/her duties. The College’s Title IX Coordinator is _____ and can be contacted at _____.

TITLE IX OFFENSES: Title IX Offenses include, but are not limited to: sex discrimination, sexual and gender harassment, sexual violence, stalking, dating violence and domestic violence. These offenses shall be investigated by the Title IX Coordinator pursuant to this Policy’s Complaint Procedure.

VICTIM: A person who reports being subject to an alleged act of sexual violence.

D. SPECIFIC POLICIES

I. SUPPORT OF AND COMMITMENT TO DIVERSITY

The Community Colleges have historically been a major contributing element to the emergence of our nation as one of the most technologically and economically advanced societies of the world. The important role that the Community Colleges can play is profoundly dependent upon the extent to which they may draw from the full collective of intellectual resources within each College's community of scholars, students, and administrators. Any condition or force that impedes the fullest utilization of the human and intellectual resources available represents a force of destructive consequence for the development of our Commonwealth, and ultimately, our nation.

Community College students, faculty, staff and visitors must be free from conduct that has the purpose or effect of interfering with an individual's academic or professional performance and creating an intimidating, hostile or demeaning educational or employment environment. Therefore, the Community Colleges establish a policy of unequivocal condemnation of all forms of ethnic, religious, cultural, or racial intolerance within the fifteen College communities.

This policy condemns all conditions and all actions or omissions, including all acts of verbal harassment or abuse, which deny or have the effect of denying to an individual his/her rights to equality, dignity and security in violation of his/her rights guaranteed under the law. The policy reaffirms the doctrine of civility, appreciation for pluralism and the pre-eminence of individual human dignity as preconditions to the achievement of an academic community that recognizes and utilizes the resources of all persons while recognizing and reaffirming the tenets of academic freedom as stated in applicable collective bargaining agreements. The Community Colleges recognize their obligation to protect the rights of free inquiry and expression, and nothing herein shall be construed or applied so as to abridge the exercise of rights under the Constitution of the United States and other federal and state laws.

The Community Colleges will vigorously strive to achieve diversity sufficiently reflective of our society. However, diversity alone will not suffice. There must be a unity and cohesion in the diversity that we seek to achieve, thereby creating an environment of pluralism.

The Community Colleges bear a responsibility by edict and an obligation by social morality to promote understanding and acceptance of ethnic, cultural, religious and racial diversity as we strive to create an atmosphere of dignity for all individuals and groups within our system of public higher education. The President or his/her designee will take reasonable measures to prevent and discourage harassment and will act positively to investigate alleged harassment and to affect a remedy or resolution when an allegation is determined to be valid.

II. POLICY AGAINST PROHIBITED CONDUCT

a. Introduction

The mission of the Community Colleges is to educate, train and prepare our students to live and work in our increasingly global and diverse workforce. It is our commitment to take all possible steps to provide an inclusive and diverse learning, living, and work environment that values diversity and cultural tolerance and looks with disfavor on intolerance and bigotry. Any condition or force that impedes the fullest utilization of the human and intellectual resources available represents a force of destructive consequences for the development of our Commonwealth and ultimately, our nation.

b. Definitions

Prohibited Conduct includes: Discrimination, Discriminatory Harassment, Sexual and Gender Harassment, Sexual Violence, Stalking, Dating Violence, Domestic Violence and Retaliation. The terms and all Protected Class(s)/Classification(s) are defined under the “Definitions” section of this Policy.

c. Policy Prohibitions

The Policy prohibits all conditions and all actions or omissions, including all acts of discrimination, discriminatory harassment and retaliation, which deny or have the effect of denying to any person their rights to equity and security on the basis of their membership in or association with a member(s) of any protected class. This policy reaffirms the values of civility, appreciation for racial/ethnic/cultural/religious pluralism and pre-eminence of individual human dignity as preconditions to the achievement of an academic community, which recognizes and utilizes the resources of all people.

In order to promote an atmosphere in which diversity is valued and the worth of individuals is recognized, the Colleges will distribute policy statements and conduct educational programs to combat discrimination, discriminatory harassment and retaliation.

The prohibited conduct contained in this Policy shall apply to and be enforced against all members of the College community, including, but not limited to, faculty, librarians, administrators, staff, students, vendors, contractors and all others having dealings with the institution.

d. Conduct That is Not Prohibited

The Community Colleges are committed to protecting, maintaining and encouraging both freedom of expression and full academic freedom of inquiry, teaching, service, and research. Nothing in this policy shall be construed to penalize a member of the College community for expressing an opinion, theory, or idea in the process of responsible teaching and learning. Accordingly, any form of speech or conduct that is protected by the principles of academic freedom or the First Amendment to the United States Constitution is not subject to this policy.

e. Complaint Procedures

The Community Colleges have established a specific internal Complaint Procedure to help resolve claims and complaints of violations of this Policy on their campuses (see Section L). Any applicant for employment or admission, any student or employee, and any other member of the College community who believes that he or she has been subjected to Prohibited Conduct may initiate a complaint as outlined in the Policy's Complaint Procedures. Further advice or information may be obtained by contacting the Affirmative Action Officer or Title IX Coordinator.

f. Duty to Cooperate

Every faculty member, librarian, administrator, staff member and College employee has a duty to cooperate fully and unconditionally in an investigation conducted pursuant to this Policy's Complaint Procedure, subject to the provisions of any relevant collective bargaining agreements.

This duty includes, among other things, speaking with the Affirmative Action Officer, Title IX Coordinator or other authorized personnel or investigator and voluntarily providing all information and documentation which relates to the claim being investigated. The failure and/or refusal of any employee to cooperate in an investigation may result in disciplinary action up to and including termination.

g. Duty to Report

• General Responsibility to Report Prohibited Conduct

No member of the College community who receives a complaint of Prohibited Conduct can ignore it; he or she should give to the person making the complaint as much assistance in bringing it to the attention of the Affirmative Action Officer or Title IX Coordinator as is reasonably appropriate given his or her position at the College and relationship with the person making the complaint. Therefore, all students, faculty, staff, and administrators are strongly encouraged to report to the Affirmative Action Officer or the Title IX Coordinator any conduct of which they have direct knowledge and which they in good faith believe constitutes a violation of this Policy.

• Reporting of Title IX Offenses by Responsible Employees

Allegations involving Title IX Offenses shall be reported by all "Responsible Employees" to the Title IX coordinator or official designee as soon as the employee becomes aware of it. A Responsible Employee includes any College employee: who has the authority to take action to redress Title IX offenses; who has been given the duty of reporting Title IX offenses to the Title IX Coordinator or other appropriate school designee; or whom a student could reasonably believe has this authority or duty. Responsible Employees shall include, but are not be limited to, College trustees, administrators, department chairs, program coordinators, campus police, club/activity advisors, coaches, managers or supervisors. (*source: OCR Title IX Advisory, dated April 29, 2014*)

Any member of the College community who has a question about his or her responsibilities under this policy should contact the Affirmative Action Officer or Title IX Coordinator.

- **Mandatory Reporting of Abuse Under State Law**

Children (a person under the age of 18) may be students at the College, or may be engaged in activities sponsored by the College or by third-parties utilizing College facilities. In such instances, where an employee has reasonable cause to believe that a child is suffering physical or emotional injury, resulting from among other causes, sexual abuse, the employee and the College may be obligated to comply with the mandatory reporting requirements established at M.G.L. Chapter 119, Section 51A-E. In such cases, the employee is directed to immediately report the matter to the College's Affirmative Action and/or Title IX Coordinator, who, in consultation with other officials, shall contact the Commonwealth's Department of Children and Families and/or law enforcement. An employee may also contact local law enforcement authorities or the Department of Children and Families directly in cases of suspected abuse or neglect.

State law also maintains mandatory reporting requirements for certain occupations where elderly and disabled abuse or neglect is suspected. For more information on these reporting requirements please contact the College's Affirmative Action Officer.

III. POLICY AGAINST SEXUAL HARASSMENT

a. Introduction

It is the goal of the Community Colleges to promote an educational environment and workplace that is free of sexual harassment. Sexual harassment of students or employees occurring in the classroom or the workplace is unlawful and will not be tolerated by the Community College. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace free from sexual harassment, the conduct that is described in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered by students or employees.

Because the Community Colleges take allegations of sexual harassment seriously, we will respond promptly to complaints of sexual harassment and where it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective measures, including disciplinary action where appropriate and consistent with applicable collective bargaining agreements.

(Comment: Language above is from MCAD Sexual Harassment Model Policy)

b. Definition of Sexual Harassment

Sexual Harassment is defined under the “Definitions” section of this Policy. . *(Comment: The definition of “Sexual Harassment” in “Definition” section is directly from the MCAD Sexual Harassment Model Policy)*

The legal definition of sexual harassment is broad and applies to any individual of either gender who participates in the college community, including a student, faculty member, administrator or any other person having dealings with the college. In addition, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a hostile, offensive, intimidating, or humiliating workplace or academic environment to male or female workers or students may also constitute sexual harassment.

All employees and students should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, or retaliation against individuals who have cooperated with an investigation of sexual harassment is unlawful and will not be tolerated by the Community Colleges.

c. Complaints of Sexual Harassment

If any member of the College Community believes that he or she has been subjected to sexual harassment, he/she has the right to file a complaint under this policy, either in writing or orally.

All complaints of sexual harassment shall proceed under this Policy’s Complaint Procedure. If you would like to file a complaint you may do so by contacting the College’s Title IX Coordinator, or designee. You may also report an allegation of sexual harassment to other “Responsible Employees” at the College. These persons are also available to discuss any concerns you may have and to provide information to you about our policy on sexual harassment and our complaint process.

d. Sexual Harassment Investigation

A complaint of sexual harassment will be promptly investigated in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. Our investigation will be conducted in accordance with this Policy’s Complaint Procedure and will include a private interview with the person filing the complaint and with witnesses. The person alleged to have committed sexual harassment will also be interviewed. Once the investigation is completed, the College will, to the extent appropriate, inform the parties of the results of that investigation.

If it is determined that a violation of this policy has occurred, the College will act promptly to eliminate the offending conduct, and where it is appropriate also impose disciplinary action.

e. Disciplinary Action

Discipline for violating this Policy may range from mandatory counseling or training, verbal or written warnings, suspension, termination from employment, or expulsion from the College.

(source – MCAD Sexual Harassment Model Policy)

f. State and Federal Remedies

In addition to the above, if you believe you have been subjected to sexual harassment, you may file a formal complaint with the governmental agencies set forth below. Filing a complaint under this Policy does not prohibit you from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim (EEOC - 300 days; MCAD - 300 days).

United States Equal Employment Opportunity Commission ("EEOC")

One Congress Street
10th Floor Boston, MA 02114
(617) 565-3200.

The Office For Civil Rights, U.S. Department of Education ("OCR")

Department of Education
John W. McCormack Post
Office and Courthouse
Room 222
Boston, MA 02109
(617) 223-9662

Massachusetts Commission Against Discrimination ("MCAD")

Boston Office:
One Ashburton Place
Rm. 601
Boston, MA 02108
(617) 727-3990

Worcester Office:
Worcester City Hall
455 Main Street, Room 101
Worcester, MA 01608
(508) 799-8010

Springfield Office:
424 Dwight Street
Rm. 220
Springfield, MA 01103
(413) 739-2145

New Bedford Office:
800 Purchase St., Rm 501
New Bedford, MA 02740
(508) 990-2390

g. Consensual Relationships

(1) Faculty/Administrator/Staff Member Relationships with Students

A romantic and/or sexual relationship, consensual or otherwise, between a faculty member, administrator or staff member and a student is looked upon with disfavor and is strongly discouraged. No faculty member shall have a romantic and/or sexual relationship, consensual or otherwise, with a student who is being taught or advised by the faculty member or whose academic work is being supervised or evaluated, directly or indirectly, by the faculty member. No administrator or staff member shall have a romantic and/or sexual relationship, consensual or otherwise, with a student who the administrator or staff member supervises, evaluates, advises, or provides other professional advice or services as part of a College program or activity.

(2) Relationships Between Supervisors, Subordinates or Co-Workers

A consenting romantic and/or sexual relationship between a supervisor and subordinate or co-workers may interfere with or impair the performance of professional duties and responsibilities and/or create an appearance of bias or favoritism. Further, such relationships could implicate state ethics laws and/or result in claims of sexual harassment, discrimination or retaliation. Therefore, such workplace relationships are strongly discouraged.

IV. POLICY AGAINST SEXUAL VIOLENCE

a. Introduction

Sexual violence is prohibited under state law and the College's Policy on Affirmative Action. Sexual violence is prohibited pursuant to Title IX of the Educational Amendment Act of 1972, which states: *No person in the United States, shall on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal assistance.*

All reported or suspected cases of sexual violence shall be reported to the College's Title IX Coordinator, or designee. Please refer to the Complaint Procedures for specific complaint procedures and guidelines (see Section L).

The College prohibits retaliation against any person who presents a formal or informal complaint of sexual violence or who testifies or offers evidence connected with a complaint. Retaliation is a violation of this policy whether or not the underlying claim of sexual violence is confirmed.

b. Sexual Violence Defined

Sexual violence is defined under the "Definitions" section of this Policy and includes rape, sexual assault, sexual exploitation and aiding in the commission of sexual violence .

c. Reporting Complaints of Sexual Violence

A victim of sexual violence has the right to file (or not file) an Affirmative Action Discrimination Complaint Form with the College. The process for filing a complaint is outlined under the Policy on Affirmative Action's Complaint Procedure. For more information or assistance with filing a complaint, please contact the College's Title IX Coordinator. If the Title IX Coordinator is the subject of a complaint, the President shall designate another College official to administer the Complaint Procedures. A victim may also choose to file a criminal complaint, in which case the Title IX Coordinator and/or Campus Police can assist the victim with that process. Reporting the incident to the Title IX Coordinator or Campus Police does not obligate the victim to file criminal charges.

d. College's Investigation

The College is obligated to investigate all allegations of sexual violence, even if the alleged victim chooses not to file a formal complaint and/or participate in the investigation. Additionally, a complaint filed in another forum, including a criminal or civil complaint, shall not delay the College's investigation of a complaint of sexual violence. The College shall promptly and thoroughly investigate all such allegations in accordance with the Policy on Affirmative Action. A person found to have committed an act of sexual violence shall be subject to disciplinary action ranging from mandatory counseling and/or training, verbal or written warnings, suspension, expulsion from the College or termination from employment , as well as criminal prosecution.

e. Victim Identification

Personal identifiable information about a victim will be treated as confidential and only shared with persons with a specific need to know and/or who are investigating and/or adjudicating the complaint, delivering resources or support services to the victim or as public safety requires. The College does not publish the names or other identifiable information of victims in the campus police department's Daily Crime Log, in any Timely Warnings issued or online. In accordance with the Family Educational Rights and Privacy Act, a victim may request that no directory information maintained by the College be released absent his/her prior, written consent.

f. Interim Protective Measures

Title IX requires the College to take steps to ensure equal access to its education programs and activities and protect individuals from Prohibited Conduct as necessary, including taking interim measures before the final outcome of an investigation. The College shall take these steps promptly once it has notice of an allegation of prohibited conduct, including sexual violence, and will provide the victim with periodic updates on the status of the investigation. The College shall notify the victim of her or his options to avoid contact with the respondent and allow the victim to change academic and extracurricular activities or her or his, transportation, dining, or working situation as appropriate. The College shall also make a victim aware of her or his Title IX rights and any available resources, such as victim advocacy, academic support, counseling, disability services, health and mental health services, and the right to report a crime to campus or local law enforcement. Even under those circumstances where a victim does not wish to pursue a complaint and requests confidentiality, the College must take immediate action to protect the victim while keeping her or his identity confidential.

The specific interim measures implemented and the process for implementing those measures will vary depending on the facts of each case. The College will consider a number of factors in determining what interim measures to take, including, for example, the specific needs expressed by the victim; the severity or pervasiveness of the allegations; any continuing effects on the victim; whether the victim and respondent share the same classes, dining hall schedule, transportation, or job location; and whether other judicial measures have been taken to protect the victim (*e.g.*, civil protection orders). In general, when taking interim measures, the College shall minimize the burden on the victim. To the extent permitted by law, the victim shall be notified of any interim measures taken by the College concerning the Respondent.

(source: OCR Title IX Advisory, dated April 29, 2014)

g. Amnesty

Students may be hesitant to report sexual violence out of concern that they, or witnesses, might be charged with violations of the College's drug/alcohol policies. While the College does not condone such behavior, it places a priority on addressing allegations of sexual violence. Accordingly, the College may elect not to pursue discipline against a student who, in good faith, reports, witnesses or possesses personal knowledge of an incident of sexual violence.

h. Protections for Victims of Sexual Violence

A person who is subjected to sexual violence, as well as stalking, dating or domestic violence shall:

- Be provided with a copy of the College's *Sexual Violence – Victim's Rights and Information* , which shall include information concerning counseling, health, mental health, victim advocacy, legal assistance, or other services available on and off campus;
- Have the right to, or not to, seek assistance from campus administration or campus law enforcement;
- Not be discouraged by College officials from reporting an incident to both on-campus and off-campus authorities;
- Be provided assistance in contacting local law enforcement if requested and have the full and prompt assistance and cooperation of campus personnel should a civil and/or criminal complaint be pursued;
- Be free from any suggestion that they somehow contributed to or had a shared responsibility in the violent act;
- Receive the same level of support at any proceeding before College officials as is permitted to the accused party, including the presence of a representative during any disciplinary proceeding and the right to be notified in a timely manner of the outcome of such proceedings and any appeal right available;
- Receive full and prompt cooperation from College personnel in obtaining and securing evidence (including medical evidence) necessary for any potential criminal proceedings;
- Have access to existing College counseling and medical professionals, victim support services, and to obtain referrals to off-campus counseling and support services if desired;
- Be permitted to attend classes, work and participate in College activities free from unwanted contact or proximity with the accused individual(s) insofar as the College is permitted and able;
- Be permitted to request changes to an academic schedule if such changes are requested by the alleged victim and are reasonably available; and
- Be informed of any no-contact or no-trespass orders issued to the accused by the College and the College's commitment to honor any court-issued restraining or protective orders, to the extent permitted by law.

g. Recommended Procedures for a Victim of Sexual Violence

For a person subjected to an act of sexual violence, there can be time-sensitive decisions to make about sexually transmitted infections, pregnancy, and collecting physical evidence in the event of prosecution. Individuals who have been victims of sexual violence are advised as follows:

- **Protect Yourself and Get Medical Attention** – A victim should be advised to go to a safe place as soon as possible and seek medical attention immediately. Injuries and exposure to disease may not be immediately apparent. A medical examination can provide necessary treatment and collect important evidence. It is recommended that a physical exam be conducted within 72 hours of the violence. Submitting to a physical exam does not mean that a victim is required to press charges. This action merely preserves the option to do so. Designated College personnel can assist in providing transportation to the hospital.
- **Preserve Evidence** - It is important to preserve all physical evidence following an act of sexual violence. Physical evidence may be necessary in the event criminal prosecution is pursued. If possible, a victim should be advised not to wash, eat, drink, douche, clean, use the bathroom, or change clothes. If clothes are changed, all clothes that were worn at the time of the incident should not be cleaned and should be placed into an unused or a clean paper bag.
- **Health and Support Services** - Various health and support services are available on and off campus for students and employees who have experienced sexual violence. For information about such services, including counseling, please contact the Affirmative Action and/or Title IX Coordinator.

h. Rape Crisis Center Contact Information

The following is a list of Rape Crisis Centers in Massachusetts. As the following contact information may be subject to change, current contact information on rape crisis centers in Massachusetts can be found at the Commonwealth's Executive Office of Health and Human Services' Website under "Consumer" information at <http://www.mass.gov/eohhs/>.

Greater Boston Area

Boston Area Rape Crisis Center, Cambridge, 617-492-7273 Hotline, 617-492-6434 TTY

Northeastern Massachusetts

North Shore Rape Crisis Center, Beverly, 800-922-8772 Hotline, 978-921-8729 TTY

Rape Crisis Services of Greater Lowell, 800-542-5212 Hotline, 978-452-8723 TTY

YWCA of Greater Lawrence, 877-509-9922 SA Hotline, 978-686-8840 TTY

Central Massachusetts

Rape Crisis Center of Central Mass., Worcester, 800-870-5905 Hotline, 508-852-7600 TTY

Rape Crisis Center of Central Mass., Fitchburg, 800-870-5905

Wayside Victim Services, Milford, 800-511-5070 Hotline, 508-478-4205 TTY

Voices Against Violence, Framingham, 800-593-1125 Hotline, 508-626-8686 TTY

Southeastern Massachusetts

A Safe Place, Nantucket, 508-228-2111 Hotline, 508-228-0561 TTY

Independence House, Hyannis, 800-439-6507 Hotline, 508-778-6782 TTY

Women Support Services, Vineyard Haven, 508-696-7233

Greater New Bedford Women Center, New Bedford, 888-839-6636 Hotline, 508-996-1177 TTY

New Hope, Attleboro, 800-323-4673 Hotline/TTY

Stanley Street Women Center, Fall River, 508-675-0087 Hotline, 508-673-3328 TTY

Womansplace Crisis Center, Brockton, 508-588-8255 SA Hotline, 508-894-2869 TTY

Western Massachusetts

Elizabeth Freeman Center, Pittsfield, 413-443-0089 Hotline, 413-499-2425 TTY

Everywoman Center, Amherst, 413-545-0800 Hotline, 888-337-0800 TTY

NELCWIT, Greenfield, 413-772-0806 Hotline/TTY

YWCA, Springfield, 800-796-8711

YWCA of Western Mass, Westfield, 800-479-6245 Hotline/TTY

These Rape Crisis Centers offer FREE services to survivors of sexual violence, including:

- 24/7 hotline counseling, information, and referral;
- Will go with survivors to hospitals and/or police stations 24/7;
- Will go with a survivor to court;
- Provide one-to-one counseling and support group counseling; and
- Provide primary prevention education; professional training; outreach.

V. NON-DISCRIMINATION AND ACCOMMODATION FOR PERSONS WITH DISABILITIES

It is illegal to discriminate against an otherwise qualified individual with a disability. The Community Colleges recognize the multitude of barriers that confront persons with disabilities in access to both employment and education. Consistent with state and federal statutes that affirm and protect the equal opportunity rights of persons with disabilities, the Community Colleges adopt a policy of non-discrimination and equal opportunity for otherwise qualified persons with disabilities. Any employee or student who believes he/she has been a victim of discrimination due to a disability may file a complaint pursuant to the Complaint Procedures found at Section L of this Policy.

a. In Employment

The Community Colleges will take constructive measures to ensure equal opportunity in all areas of employment including recruitment, selection, upgrading, opportunities for training and development, rate of compensation, benefits and all other terms and conditions of employment. Further, the Colleges will periodically examine all existing employment policies, practices and facilities to ensure that they do not pose a disparate impact for otherwise qualified persons with

disabilities. Where such disparity is found, it will be corrected as quickly and completely as is reasonable under existing circumstances. Accordingly, all College facilities may not be available and accessible at a particular time.

b. In Education

The Colleges will periodically examine all existing admissions, student support and other student life policies, practices and facilities to assure that they do not pose a disparate impact for otherwise qualified disabled students. Where such disparity is found, it will be corrected as quickly and completely as is reasonable under existing circumstances. Accordingly, all College facilities may not be available and accessible at a particular time. The Colleges will adopt a policy of non-discrimination with respect to admissions, access to programs and facilities and services for all otherwise qualified disabled persons.

c. Reasonable Accommodations

A “reasonable accommodation” under state and federal law is defined as “modifications or adjustments to an application process, job, work environment, the way in which work is customarily performed, or a course of study that permit a qualified individual with a disability to perform the essential functions of a position or to enjoy the benefits and privileges of employment or education equally with persons without disabilities.”

Reasonable accommodations in employment may include, but are not limited to:

- making existing facilities used by employees readily accessible to and usable by persons with disabilities;
- job restructuring;
- modification of work schedules;
- providing additional unpaid leave;
- acquiring or modifying equipment or devices; and
- providing qualified readers or interpreters.

The Community Colleges are not required to lower performance standards to make an accommodation and are not obligated to provide personal use items, such as eyeglasses or hearing aids.

Reasonable accommodations in education may include, but are not limited to:

- in-class aids, such as note takers;
- extended time for examination;
- quiet rooms or alternate locations for testing;
- alternatively formatted testing; alternatively formatted textbooks and other course materials; and/or
- access to assistive technology.

Possible course reductions or substitutions on the basis of a disability will be carefully evaluated.

Students with disabilities must meet the essential requirements of all academic degree programs.

d. Interactive Process

State and federal laws define the “interactive process” as an ongoing communication between, among other parties, employer and employee, college and student, with a known disability in an effort to provide reasonable accommodation. Both parties must engage in the interactive process and communicate directly with each other in order to formulate an effective accommodation plan. Neither party can delay nor interfere with the process.

e. Undue Hardship and Fundamental Alteration

The Community Colleges are required to make reasonable accommodations to qualified individuals with disabilities unless doing so would impose an undue hardship on the operation of a College’s business or result in a fundamental alteration of a job or academic course or program. Undue hardship means an action that requires significant difficulty or expense when considered in relation to factors such as a College’s size, financial resources, and the nature and structure of its operation. Fundamental alteration is a change that is so significant that it alters the essential nature of a job or an academic course or program.

f. Process for Requesting a Reasonable Accommodation

An employee or job applicant seeking a reasonable accommodation for a disability may contact the College’s Office for Human Resources. A student or student applicant seeking a reasonable accommodation for a disability may contact the College’s Disability Services Office. All requests for an accommodation are evaluated on a case-by-case basis. Individuals seeking accommodations should be prepared to submit current medical documentation for review in the accommodation process.

VI. CONTRACTING AND PURCHASING

When selecting contractors, suppliers, and vendors of goods and services, including goods and services secured in connection with construction projects, the Colleges will offer equal opportunity to all qualified persons and entities and will not discriminate on the basis of a protected classification.

The College shall use reasonable efforts to attract and encourage bid proposals from a diverse pool of qualified contractors, subcontractors, vendors and suppliers. The College is strongly encouraged to identify businesses primarily operated by individuals within the protected classifications with the help of the Commonwealth’s Supplier Diversity Office.

When transacting business with contractors, vendors and suppliers, the Community Colleges shall include in all contracts the following statement:

Non-Discrimination in Employment: The Contractor shall not discriminate against any qualified employee or applicant for employment because of race,

color, national origin, age, sex, sexual orientation, gender identity, religion, genetic information maternity leave, military service, marital status or disability. The Contractor agrees to comply with applicable federal and state statutes, rules and regulations prohibiting discrimination in employment, including Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, Section 504 of the Rehabilitation Act of 1973, the Americans With Disabilities Act of 1990, Massachusetts General Laws, Chapter 151B and all administrative and executive orders, where applicable.

The Colleges reserve the right to disqualify any contractor, person or entity seeking to provide services to a Community College that fails to adhere to the prohibitions against discrimination in employment that are contained in this section.

E. IMPLEMENTATION OF AFFIRMATIVE ACTION POLICY

The implementation of an effective affirmative action policy is ultimately the responsibility of the President of each Community College. The President will direct the Affirmative Action Officer to coordinate the overall development, administration and monitoring of all affirmative action programs, policies, procedures and regulations. The Affirmative Action Officer will report directly to the President, or his/her designee, and will bear responsibility for the preparation and execution of all affirmative action policies and programs.

Consistent with all collective bargaining and non-unit employee agreements, each supervisor will seek to ensure that affirmative action and equal opportunity are integrally tied to all aspects of any recruitment, hiring, training or advancement related decisions to which they are a party. They will be aware of goals and will consult with the Affirmative Action Officer prior to and in the course of such actions.

F. AFFIRMATIVE ACTION OFFICER AND TITLE IX COORDINATOR

See “Definition” Section of this Policy for Affirmative Action Officer and Title IX Coordinator contact information.

A. Affirmative Action Officer

The Affirmative Action Officer (“AAO”) shall have the task of infusing affirmative action into all aspects of the College. He/she shall be responsible for the development, administration and evaluation of affirmative action policies, procedures, programs and goals; serve as monitor of local, state and federal laws and regulations relating to affirmative action and equal opportunity and compliance thereof; and administer to all segments of the College - students and employees.

The AAO will analyze the College’s work force composition. The AAO may also analyze specific work areas or divisions within the College to determine if under-utilization of any protected group exists. The development of goals and timetables to correct any identified under-utilization shall be the responsibility of the AAO with input from the appropriate administrative officers. Although the basic responsibility for implementation of the affirmative action/equal opportunity program necessarily rests with the administrative officers of the College, the Affirmative Action Officer is responsible for providing advice and assistance.

The AAO shall be an ex-officio member of the Affirmative Action Committee and shall facilitate this Policy’s Complaint Procedures.

B. Title IX Coordinator

The College shall employ a Title IX Coordinator. The Title IX Coordinator may also serve as the College’s AAO. The College’s Title IX Coordinator has primary responsibility for coordinating the College’s efforts to comply with and carry out its responsibilities under Title IX, which prohibits all Title IX Offenses in all College operations, as well as retaliation for the purpose of interfering with any right or privilege secured by Title IX.

Members of the College community should contact the Title IX Coordinator in order to:

- seek information or training about students’ and employees’ rights and courses of action available to resolve complaints that involve potential sex discrimination, including sexual violence, stalking dating or domestic violence;
- file a complaint or make a report of sex discrimination, including sexual violence, stalking dating or domestic violence;
- notify the College of an incident that may raise potential Title IX concerns;
- provide information about available resources; and
- periodically evaluate and review the College’s policies and procedures related to sex discrimination, including sexual violence, stalking dating or domestic violence.

The Title IX Coordinator’s functions and responsibilities include:

- Coordinate Title IX efforts including the development, implementation, and monitoring of appropriate disclosures, policies, procedures and practices designed to comply with federal and state legislation, regulation, and case law requiring the prompt and equitable resolution of all complaints pursuant to Title IX;
- Provide leadership, direction and supervision for all activities and personnel of the Title IX program including consulting with relevant policy-making bodies and senior personnel for the purpose of advising, clarifying and identifying necessary action to eliminate sex discrimination in all educational programs and activities, to ensure that access to facilities, opportunities, and resources is gender equitable throughout the district or campus;
- Provide ongoing training, consultation, and technical assistance on Title IX for all students including: students' rights under Title IX, what behaviors constitute sexual violence and sexual harassment; how to report such incidents; reporting options; Policy Against Sexual Violence and Policy on Affirmative Action's Complaint Procedure; the potential consequences for violating College policies; the role of alcohol and/or drugs; amnesty; consent; the importance of seeking prompt medical attention; prohibition against retaliation; and Bystander Intervention training.
- Provide ongoing training, consultation, and technical assistance on Title IX for all employees in areas including: how to identify Title IX Offenses; the Colleges' responsibilities to address Title IX Offenses; how to recognize warning signals; how to report Title IX Offenses to appropriate College officials; and information regarding confidential reporting options.
- Provide ongoing training, consultation, and technical assistance on Title IX for all Responsible Employees including: understanding their reporting obligations; confidentiality; students' rights and remedies; and available student services.
- Develop, implement and coordinate campus and/or school-based strategic efforts aimed at the prevention of sexual violence and other forms of sex discrimination;
- Develop and disseminate educational materials, including brochures, posters, and web-based materials that inform members of the College community of Title IX rights, responsibilities and resources both within and external to the College's premises;
- Oversee prompt, effective, and equitable intake, investigation, processing, issuing of findings of fact, and timely resolution of all instances of sex discrimination made known to responsible employees and/or reported or filed by students, faculty, employees, third parties, or by members of the broader community;
- Provide appropriate notice of an investigation; determine the extent of an investigation; oversee investigation efforts; ensure provision of initial remedial actions; assure compliance with timelines; deliver appropriate notice of charge, notice of investigation,

notice of outcome, duty to warn, and remedies, and provide a repository for and source of institutional record-keeping;

- Provide guidance and assistance to alleged victims of Prohibited Conduct, including referral to support resources, notice of right to file internal grievances, notice of the right to grieve to the US Department of Education Office for Civil Rights, and notice of the right to report incidents to law enforcement;
- Organize and maintain grievance files, disposition reports, and other records regarding Title IX compliance, including annual reports of the number and nature of filed complaints and the disposition of said complaints, data collection, climate assessment, pattern monitoring; and
- Serve as principal contact for government inquiries pursuant to Title IX.

(source - ATIXA Statement of Title IX Coordinator and Administrator Core Duties and Competencies)

G. DISSEMINATION OF POLICY

The Affirmative Action Policy will be widely distributed and discussed within the College Community. A copy of the Policy will be distributed to every major work area at each College and a copy will be maintained in the Library and the Affirmative Action Office. Copies of the Policy will be made available upon request to any student, employee, applicant for student status or for employment or member of the community. The Policy is available upon request from the College's Affirmative Action Officer and on the College's website. Colleges may implement procedures requiring employees to annually confirm their receipt of this Policy.

In accordance with state and federal requirements, the following notice will be included in all vacancy postings and other appropriate college publications, contracts, solicitations for bids, purchase orders, websites and leases:

_____ Community College is an affirmative action/equal opportunity employer and does not discriminate on the basis of race, color, national origin, sex, disability, religion, age, veteran status, genetic information, gender identity or sexual orientation in its programs and activities as required by Title IX of the Educational Amendments of 1972, the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, Title VII of the Civil Rights Act of 1964, and other applicable statutes and college policies. The College prohibits sexual harassment, including sexual violence. Inquiries or complaints concerning discrimination, harassment, retaliation or sexual violence shall be referred to the College's Affirmative Action and/or Title IX Coordinator, the Massachusetts Commission Against Discrimination, the Equal Employment Opportunities Commission or the United States Department of Education's Office for Civil Rights.

H. PLAN OF ACTION

a. Program Purpose and Intent

The Community Colleges are committed to a policy of equal opportunity and affirmative action. The purpose of this Policy is to establish programmatic objectives that will provide for the access and advancement of qualified minorities, women, and persons with disabilities with respect to both employment and education. The intent of this Policy is to acknowledge and responsibly alleviate the effects of societal discrimination and its impact on the protected group.

b. Scope

Affirmative action and equal opportunity shall be viewed as an integral part of the mission and purpose of each Community College. The Affirmative Action Policy by its very nature shall affect and apply to all aspects of recruitment, employment and education.

The opportunity for education for students in the protected classifications will be an imperative. Affirmative action programs should support not only student admissions to the College but also its programs.

In employment, affirmative action will affect recruitment, terms and conditions of employment, administrative procedures and relevant policies and practices of the College.

c. Workforce and Utilization Analysis

A procedure for implementation of the Policy will be undertaken and it will include opportunities for maximum communication between the responsible parties, i.e., supervisors, the Affirmative Action Officer and the President. A workforce and utilization analysis shall be conducted annually.

d. Under-Utilization

Under-utilization exists when the number of individuals in protected classifications in an occupational category is fewer than would reasonably be expected based upon the availability of qualified persons for employment within a specific geographic area. When under-utilization is identified for appropriate organizational units and occupational categories, goals and timetables are established as a means of increasing the employment of qualified individuals in protected classifications at the earliest possible time. This section shall be applied in a manner consistent with the appropriate collective bargaining agreement, if applicable.

e. Goals

Hiring goals are targets for increasing the employment of qualified individuals in protected classifications in appropriate organizational units and/or occupational categories of the College workforce. Hiring goals are not rigid quotas. They are reasonable estimates of what is attainable

and are established separately for individuals in protected classifications.

Program goals include special efforts to remove barriers, to improve awareness or sensitivity, to address problem areas identified within the College Affirmative Action Policy, to bring about conditions that will promote the hiring goals, or to address changes taking place within the institution. General timetables are to be established for the implementation of the goals. The time period shall normally be between two (2) and five (5) years.

f. Identification of Problem Areas and Remedial Approaches

At the request of the Commissioner, the President shall submit a report to the Commissioner as referenced in Auditing and Reporting and shall include an analysis of under-utilized areas and possible solutions and may cover such issues as curricular concerns, employment and student recruitment, hiring, retention of employees, resignations, and College activity and program availability. The report will also consider and give an analysis of the established goals and timetables.

g. Programmatic & Collaborative Efforts

The Community Colleges have, as a group, committed themselves to a policy of affirmative action/equal opportunity and non-discrimination throughout this Policy. The Colleges realize, however, that the development and implementation of specific programmatic efforts, both individually and collaboratively, will be essential to the establishment of an action oriented program. Rather than rendering affirmative action policies that merely represent a compilation of policies, procedures and prohibited practices solely designed to avoid discrimination, these action-oriented elements ensure that this Policy becomes a pro-active, aggressive tool as opposed to a passive document.

In an effort to fully establish joint collaborative programs that will enhance the implementation of the Community Colleges' Affirmative Action Policy, the Affirmative Action Officers of the fifteen institutions are encouraged to work collaboratively on the following initiatives.

1. Recruitment Directory

A directory of recruitment resources may be developed for each major category of positions (i.e., academic discipline, administrative area, field of focus) listing the various known sources for contact. This directory will list individuals, departments, institutions, organizations, professional associations and their various caucuses that are known to be good sources of candidates from protected classifications. In addition, the directory will also contain a listing of major publications such as newspapers, journals or other periodicals that print job advertisements and have substantial circulation among individuals in protected classifications and other underrepresented persons or groups. Trade or professional journals for each academic discipline and professional area will also be included.

2. Program of Professional Enrichment for Personnel of Affirmative Action Offices

The Affirmative Action Officers will meet regularly and jointly participate in workshops, seminars and other kinds of enrichment opportunities that will assist them in the performance of their duties. Insofar as possible, reliance will be placed on the expertise of persons within the public higher education system, local, state and federal agencies, and professional organizations and associations in order to keep costs to a minimum.

3. Educational Seminars

The Affirmative Action Officers, collectively or individually, may develop seminars to strengthen the understanding and sensitivity of all employees, and in particular senior administrators and supervising managers, to the importance of their respective roles in fostering a workplace free of discrimination, harassment and retaliation. All members of the College community shall be encouraged to attend such programs.

h. Individual Campus Efforts

Specific programmatic efforts determined by the individual Colleges may take any of several forms: projects, programs, defined strategies, structured activities or other tactical steps that contribute to fulfillment of the Colleges' affirmative action and equal opportunity goals and objectives. Each College may develop specific programs to assist in identifying and overcoming deficiencies, increasing representation of qualified individuals in protected classifications within the work force and the student body and providing increased opportunities for under-represented groups, both in the area of employment and in the area of the student learning environment. Cross-cultural programming, sensitization of all members of the College communities to the rights and needs of all persons, including individuals in protected classifications will play a major part. The involvement of all segments of the College community in both the planning and the implementation of such programming will be an essential factor in its success.

I. HIRING GUIDELINES

Proper hiring guidelines are crucial to the success of attracting and hiring a qualified, diverse workforce. The Human Resources Office shall work in consultation with the Affirmative Action Officer in developing proper hiring guidelines. The hiring process is generally initiated with the development of a recruitment plan, which shall be reviewed by the Affirmative Action Officer before commencing with advertisement. The plan will be reviewed in light of the College's affirmative action goals and will include the use of applicable mailing lists of contacts and resume file, if any, developed and maintained for affirmative action recruiting. Goals will be reviewed at the time of recruitment.

When practicable, the time permitted between the initial public announcement of an available position and the deadline for submission of applications must allow for adequate selective notification of qualified individuals in protected classifications.

For vacancies for positions that are half-time or greater, the Affirmative Action Officer will consult with the hiring manager to determine an appropriate recruitment time frame which will allow sufficient time to recruit under-utilized persons while simultaneously meeting the organization's need to fill the position as soon as possible.

Deans and Vice Presidents are encouraged to plan ahead and schedule all searches so as to allow sufficient time to conduct effective affirmative action searches.

If the recruitment process fails to yield sufficient numbers of qualified candidates from a designated protected group, consideration may be given to reposting the position. This section shall be applied in a manner consistent with the appropriate collective bargaining agreement, if applicable.

The Affirmative Action Officer shall have access to all applications for the purpose of reviewing and certifying the process and the outcome and for the purpose of collecting data to conduct applicant flow studies, etc. Additionally, the Affirmative Action Officer may make recommendations for interviewing affirmative action candidates.

The hiring process will generally include an interview with a search committee, which may include the position's direct supervisor and/or other appropriate persons who have responsibility in the work area. The Affirmative Action Officer will review a committee's recommendation for appointment and sign it to verify compliance with affirmative action procedures. If the Affirmative Action Officer finds that the recruitment and/or selection process does not satisfy affirmative action requirements, he/she should submit his/her reservations to the President.

In regard to hiring/promotions, the College will comply with all applicable collective bargaining provisions when making such decisions.

J. COLLEGE AFFIRMATIVE ACTION COMMITTEE

An Affirmative Action Committee shall be established consisting of at least seven (7) members representative of faculty, administrators, non-teaching professionals, classified staff and students. The Committee shall include protected classification representation. The members shall be appointed by the President. The Affirmative Action Officer shall be an ex-officio member of the Committee.

The Committee shall act as a policy advisory body to the President in all matters concerning affirmative action and equal opportunity. Specific responsibilities of the Committee may include, but are not limited to, the following:

1. Advise and assist the President and the Affirmative Action Officer in developing, implementing and evaluating the College's Affirmative Action Program;
2. Recommend changes in the programs or policies;
3. Represent the concerns of all employment areas of the College as these concerns relate to equal opportunity;
4. Be informed about the rules and procedures of the College as well as federal and state laws and regulations governing affirmative action and equal opportunity;
5. Meet as necessary, but not fewer than two (2) times a year; and
6. Help sensitize and educate the College community regarding the affirmative action issues facing higher education and the larger society and to help broaden understanding of diversity in our society as well as to encourage behaviors appropriate to a pluralistic society.

K. AUDITING AND REPORTING

Primary responsibility for monitoring compliance and auditing the implementation of the Affirmative Action Policy rests with the Affirmative Action Officer and the Title IX/Section 504 Coordinator. These officers shall furnish the President with progress reports and shall inform the President of practices or policies that may not be in compliance with the policy of affirmative action, non-discrimination and equal opportunity.

The Affirmative Action Officer will annually review the progress being made toward achievement of the College's affirmative action goals. The review shall include the goals and timetables in order to recommend revisions that may be required as a result of changes in federal or state law, availability figures, institutional performance or other circumstances that affect the implementation of this policy. In addition, he/she will assure that annual compliance reports required by the Board of Higher Education and other state and federal agencies are completed. The Title IX/Section 504 Coordinator will review annually the progress made toward complying with current legislation, the Affirmative Action Policy, and the actions taken to ensure equal opportunity and affirmative action to all disabled students and employees.

To ensure compliance with this Policy, the Affirmative Action Officer and the Title IX/Section 504 Coordinator will also review and evaluate the applicable policies, programs and activities related to job requirements, performance criteria, personnel benefit plans, students support services, facilities and programmatic access, vendor contract submission and services, media advertising and public relations materials, including all College publications. Recruitment and hiring procedures will be monitored using the methods described in this Policy. All monitoring and analyses will be conducted as necessary to identify problem areas and provide recommendations to remedy them.

The Affirmative Action Officer shall conduct periodic audits of the utilization analysis and goals. The purpose of the audit will be to assess progress toward established goals and to apprise other persons responsible for recruitment of the findings. Continuous monitoring is important to the success of the Policy. The findings, while utilized throughout the year, will be reported formally in the annual report. Problem areas and successes will be reported. Additionally, compliance reports requested by other agencies should be included as an internal audit mechanism.

L. COMPLAINT PROCEDURE

I. General Information

a. Application of Policy

The complaint procedure is intended to provide a mechanism to investigate and where possible resolve complaints of alleged violations of this Policy against employees and students. The procedures outlined below are intended to ensure that the College will conduct an impartial, fair, effective, and efficient investigation of all allegations of discrimination without fear of retaliation. The complaint procedure is available to any employee or student who believes he/she has been subjected to Prohibited Conduct as defined under this Policy . A complaint filed in another forum does not preclude a student or employee from filing a complaint under this Policy. Further, a complaint filed in another forum, including a criminal or civil complaint, shall not delay an investigation of a complaint filed under this Policy.

b. Confidentiality of Process

The complaint procedure will be conducted as confidentially as reasonably possible to protect the privacy rights of all individuals involved. The College may share information concerning the complaint with parties, witnesses and/or others during any phase of the procedure on a need-to-know basis and shall share information with union representatives as provided for in G.L.c.150E. All individuals with whom information is shared shall be advised of the confidential nature of the information and directed not to discuss the matter with anyone other than a personal advisor, if applicable.

c. Complainant Requests Confidentiality

Where a Complainant requests that no action be taken by the College or requests that her/his identity not be revealed, the College shall take reasonable steps to investigate and respond to the complaint, but shall inform the Complainant that such a request may hamper its ability to fully investigate an alleged violation of this Policy and/or to take appropriate remedial steps, including disciplinary action. Where an allegation includes the potential of an ongoing threat to the health, safety or security of the College or a potential adverse employment action, the Affirmative Action Officer or Title IX Coordinator shall inform the Complainant that it cannot ensure confidentiality and disclosure of their name may likely be required.

d. Anonymous Complaints

Any individual may file an anonymous complaint concerning any Prohibited Conduct referenced under this Policy. An individual may report the incident without disclosing his/her name, identifying the respondent or requesting any action. Depending on the level of information available about the incident or the individuals involved, however, the College's ability to respond to an anonymous report may be limited. An anonymous complaint may be filed with the Affirmative Action Officer or Title IX Coordinator.

e. Off Campus Behavior

The College reserves the right to investigate alleged prohibited conduct under this Policy occurring off-campus when such conduct adversely affects the College Community, poses a threat of harm to the College Community; interferes with the College's pursuit of its educational objectives and mission, and/or if a student or employee is charged with a serious violation of state or federal law.

f. Interim Protective Measures

Title IX requires the College to take steps to ensure equal access to its education programs and activities and protect individuals from Prohibited Conduct as necessary, including taking interim measures before the final outcome of an investigation. The College shall take these steps promptly once it has notice of an allegation of Prohibited Conduct, including sexual violence, stalking, dating or domestic violence and will provide the victim with periodic updates on the status of the investigation. The College shall notify the victim of her or his options to avoid contact with the respondent and allow the victim to change academic and extracurricular activities or her or his, transportation, dining, or working situation as appropriate. The College shall also make a victim aware of her or his Title IX rights and any available resources, such as victim advocacy, academic support, counseling, disability services, health and mental health services, and the right to report a crime to campus or local law enforcement. Even under those circumstances where a victim does not wish to pursue a complaint and requests confidentiality, the College must take immediate action to protect the victim while keeping her or his identity confidential.

The specific interim measures implemented and the process for implementing those measures will vary depending on the facts of each case. The College will consider a number of factors in determining what interim measures to take, including, for example, the specific needs expressed by the victim; the severity or pervasiveness of the allegations; any continuing effects on the victim; whether the victim and respondent share the same classes, dining hall schedule, transportation, or job location; and whether other judicial measures have been taken to protect the victim (*e.g.*, civil protection orders). In general, when taking interim measures, the College shall minimize the burden on the victim. To the extent permitted by law, the victim shall be notified of any interim measures taken by the College concerning the Respondent.

(source: OCR Title IX Advisory, dated April 29, 2014)

g. Interim Action

The College reserves the right to suspend a student on an interim basis or place an employee on paid administrative leave prior to completing an investigation under this Policy when it reasonably concludes that a student or employee: (a) poses a threat to health or safety; (b) poses a threat to College property or equipment; (c) is disruptive or interferes with the normal operations of the College; or (d) is charged with a serious violation of state or federal law. In such cases, the College shall provide the employee or student of the specific reason(s) for the interim action. During a student's interim suspension or an employee's leave, the College reserves the right to prohibit the individual from entering upon the College's property or

participating in any College activities absent written authorization from an appropriate official of the College.

h. Joint Investigation

In some circumstances a Responding Party's conduct may constitute a potential violation of this Policy and/or other conduct policies applicable to employees or students. In such cases, in order to avoid duplicative investigatory efforts, a joint investigation under this Policy may be conducted by the AAO or Title IX Coordinator and the administrator charged with enforcing conduct policies. For example, if the Responding Party is a student, the Affirmative Action Officer (or Title IX Coordinator if a Title IX Offense is alleged) and Student Code of Conduct Officer may jointly investigate the complaint. Based on the findings of their joint investigation, the student may be subject to disciplinary action for violations of this Policy and/or the Student Code of Conduct. Where the Responding Party is an employee, a joint investigation may be conducted by the Affirmative Action Officer (or Title IX Coordinator if a Title IX Offense is alleged) and the employee's supervisor. Based on the findings of their joint investigation, the employee may be subject to disciplinary action for violations of this Policy and/or for inappropriate and unprofessional conduct.

i. Collateral Rights of Employees

Any disciplinary action taken against an employee shall be regarded as an administrative action subject to all terms and conditions of applicable collective bargaining agreements or personnel policies.

j. Jurisdiction of Title IX Coordinator

The Title IX Coordinator shall have the responsibility for administering this Policy in response to any allegation of a Title IX Offense .

k. False Charges

Filing a false charge under this Policy is a serious offense. If an investigation reveals that a complainant knowingly filed false charges, the College shall take appropriate actions and issue sanctions pursuant to other applicable College policies, including any applicable collective bargaining agreement. The imposition of such sanctions does not constitute retaliation under this Plan.

II. Complaint Procedure

The complaint process is comprised of two procedures - the informal procedure and the formal procedure.

a. Informal Procedure

Where appropriate, the parties to a dispute and/or the Affirmative Action Officer, may attempt to reach an informal and prompt resolution of the potential complaint. Informal resolution is encouraged and any of the parties involved may request the intervention of the Affirmative Action Officer to assist in resolving the matter informally. An informal resolution is achieved through open dialogue between the parties that allows for the airing of any misunderstandings or disputed issues. Neither the informal procedure nor mediation shall not be used in an effort to resolve allegations of sexual harassment or sexual violence, stalking, dating or domestic violence. Further, at no time shall a Responding Party question or confront a Complainant, or engage a third party to do so, as such conduct may constitute intimidation and/or retaliation, which are strictly prohibited under this Policy.

b. Formal Procedure

The following rules apply throughout all phases of the formal complaint process: (1) all parties to a complaint may have a personal advisor (for union employees this may be a union representative and in cases involving allegations of sexual violence, stalking, dating or domestic violence, the personal advisor may be an attorney); (2) the role of a personal advisor is limited to providing discrete advice and counsel to the party; (3) the filing of a complaint under this Policy shall not preclude a Complainant from pursuing a complaint in a separate legal forum; (4) a complaint involving a grade dispute shall proceed under this Policy when a student alleges that a grade was improper because of discrimination, discriminatory harassment, sexual violence or retaliation; and (5) all findings reached under this procedure must be based on a “preponderance of evidence” (i.e.; more likely than not) standard.

At any point during the formal complaint procedure, either party may request mediation by contacting the Affirmative Action Officer. The purpose of mediation is to resolve the dispute to the satisfaction of both parties. Mediation shall be mutually agreed upon by the parties. The Affirmative Action Officer, or designee, shall select an impartial mediator, who shall be mutually agreed upon and not unreasonably refused by either party, and inform the parties in writing of the mediation process and schedule. The mediator must have training or experience in mediating matters subject to this complaint process. Where practicable, a mediation session shall be conducted no later than thirty (30) days after agreed to by the parties. The timelines presented under the Complaint Procedure shall be tolled pending the outcome of mediation. If mediation is successful in resolving the complaint, the Affirmative Action Officer shall reduce to writing the terms of the mediated resolution, which shall be signed by the parties. The mediation process shall not be used in an effort to resolve allegations of sexual harassment or sexual violence. If mediation does not result in a resolution, all mediation discussions shall remain confidential and may not be used or introduced in this process or any other forum.

Step 1 – Affirmative Action Officer Investigation

When a Complainant believes that he/she has been discriminated against because of his/her race, color, religion, national origin, sex, age, disability, sexual orientation, gender identity, genetic information, veteran status, maternity leave and/or subjected to sexual harassment, sexual violence, or retaliation, the Complainant may file a formal written complaint in writing with the Affirmative Action Officer. For student Complainants, a formal complaint may be filed within thirty (30) days following the end of the instructional period when the Complainant knew or

should have known of the grievable act. For employee Complainants, a formal complaint may be filed within thirty (30) days from when the Complainant knew or should have known of the grievable act. The complaint shall contain a statement of all known facts pertaining to the alleged violation and shall be filed preferably on the Affirmative Action Discrimination Complaint Form (see Appendix A), which shall be available from the Affirmative Action Officer. If a student is involved, the Affirmative Action Officer shall notify the Vice President or Dean of Student Services.

During Step 1, the Affirmative Action Officer has the authority to seek to resolve the complaint through an administrative remedy. If the parties accept the administrative remedy proposed, its terms shall be reduced to writing, signed by both parties and the Affirmative Action Officer shall retain the document, with copies to the parties. Thereafter, the matter shall be considered resolved between the parties.

Upon receiving a written complaint, the Affirmative Action Officer will notify the Responding Party in writing, of the complaint (see Appendix B), and provide the Responding Party with a copy thereof. The timeliness of such notification shall be in accordance with the appropriate collective bargaining agreement, if applicable. The Responding Party shall have ten (10) days from receipt of notice to submit to the Affirmative Action Officer a written response to the complaint.

Where practicable, within thirty (30) days from the date the Respondent's written response is received, or the date it was due if none was submitted, the Affirmative Action Officer shall conduct an investigation and prepare and issue a Report of Preliminary Findings to the parties. The investigation shall include, but is not limited to, an analysis of the allegations and defenses presented, consideration of all relevant documents, including materials presented by the parties, interviews of the parties and other individuals and/or witnesses, and/or reviewing certain documents or materials in the possession of either party that the Affirmative Action Officer has deemed relevant to the complaint. The Affirmative Action Officer's report shall specify the investigation undertaken and summarize his/her preliminary findings. The report shall be delivered to the parties in hand or by certified mail. If the investigation is not completed within thirty (30) days, status updates shall be provided to the parties every thirty (30) days until its completion. Any request by a party to extend a deadline established under this procedure shall be presented in writing to the Affirmative Action Officer.

Thereafter, the parties will have ten (10) days from the date of their receipt of the Report of Preliminary Findings to submit Rebuttal Statements to the Affirmative Action Officer. The parties may present no new allegations at that time. Where practicable, within seven (7) days of receiving the parties' Rebuttal Statements, the Affirmative Action Officer shall review the rebuttal Statements and prepare and submit a Report of Final Findings and Recommendations to the President's Designee for consideration.

Step 2 – Review and Decision by the President's Designee

Where practicable, within ten (10) days of receipt of the Affirmative Action Officer's Report of Final Findings and Recommendations, the President's Designee shall issue a written decision to the parties. The written decision shall accept, reject or modify the Affirmative Action Officer's

Final Findings and Recommendations. The Designee's written decision shall be delivered in hand or by certified mail and shall include the Report of Final Findings and Recommendations. If the President is the Responding Party in an Affirmative Action Complaint, then the Chair of the College's Board of Trustees shall designate a Board member(s) as Designee to administer Step 2 of the Complaint Process.

Step 3 – Appeal to President

A party who is not satisfied with the Designee's written decision may file an appeal with the President within five (5) days of receiving the Designee's decision. Where practicable, within five (5) days of receiving the appeal, the President shall issue a written decision accepting, rejecting or modifying the Designee's decision. The President's decision is final provided that any corrective action and/or discipline imposed is subject to applicable collective bargaining agreements.

If the President is the Responding Party in an Affirmative Action Complaint, then the Chair of the College's Board of Trustees shall consider the appeal and issue the written decision.

Issued: Oct. 11, 2013
Amended and Reissued: September 2014

APPENDIX A - AFFIRMATIVE ACTION DISCRIMINATION COMPLAINT FORM

AFFIRMATIVE ACTION DISCRIMINATION COMPLAINT FORM

The purpose of this form is to record information required to initiate an investigation into an alleged violation of the College's Affirmative Action Policy. All reasonable efforts will be made to maintain the confidentiality of the parties involved during the complaint procedure in accordance with the Affirmative Action Policy.

It is unlawful to retaliate against a student, employee or any other person in the College for filing a complaint or for cooperating in an investigation of a complaint. All parties to a complaint may have a personal advisor (for union employees this may be a union representative) assist them throughout the process.

Date Filed: _____ Date(s) of Alleged Discrimination: _____

A. Name (Print): _____

B. Check One: Student: _____ Employee: _____
Department/Division: _____

C. Type of alleged discrimination or act:

- | | | |
|--|---|--|
| <input type="checkbox"/> Race/Color | <input type="checkbox"/> Religion/Creed | <input type="checkbox"/> Age |
| <input type="checkbox"/> National Origin | <input type="checkbox"/> Gender | <input type="checkbox"/> Disability |
| <input type="checkbox"/> Sexual Harassment | <input type="checkbox"/> Sexual Orientation | <input type="checkbox"/> Genetic Information |
| <input type="checkbox"/> Maternity Leave | <input type="checkbox"/> Gender Identity | <input type="checkbox"/> Military Service |
| <input type="checkbox"/> Retaliation | <input type="checkbox"/> Sexual Violence | <input type="checkbox"/> Stalking |
| <input type="checkbox"/> Dating Violence | <input type="checkbox"/> Domestic Violence | Other: _____ |

D. Name of individual(s) you believe discriminated against you: _____

E. List any witnesses: _____

APPENDIX B - NOTICE TO RESPONDENT

Date:

To: _____, Responding Party

From: _____, Affirmative Action Officer

Subject: Affirmative Action Discrimination Complaint

This is to notify you that on _____ a complaint alleging a violation of the College's Affirmative Action Policy was filed against you with the College. A copy of the complaint is attached, as is a copy of the complaint procedure. Within ten (10) days of your receipt of this notice, please submit to me a written response to the complaint.

I will be contacting you to schedule an appointment to discuss this matter. Please be advised that it is unlawful to retaliate against a student, employee or any other person for filing a complaint or for cooperating in an investigation related thereto.

All reasonable efforts will be made to maintain confidentiality during the complaint procedure in accordance with the Affirmative Action Policy. Further, if any disciplinary sanctions are imposed as a result of an investigation under the Affirmative Action Policy, all such sanctions shall be regarded as an administrative action subject to all terms and conditions of applicable collective bargaining agreements or personnel policies.

All questions concerning this matter should be addressed to the Affirmative Action Officer. Further, all parties to a complaint may have a personal advisor (for union employees this may be a union representative) assist them throughout the process.

ATTACHMENT B

**COMPLIANCE CHECKLIST: MASSACHUSETTS COMMUNITY COLLEGES
SEXUAL VIOLENCE POLICY AND COMPLAINT INVESTIGATION PROCEDURES**

VAWA/CAMPUS SAVE ACT

CONTENT/TOPIC	YES – include section reference	NO	ACTION ITEM
Statistical Reporting & Warnings (Clery)			
Statistical reporting of incidents of sex offenses reported to campus security authorities or local police	Yes Clery Act Annual Security Report		
Statistical reporting of incidents of domestic violence, dating violence, or stalking reported to campus security authorities or local police	Yes Clery Act Annual Security Report		
Statistical reporting as “hate crimes” offenses that were motivated by the victim’s actual or perceived gender identity or national origin	Yes Clery Act Annual Security Report		
A requirement to withhold as confidential the names of victims when issuing timely warnings	Yes Policy on Affirmative Action – Section D		
Policy Statements (Clery ASRs)			
A statement of policy regarding programs to prevent domestic violence, dating violence, sexual assault, and stalking	Yes Clery Act Annual		

Adapted from “The Campus SaVE Act: A Compliance Guide and Compliance Checklist,” prepared by EduRisk Solutions/ United Educators (2014); and “Checklist: VAWA Amendments to Clery,” prepared by the Clery Center for Security on Campus (2014).

CONTENT/TOPIC	YES – include section reference	NO	ACTION ITEM
	Security Report		
A statement of policy regarding procedures for responding to a report of domestic violence, dating violence, sexual assault or stalking, including the standard of evidence that will apply during a disciplinary proceeding	Yes Policy on Affirmative Action – Sections D & L		Also contained in <i>Sexual Violence Victim’s Rights and Information</i> documents
A statement that a written explanation of rights and options will be given to persons who report domestic violence, dating violence, sexual assault, or stalking (regardless of where the offense occurred)	Yes Policy on Affirmative Action – Section D		Also contained in <i>Sexual Violence Victim’s Rights and Information</i> documents
Policy Statements (Clery ASRs)			
A prohibition on retaliation by College officers, employees, or agents against a person who exercises his or her rights or responsibilities under any provision of the Campus SaVE Act	Yes Policy on Affirmative Action – Sections D & L		Also contained in <i>Sexual Violence Victim’s Rights and Information</i> documents
Procedural Notifications for Inclusion in ASRs			
A statement of the possible sanctions and protective measures that the Colleges may impose after a final determination regarding stalking, rape, acquaintance rape, domestic and/or dating violence, or sexual assault	Yes Policy on Affirmative Action – Sections D & L		
A statement of procedures victims should follow after a sex offense, incident of domestic violence, dating violence, sexual assault, or stalking, including written information about:	Yes Policy on Affirmative Action – Section D		Also contained in <i>Sexual Violence Victim’s Rights and Information</i> documents

CONTENT/TOPIC	YES – include section reference	NO	ACTION ITEM
<ul style="list-style-type: none"> • the importance of preserving evidence for proof of criminal domestic violence, dating violence, sexual assault, or stalking, or for obtaining a protection order; • to whom offenses should be reported; and • options regarding notifying local police and campus authorities, including the victim’s right to: <ul style="list-style-type: none"> ▪ notify either the local police or campus authorities; ▪ obtain assistance from campus authorities to notify the local police; ▪ decline to notify the local police or campus authorities 			
Statement of rights of victims and the College’s responsibilities regarding orders of protection, no-contact orders, restraining orders, or similar orders issued by a criminal, civil, or tribal court	Yes Policy on Affirmative Action – Sections D & L		Also contained in <i>Sexual Violence Victim’s Rights and Information</i> documents
Disciplinary Procedures for Cases of Alleged Domestic Violence, Dating Violence, Sexual Assault or Stalking			
A description of each type of disciplinary proceeding used by the Colleges for cases of alleged domestic violence, dating violence, sexual assault, and stalking	Yes Policy on Affirmative Action – Sections D & L		
A statement that the procedures will provide prompt, fair, and impartial investigation and resolution	Yes Policy on Affirmative Action – Section L		
A description of the steps, anticipated timelines, and decision-making process for type of disciplinary proceeding	Yes Policy on Affirmative Action – Section L		
A description of the range of protective measures that the Colleges may offer to a victim following an allegation of domestic violence, dating violence, sexual	Yes		

CONTENT/TOPIC	YES – include section reference	NO	ACTION ITEM
assault and/or stalking	Policy on Affirmative Action – Sections D & L		
A statement that accommodations/protective measures are provided upon request and if they are reasonably available, regardless of whether the victim reports the incident to campus police or local law enforcement	Yes Policy on Affirmative Action – Sections D & L		
A statement that the Colleges will provide written notification to victims about options for, and available assistance in, changing academic, living, transportation, and working situations if those changes are requested by the victim and reasonably available, regardless of whether the victim reports the offense to campus or local police	Yes Policy on Affirmative Action – Sections D & L		Also contained in <i>Sexual Violence Victim's Rights and Information</i> documents
Information on how to file a disciplinary complaint	Yes Policy on Affirmative Action – Section L		
A description of the standard of the evidence that will be used during disciplinary proceedings	Yes Policy on Affirmative Action – Sections C & L		
Disciplinary Procedures for Cases of Alleged Domestic Violence, Dating Violence, Sexual Assault or Stalking			
Information on the possible sanctions that the Colleges may impose following the results of any disciplinary proceeding	Yes Policy on Affirmative Action – Sections D & L		
A statement that the procedures will be conducted by officials who receive annual training on issues related to domestic violence, dating violence, sexual assault, and stalking, as well as how to conduct a hearing process that protects victim safety and promotes accountability	Yes Policy on Affirmative Action – Sections C & L		

CONTENT/TOPIC	YES – include section reference	NO	ACTION ITEM
A statement that both accuser and accused are entitled to the same opportunity to have others present during an internal disciplinary proceeding, including the opportunity to be accompanied to any related meeting by an advisor of their choice	Yes Policy on Affirmative Action – Section L		
A statement that both accuser and accused will receive simultaneous written notice of:	Yes Policy on Affirmative Action – Section L		
<ul style="list-style-type: none"> • the outcome of the disciplinary hearing; • the Colleges’ appeal procedures; • any change to the results before the results are final; and • when the results become final 			
Information about how the Colleges will protect victim confidentiality, including how publicly available records will be kept without disclosing identity, to the extent permissible by law	Yes Policy on Affirmative Action – Sections D & L		
Information about how the Colleges will maintain as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of the Colleges to provide the accommodations or protective measures	Yes Policy on Affirmative Action – Sections D & L		
Disciplinary Procedures for Cases of Alleged Domestic Violence, Dating Violence, Sexual Assault or Stalking			
A statement that the Colleges will provide written notification to students and employees about counseling, health, mental health, victim advocacy, legal assistance, and other services available on and off campus	Policy on Affirmative Action – Section D		
Education and Training			
A statement regarding the educational programming and training offered by the Colleges including:	Yes Clery Act Annual		

CONTENT/TOPIC	YES – include section reference	NO	ACTION ITEM
	Security Report		
<ul style="list-style-type: none"> primary prevention programs for incoming students and new employees; and ongoing prevention and awareness campaigns for current students and faculty 			
A statement that the Colleges' education programs include:	Yes Policy on Affirmative Action – Sections C, D & F, Clery Act Annual Security Report		
<ul style="list-style-type: none"> a statement prohibiting domestic violence, dating violence, sexual assault, and stalking the applicable jurisdiction's definition of domestic violence, dating violence, sexual assault, and stalking the jurisdiction's definition of consent with regard to sexual activity safe and positive options for bystanders to take when witnessing potential domestic or dating violence, sexual assault or stalking information about risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks 			
Provide educational programming for all incoming students and new employees concerning:	Yes Policy on Affirmative Action – Sections D & F, Clery Act Annual Security Report		
<ul style="list-style-type: none"> rape and acquaintance rape domestic violence and dating violence sexual assault stalking primary prevention and awareness programs 			
Education and Training			

CONTENT/TOPIC	YES – include section reference	NO	ACTION ITEM
Conduct Campus Climate Survey	Some campuses currently perform.		Not required under Title IX or its implementing federal regulations
Conduct Bystander Intervention Training	Yes Policy on Affirmative Action – Section F		
Provide specialized training for all employees involved in the complaint and investigation procedures on issues related to	Yes Policy on Affirmative Action – Section F		
<ul style="list-style-type: none"> • domestic violence and dating violence • sexual assault • stalking • how to conduct an investigation • and conducting a hearing process that protects the safety of victims and promotes accountability 			
Ongoing prevention and awareness programs should be offered to all employees	Yes Policy on Affirmative Action – Section F		

ATTACHMENT B

**COMPLIANCE CHECKLIST: MASSACHUSETTS COMMUNITY COLLEGES
SEXUAL VIOLENCE POLICY AND COMPLAINT INVESTIGATION PROCEDURES**

TITLE IX (INCLUDING OCR AND WHITE HOUSE TASK FORCE GUIDANCE)

CONTENT TOPIC	YES-include section reference	NO	ACTION ITEM
Nondiscrimination Policies: Content and Distribution			
A policy statement that the Colleges do not discriminate on the basis of sex in their education programs	Yes Section B		
A policy statement that both sexual violence and sexual harassment are types of sex discrimination	Yes Section D – Policy Against Sexual Harassment & Policy Against Sexual Violence		
An inclusive policy provision that persons of all protected classes, including persons with disabilities, LGBT and gender non-conforming persons, have the same rights and protections under Title IX	Yes Section C		
Definition of sexual violence and sexual harassment	Yes Section C		
Examples of the types of conduct prohibited by the policy	Yes Sections C & D		
A statement that questions about Title IX can be directed to the Title IX Coordinator or to OCR	Yes Section F		

CONTENT TOPIC	YES-include section reference	NO	ACTION ITEM
The Title IX Coordinator's name, office address, telephone number and email address	Yes Section C		
A jurisdictional statement that the Colleges' policy applies to sexual violence or sexual harassment that occurs outside a Community College program, if the conduct negatively affects a victim's College experience or the overall College environment	Yes Section L – Complaint Procedure		
Nondiscrimination Policies: Content and Distribution			
A statement that the policy is disseminated to:	Yes Sections E & G		
<ul style="list-style-type: none"> • students; • administrators, faculty, and other employees; • applicants for admission; and applicants for employment 			
A statement that the policy is available:	Yes Sections E & G		
<ul style="list-style-type: none"> • on the Colleges' websites; • in formats accessible to persons with disabilities; • in hard copy at multiple campus locations; and • in both printed and electronic publications, including student handbooks, codes of conduct, and catalogs 			
Designating Title IX Coordinators			

CONTENT TOPIC	YES-include section reference	NO	ACTION ITEM
An identification of the Title IX Coordinator and Deputy Coordinators, if any	Yes Sections C & F		
An identification of the senior coordinator among those with deputy or supporting roles		no	
Designating Title IX Coordinators			
A statement of the Title IX Coordinator's duties to:	Yes Section F		
<ul style="list-style-type: none"> • investigate or oversee the investigation of all incidents of alleged sexual violence or sexual harassment; • ensure that consistent standards and practices apply to all such investigations; • identify and address patterns or systemic problems; • make it clear that he or she is available to meet with persons who believe sexual violence or sexual harassment has occurred; • assist campus security or law enforcement as needed; and • keep a confidential log of complaints to help identify any students or employees who are the subject of multiple assault or sexual harassment complaints 			
Complaint Procedures for Sexual Violence or Sexual Harassment Allegations			
Adoption and publication of complaint procedures for complaints of alleged sexual violence and sexual harassment	Yes Section L		

CONTENT TOPIC	YES-include section reference	NO	ACTION ITEM
A statement that the complaint procedures apply to student complaints of sexual violence or sexual harassment against other students, employees, or third parties	Yes Section L		
An explanation of where and to whom students should go if they are victims of sexual violence or sexual harassment	Yes Sections D & L		
Information on how to file complaints	Yes Section L		
Information about counseling and other victim support services available either on or off College grounds	Yes Sections D & L		
Complaint Procedures for Sexual Violence or Sexual Harassment Allegations			
An explanation of how the Colleges will respond to allegations of sexual violence, including any interim measures it may take, such as a “no contact” order between the parties	Yes Sections D & L		
A prohibition of retaliation against complainants and anyone participating in an investigation	Yes Sections D & L		
A statement that for mediation or other informal resolution procedures may not be used in cases of alleged sexual violence	Yes Section L		Also applies to sexual harassment, stalking, dating and domestic violence
A statement that for mediation or other informal resolution procedures in cases of alleged sexual harassment:	No Section L		Mediation is not recommended for cases of sexual harassment
<ul style="list-style-type: none"> the Colleges will not ask a complainant to work out problems directly with the accused individual; and the Colleges will notify the parties of the right to end the informal resolution procedure at any time and pursue a formal complaint 			

CONTENT TOPIC	YES-include section reference	NO	ACTION ITEM
A statement of the typical time frames for all major stages of the process, including time frames for:	Yes Section L		
<ul style="list-style-type: none"> • conducting a full investigation of the complaint; • advising both parties of the outcome of the complaint; and • filing appeals by the parties 			
A statement that the Colleges aim to complete the complaint process within 60 days, unless multiple complainants or incidents are involved		no	Complaint Procedure timelines designed to comply with 60 day requirement
A statement of the process used to extend the typical time frames when necessary	Yes Section L		
A statement that periodic status updates will be provided to both parties during the complaint process	Yes Section L		If timelines are exceeded status updates to the parties are required
Responding to and Investigating Incidents/Meeting with Complainants			
A statement that victims of alleged sexual violence or sexual harassment will be provided:	Yes Sections D & L		Also provided to victims through a <i>Sexual Violence Victim's Rights and Information</i> document

CONTENT TOPIC	YES-include section reference	NO	ACTION ITEM
<ul style="list-style-type: none"> • information regarding all internal options the complainant can pursue, including formal and informal resolution procedures; • a statement that the Colleges will treat the parties equitably; • information regarding the importance of seeking immediate medical attention for sexual violence; • information regarding other health care and counseling services, including those available both on and off campus; • options for avoiding contact with alleged perpetrators, including academic and housing changes; • a statement that when taking steps to separate complainants from alleged perpetrators, the Colleges attempt to minimize the burden on the complainants; • a statement that the Colleges prohibit retaliation and that the Colleges will take action to protect them from it; • information on the complainant’s right to file criminal charges; • information on assistance with filing criminal charges, if desired; • information on the complainant’s right not to file criminal charges; and • written documentation of the matters discussed, including a summary of the complainant’s options and the support resources available 			
Conducting Internal Investigations			
A statement of the circumstances under which the Colleges will conduct investigation of incidents of alleged sexual violence or sexual harassment	Yes Sections D & L		
Responding to and Investigating Incidents			
A statement that investigations will be kept as confidential as possible and that information is disclosed only on a “need to know” basis, to the extent permissible by law	Yes Sections D & L		
Information on how the Colleges process requests for confidentiality	Yes		

CONTENT TOPIC	YES-include section reference	NO	ACTION ITEM
	Sections D & L		
Information on how the Colleges process requests for no investigation	Yes Sections D & L		
A prohibition of retaliation by the alleged perpetrator, any witness or others who participate in an investigation	Yes Sections D & L		
Conducting Investigations and Appeals			
A statement that the “preponderance of the evidence” standard is used in disciplinary proceedings related to sexual violence or sexual harassment	Yes Sections C & L		
A definition of the “preponderance of the evidence”	Yes Sections C & L		
A statement that both parties are given similar and timely access to any information that will be used at the hearing	Fair and impartial investigatory process is followed pursuant to the Policy’s Complaint Procedure Section L		No hearing is conducted
A statement that both parties are given the same opportunity to present relevant evidence and witnesses	Yes Section L		
A statement that the parties may bring an advisor of their choice to any meeting related to an investigation or appeal, and an explanation of the advisor’s role	Yes Section L		
A description of the documentation of all investigation and appeal proceedings	Yes Section L		

CONTENT TOPIC	YES-include section reference	NO	ACTION ITEM
Providing Notice of Outcome and Appeal Rights			
A statement that both parties receive simultaneous written notice of the outcome of the hearing and of any appeal process	Yes Section L		
A statement that victims of sexual violence or sexual harassment will be informed of any sanction imposed on the perpetrator that relates directly to the victim, such as a “no contact” order, transfer to different classes or housing, or a suspension	Yes Sections D & L		
A statement that in cases of alleged sexual violence, both parties will be informed of the investigation results regardless of whether the College concludes an assault was committed	Yes Section L		
A statement of the parties’ equal appeal rights	Yes Section L		
Title IX Training - Employees and Resident Advisors			
The Colleges must provide comprehensive and sustained training on prevention, policy awareness and procedure awareness to all campus constituencies	Yes Section F		
The Colleges must provide training on how to report sexual violence or sexual harassment to:	Yes Section F		
<ul style="list-style-type: none"> • administrators • faculty • campus police • resident advisors • other employees likely to witness or receive reports of sexual harassment or sexual violence 			

CONTENT TOPIC	YES-include section reference	NO	ACTION ITEM
Title IX Training - Employees and Resident Advisors			
The training must include practical information on:	Yes Section F		
<ul style="list-style-type: none"> • how to identify sexual violence and sexual harassment • the Colleges' responsibilities to address sexual violence and sexual harassment • how to recognize warning signals • the dynamics of sexual violence • how to report sexual violence and sexual harassment to appropriate College officials • how to provide information to victims regarding confidential reporting options 			
The Colleges must provide specialized training to those designated as Responsible Employees, including information on:	Yes Section F		
<ul style="list-style-type: none"> • understanding their reporting obligations • confidentiality • students' rights under Title IX • students' remedies under Title IX • available student services 			

CONTENT TOPIC	YES-include section reference	NO	ACTION ITEM
Title IX - Students			
The Colleges should provide training to students on:	Yes Section F		
<ul style="list-style-type: none"> • students' rights under Title IX • what behaviors constitute sexual violence and sexual harassment • how to report sexual violence or sexual harassment • the different reporting options, including confidential reporting options • the Colleges' Sexual Violence Policy • the Colleges' disciplinary and complaint investigation procedures • the potential consequences for violating the Colleges' Sexual Violence Policy • how the Colleges analyze complaints • what to do if they learn of an incident of sexual violence or sexual harassment • the role of alcohol and/or drugs • amnesty • consent • hostile environment • incapacitation • the importance of seeking prompt medical attention • Prohibition against retaliation 			

CONTENT TOPIC	YES-include section reference	NO	ACTION ITEM
Title IX Training - Individuals Handling Complaint Procedures/Key Employees			
The Colleges must provide annual training for anyone involved in implementing the complaint investigation procedures, including:	Yes Section F		
<ul style="list-style-type: none"> • Title IX Coordinators and Deputy Coordinators • EO Officers • Campus Police • Administrative Investigators • Reviewing Body Members • Appellate Body Members • Licensed Counselors • Nonprofessional Counselors/Victim Advocates 			
The training must address:	Yes Section F		
<ul style="list-style-type: none"> • students' rights under Title IX • the Colleges' Sexual Violence Policy and complaint and investigation procedures • the availability of protective measures, accommodations, and support resources • required notifications to students and parties • the psychology/dynamics of sexual violence and working with the trauma-impaired • consent and incapacitation • the role of alcohol and drugs • hostile environment • handling complaints of sexual violence or sexual harassment • how to conduct investigations • how to interview victims, the accused and witnesses • proper/improper questioning • how to evaluate evidence impartially and how to evaluate credibility • how to maintain documentation • conflicts of interest • the preponderance of the evidence standard 			

