The Commonwealth of Massachusetts

Board of Higher Education

Massachusetts Community Colleges

EQUAL OPPORTUNITY, NON-DISCRIMINATION AND TITLE IX PLAN

- 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: September 1, 2026

CERTIFICATE OF APPROVAL
BOARD OF HIGHER EDUCATION
FOR MASSACHUSETTS COMMUNITY COLLEGES
EQUAL OPPORTUNITY, NON-DISCRIMINATION AND TITLE IX PLAN

The Commonwealth of Massachusetts' Community Colleges' Equal Opportunity, Non-Discrimination and Title IX Plan has been approved for implementation by the Board of Higher Education, effective September __, 2026.

This Plan[1] shall replace the prior Policy, currently in effect, which was originally approved by the Board of Higher Education and implemented on August 1, 2021. The 2021 Policy was reinstated by the Board of Higher Education on February 18, 2025, following the January 9, 2025 decision from the U.S. District Court for the Eastern District of Kentucky (*State of Tennessee v. Cardona*, 2:24-cv-00072, (E.D. Ky.))[2] which vacated the 2024 Title IX regulations, thus nullifying the 2024 Policy approved by the Board of Higher Education and implemented on August 1, 2024.

This Plan shall remain in full force and effect until a successor Plan is approved and implemented. The Community Colleges will continually review this Plan and the Complaint Procedures to ensure compliance with the requirements of federal and state laws and regulations.

Noe Ortega
Commissioner
Department of Higher Education

[1] Formerly called the Policy on Affirmative Action, Equal Opportunity, and Diversity ("PAA" or "Affirmative Action Policy")

[2] https://caselaw.findlaw.com/court/us-dis-crt-e-d-ken-nor-div-at-cov/116844509.html

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A. OVERALL PLAN STATEMENT

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, parental leave, pregnancy, parenting status, military service, national origin, and natural and protective hairstyles ("protected class(es)/classification(s)." Further, this Plan 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; The Providing Urgent Maternal Protections (PUMP) for Nursing Mothers Act; the Massachusetts Paid Family and Medical Leave Act of 2018; the Massachusetts Parental Leave Act of 2015; the Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. Sec. 2000ff; the reauthorized Violence Against Women Act, Pub. Law No. 113-4 (2013); the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act; the Higher Education Act of 1965; Massachusetts Civil Rights Act; Massachusetts General Laws Chapters 151B, 151C, and Chapter 149; An Act Relative to Gender Identity, Mass. Acts of 2011, ch. 199; An Act Relative to Transgender Anti-Discrimination, Mass. Acts of 2016, ch. 134; An Act Expanding Protections for Reproductive and Gender Affirming Care, Mass. Acts of 2022, ch. 127; An Act Relative to Sexual Violence on Higher Education Campus, Mass. Acts of 2020 ch. 337, (also known as the 2021 Campus Sexual Assault Law); An Act Prohibiting Discrimination Based on Natural and Protective Hairstyles (Massachusetts CROWN Act), Massachusetts Acts of 2022, c. 117; Stop Campus Hazing Act, Massachusetts General Laws, ch. 269; 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 and regulations, including those establishing other protected classes.

B. EQUAL OPPORTUNITY

I. Equal Opportunity

The Community Colleges are committed to a policy of equal opportunity, equal education, non-discrimination, and diversity. They are committed to providing a learning and working environment – whether in person or in the virtual/online setting - for their students, employees and other members of the College community, which values the diverse backgrounds of all people. The Community 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 Community 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 Community Colleges will not tolerate behavior based on bigotry, which has the effect of discriminating 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 Community Colleges are available to all students, employees and other persons having dealings with the institutions on a non-discriminatory basis. The

Community Colleges are committed to taking a pro-active posture with respect to their recruitment, selection and promotion of students and employees from various backgrounds and different points of view.

The Community Colleges have carefully developed and outlined the major elements of an effective Non-Discrimination 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 Community Colleges, both collectively and individually, commit themselves to not only the valuing of human dignity, but also to 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 non-discrimination is 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 equal opportunity and non-discrimination 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.

The Community Colleges, through their Boards of Trustees and Presidents, fully endorse the plan of action set forth in this Plan and shall oversee and monitor its implementation through the Equal Opportunity Officer and other assigned personnel.

The following specific policies are established:

- Equal opportunity and non-discrimination 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 non-discrimination 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 non-discrimination 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 non-discrimination rules and regulations.

The above-stated policies are intended to be applied broadly with the goal of promoting equal opportunity, non-discrimination and diversity in the 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 action will be taken in the case of an infraction. Such action shall be consistent with the appropriate collective bargaining agreement (if applicable), employee handbook, and other College policies and procedures.

All policies are made in compliance with laws and regulations promulgated by the federal and state governments.

II. Equal Opportunity Officer

The Equal Opportunity Officer is _____ and can be contacted at _____.

The Equal Opportunity Officer ("EOO" or "EO Officer") shall have the task of infusing equal opportunity and non-discrimination into all aspects of the College. They shall be responsible for the development, administration and evaluation of equal opportunity and non-discrimination policies, procedures, programs and goals; serve as monitor of local, state and federal laws and regulations relating to non-discrimination and equal opportunity and compliance thereof; and administer to all segments of the College - students and employees.

The EOO may analyze the College's work force composition. The EOO may also analyze specific work areas or divisions within the College to determine if underutilization of any protected group exists. The development of goals and timetables to correct any identified underutilization shall be the responsibility of the EOO with input from the appropriate administrative officers. Although the basic responsibility for implementation of the non-discrimination/equal opportunity program necessarily rests with the administrative officers of the College, the EOO is responsible for providing advice and assistance.

The EOO shall ensure that this Plan is widely distributed and discussed within the College community. A copy of the Plan will be distributed to every major work area at each College and a copy will be maintained in the Library and the Equal Opportunity Office. Copies of the Plan will be made available upon request to any student, employee, applicant for student status or for employment, or member of the community. The Plan is available on the College's website and from the College's EOO upon request.

The EOOs may meet regularly and jointly participate in workshops, seminars and other kinds of enrichment opportunities that will assist them in the performance of their duties. The EOOs, 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 informed of such programs.

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

The College may establish an Equal Opportunity Committee 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, and the EOO 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 non-discrimination, equal opportunity, and diversity.

III. Accommodation for Persons with Disabilities

The Community Colleges recognize the multitude of barriers that confront persons with disabilities in access to both employment and education, including but not limited to, digital accessibility. Consistent with state and federal statutes, the Community Colleges will affirm and protect the equal opportunity rights of persons with disabilities.

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.

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 change the essential functions of a position or requirements of an academic program or lower performance standards to provide a reasonable 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.

Reduction in courseload for a specific semester 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 employer and employee or college and student, in an effort to provide reasonable accommodation for an otherwise qualified individual with a known disability. 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. The College is not required to provide the exact accommodation(s) requested, and may provide an effective alternative accommodation that is reasonable.

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 or ADA Coordinator. A student or student applicant seeking a reasonable accommodation for a disability may contact the College's office that provides disability and accessibility services. All requests for reasonable accommodation are evaluated on a case-by-case basis. Individuals seeking reasonable accommodations should be prepared to submit current medical documentation for review in the accommodation process. The College reserves the right to review approved reasonable accommodations on a periodic basis and request updated medical documentation at that time.

g. Complaints Related to Accommodations for Persons with Disabilities

The College will address such complaints under the Discrimination Complaint Process (*found below at Section D, pg.22)*.

IV. Accommodations For Pregnancy And Pregnancy-Related Conditions

The College prohibits discrimination against students, employees, and applicants based on pregnancy, childbirth, termination of pregnancy, lactation, related medical conditions, or recovery. Furthermore, the College provides reasonable accommodations for pregnancy and pregnancy-related conditions, including modifications for students, reasonable break time for employees for lactation, and one or more clean, private lactation spaces, that is not a bathroom, for both students and employees. The Title IX Coordinator is the point of contact for such requests and coordinates specific actions to ensure equal access to employment, education programs, and activities.

a. Student Accommodations for Pregnancy or Pregnancy-Related Conditions

Once the Title IX Coordinator is notified of a student's pregnancy or pregnancy-related condition, the College will:

- Inform the student of the College's obligations to students who are pregnant or experiencing a pregnancy-related condition.
- Provide the student with reasonable accommodations as needed to ensure equal access to the College's education program or activity.
- Ensure the student's access to a clean, private space for lactation that is not a bathroom.

Reasonable modification may include, but are not limited to, the following:

- Breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom;
- Intermittent absences to attend medical appointments;
- Allow the student a voluntary leave of absence for, at minimum, the medically necessary time period and reinstatement upon return, including reinstatement to the status held by the student when the leave began;
- Changes in schedule or course sequence;
- Extensions of time for coursework and rescheduling of tests and examinations;
- Allowing a student to sit or stand, or carry or keep water nearby;
- Counseling;
- Changes in physical space or supplies (for example, access to a larger desk or a footrest);
- Elevator access;
- Or other changes to policies, practices, or procedures.

The Title IX Coordinator may require supporting documentation regarding the need for an accommodation from a healthcare professional, but they cannot require documentation: (1) if documentation is not required from other students seeking accommodations; (2) solely to confirm pregnancy; (3) when the need is obvious; or (4) when the request is for (a) more frequent restroom, food, or water breaks; (b) seating; (c) sitting or standing; (d) carrying water or keeping it nearby; or (e) a clean, private space for lactation.

b. Employee Accommodations for Pregnancy or Pregnancy-Related Conditions

Upon the request from the employee or prospective employee, the Title IX Coordinator will engage in a timely, good faith, and interactive process to determine an effective, reasonable accommodation to enable the employee to perform the essential functions of the position.

Through the interactive process, the College will provide necessary, reasonable accommodations that will allow an employee to perform the essential functions of the job while pregnant or experiencing pregnancy-related conditions unless doing so would impose an undue hardship on the College, or result in a fundamental alteration of the essential functions of the job.

Reasonable accommodations may include, but are not limited to, the following:

- Reasonable break time for lactation;
- Access to a clean and private lactation space that is not a bathroom;
- More frequent or longer paid or unpaid breaks;
- Time off to attend to a pregnancy-related condition or recover from childbirth with or without pay;
- Acquisition or modification of equipment or seating;
- Temporary transfer to a less strenuous or hazardous position;
- Job restructuring;
- Assistance with manual labor; and/or
- Modified work schedule.

The Title IX Coordinator may require documentation regarding the need for an accommodation from a healthcare professional that explains what accommodation(s) the employee needs, but they cannot require documentation for the following accommodations: (1) more frequent restroom, food, or water breaks; (2) seating; (3) limits on lifting more than 20 pounds; and (4) a clean, private space for lactation.

c. Complaints Related to Accommodations for Pregnancy and/or Pregnancy-Related Conditions

The College will address such complaints under the Discrimination Complaint Process (*found below at Section D, pg.22)*.

C. NON-DISCRIMINATION POLICY

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 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. Policy Prohibitions

The Non-Discrimination Policy prohibits all conditions and all actions or omissions, 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 all Prohibited Conduct.

The prohibition on 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.

c. Conduct That is Not Prohibited

The Community Colleges are committed to protecting, maintaining, and encouraging both freedom of expression and full academic freedom[3] of inquiry, teaching, service, and research. Nothing in this Non-Discrimination Policy shall be construed to penalize a member of the Community Colleges 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 prohibited by this Policy.

d. Duty to Cooperate

Every faculty member, librarian, administrator, staff member, employee, agent, or other person authorized by the College to provide aid, benefit, or service under the College's education program or activity has a duty to cooperate fully and unconditionally in an investigation conducted pursuant to the Discrimination Complaint

[3] As that term is defined in Article VII of the Agreement by and between the Massachusetts Board of Higher Education and the Massachusetts Community College Council MCCC/MTA/NEA ("DAY Contract"), Article VI of the Agreement for Division of Continuing Education Between the Massachusetts Board of Higher Education and the Massachusetts Community College Council/ Massachusetts Teachers Association an affiliate of The National Education Association ("DCE Contract"), and any amendments thereto.

Procedure, subject to the provisions of any relevant collective bargaining agreements, employee handbook, or other college policies and procedures. In addition, every individual participating or attempting to participate in the College's education program or activity has a duty to cooperate fully and unconditionally in an investigation conducted pursuant to this Policy's Complaint Procedure.

This duty includes, among other things, speaking with the Equal Opportunity Officer 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 student to cooperate in an investigation may result in disciplinary action up to and including expulsion. Any disciplinary action shall be consistent with the applicable Student Handbook, Student Code of Conduct, and/or other college policies and procedures. The failure and/or refusal of any employee to cooperate in an investigation may result in disciplinary action up to and including termination. Any disciplinary action shall be consistent with applicable collective bargaining agreements, employee handbooks, and/or college policies and procedures.

e. Duty to Report

- **General Responsibility to Report Prohibited Conduct[4]**

No member of the College community who receives a complaint of Prohibited Conduct can ignore it; they should give to the person making the complaint as much assistance in bringing it to the attention of the Equal Opportunity Officer as is reasonably appropriate given their position at the College and relationship with the person making the complaint, and/or report directly to the Equal Opportunity Officer any conduct of which they have direct knowledge and which they in good faith believe constitutes a violation of the Non-Discrimination Policy.

- **Failure to Report Prohibited Conduct**

Incidents of failure to report by a College employee will be investigated by the Equal Opportunity Officer as a violation of this Policy. An employee found responsible for failing to notify the Equal Opportunity Officer of conduct that reasonably may constitute Prohibited Conduct or failing to provide an individual with the contact information of the Equal Opportunity Officer and information on how to make a complaint, may be subject to discipline. Discipline for violating this Policy may include, but is not limited to, mandatory counseling or training, verbal or written warnings, suspension, termination from employment, and/or expulsion from the College, subject to the provisions of any relevant collective bargaining agreements, employee handbook, or other college policies and procedures.

- **Mandatory Reporting of Abuse and Neglect 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, sexual harassment, or neglect, 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 Equal Opportunity Officer, 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.

[4] Reports involving Title IX Sexual Harassment should be made to the Title IX Coordinator, consistent with the Title IX Sexual Harassment Policy and Title IX Sexual Harassment Formal Complaint Process, as outlined in Sections E and F below.

State law also maintains mandatory reporting requirements for certain occupations where abuse or neglect is suspected of adults age 60 or older, or children and adults with disabilities. For more information on these reporting requirements, please contact the College's Equal Opportunity Officer or Title IX Coordinator.

Any member of the College community who has a question about their responsibilities under this Policy should contact the Equal Opportunity Officer.

D. DISCRIMINATION COMPLAINT

I. General Information for All Discrimination Complaints

a. Application of Policy

The complaint procedure listed below is intended to provide a mechanism to investigate and where possible resolve complaints of alleged violations of the Non-Discrimination Policy. The procedure is intended to ensure that the College will conduct an impartial, fair, effective, and efficient investigation of all allegations of violations of this Policy without fear of retaliation. The complaint procedure is available to any employee or student, or applicant for employment or admission, or a person other than a student or employee, who believes they have been subjected to Prohibited Conduct as defined under this Policy. A complaint filed in another forum does not preclude an individual 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, advisors, 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 M.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 communicate regarding the matter with anyone other than an advisor, if applicable.

c. Complainant Requests No Action and/or Confidentiality

Where a Complainant requests that no action be taken by the College or requests that their 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 of Prohibited Conduct involves the potential of an ongoing threat to the health, safety or security of members of the College community or a potential adverse employment or education action, the Equal Opportunity Officer shall inform the Complainant that it cannot ensure confidentiality and disclosure of their name may likely be required.

d. Anonymous Report

Any individual may file an anonymous report concerning any Prohibited Conduct referenced under the Non-Discrimination Policy. An individual may report the incident without disclosing their name, identifying the Respondent or requesting any action. An anonymous report may be filed with the EOO. 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 appropriately and effectively may be limited (e.g. offering supportive measures to a Complainant).

e. Off Campus Behavior

The College will investigate alleged Prohibited Conduct under the Non-Discrimination Policy which occurs in the College's education program or activity off-campus when such conduct adversely affects the College Community, poses a threat 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 violation of state or federal law.

Conduct that occurs under the College's education program or activity includes but is not limited to locations, events, or circumstances over which the College has substantial control and for which such conduct is subject to the College's disciplinary authority. This also includes conduct that takes place via school-operated electronic devices, computer and internet networks and digital platforms operated by, or used in the operations of the College, including AI technologies; and conduct that occurs during training programs sponsored by the College at another location.

f. Supportive Measures

The Non-Discrimination Policy requires the College to take non-disciplinary/non-punitive reasonable steps to preserve or restore equal access to its education programs and activities or work environment, and protect individuals from Prohibited Conduct, including offering supportive measures to a Complainant before the final outcome of an investigation, irrespective of whether complaint processes are initiated. Supportive measures will be offered to a Respondent, as appropriate, if complaint processes have been initiated or an informal resolution process has been offered.

Supportive measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's working or educational environment, provide support during the College's complaint process or during the informal resolution process, or deter all forms of Prohibited Conduct. The College shall take these steps promptly once it has notice of an allegation of Prohibited Conduct.

Examples of supportive measures include, but are not limited to, the following:

- Referrals to internal and/or external counseling resources;
- Extensions of deadlines or other course-related adjustments (for example: changing class schedule, withdrawal without penalty, providing student services such as tutoring, alternate class completion options);
- Modifications of work schedules or job assignments;
- Campus escort services;
- Increased security and monitoring of certain areas of the campus;
- Restrictions on contact applied to one or more parties;
- Changes in class, extracurricular, or any other activity, regardless of whether there is or is not a comparable alternative;
- Leaves of absence; and
- Other similar measures.

The specific supportive 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 supportive measures to take, including, for example, the specific needs expressed by each party; the severity or pervasiveness of the allegations; any continuing effects on each party; whether the parties share the same classes, schedules, transportation, or job location; and whether other judicial measures have been taken to protect the victim (*e.g.*, civil or criminal protection orders).

The College provides an opportunity to either party to seek modification or reversal of any decision to provide, deny, modify, or terminate supportive measures applicable to them. Challenges to supportive measures could include, but are not limited to: challenges concerning whether a supportive measure is reasonably burdensome, whether a supportive measure is reasonably available, whether the supportive measure is being imposed for punitive or disciplinary reasons, whether the supportive measure is being imposed without fee or charge, and whether the supportive measure is effective in meeting the purposes for which it is intended. Such challenges must be made, in writing, to an Impartial Employee within ten (10) days and include: (1) the supportive measure being challenged; (2) the reason for the challenge; and (3) the action sought by the party (e.g., to provide, deny, modify, or terminate the supportive measure). Where practicable, within ten (10) days of receiving the challenge, the Impartial Employee shall issue a written decision. The Impartial Employee's decision is final.

A party may seek modification or termination of a supportive measure applicable to them if circumstances change materially. Whether or not circumstances have changed materially is a fact-based consideration depending on the particular context of the Complainant and Respondent. In general, when taking supportive measures, the College shall minimize the burden on each party. The College must maintain as confidential any supportive measures provided to the parties, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures or restore or preserve a party's access to the education program or activity or work environment.

g. Interim Action and Emergency Removal

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 the Non-Discrimination 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 violation of state or federal law. In such cases, the College shall provide the employee or student notice 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.

The College shall make reasonable efforts to minimize disruption in the professional or educational experience of all affected parties.

h. Joint Investigation

In some circumstances a Responding Party's conduct may constitute a potential violation of the Non-Discrimination 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 Equal Opportunity Officer and the administrator charged with enforcing conduct policies. For example, if the Responding Party is a student, the Equal Opportunity Officer and Student Code of Conduct Administrator 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 Equal Opportunity Officer, Human Resources 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, subject to the provisions of any relevant collective bargaining agreements, employee handbook, or other college policies and procedures.

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, employee handbooks, or other college policies and procedures.

j. Amnesty

Students may be hesitant to report Prohibited Conduct 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 Prohibited Conduct. 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 Prohibited Conduct.

k. Knowingly Making a False Complaint

Knowingly making a false complaint under the Non-Discrimination Policy is a serious offense. If an investigation reveals that Complainant knowingly made a false complaint, the College shall take appropriate actions and may issue sanctions pursuant to other applicable College policies. The imposition of such sanctions does not constitute retaliation under this Policy. A report made in good faith, however, is not considered false merely because the evidence does not ultimately support the allegation of Prohibited Conduct.

l. Records Retention

The Equal Opportunity Officer shall retain all records related to a Discrimination Complaint for seven (7) years.

II. Jurisdiction of the College

The Equal Opportunity Officer *may* dismiss or "screen out" any Complaint, if:

- Complainant withdraws the Complaint or any or all of the allegations in writing;
- Respondent is no longer enrolled or employed by the College;
- The College is unable to identify the Responding Party after taking reasonable steps to do so;
- The allegations are able to be addressed through another College policy or procedure; or
- The conduct alleged would not constitute Prohibited Conduct as defined (i.e. even assuming that all of the facts in the complaint are true, the alleged conduct does not meet the Policy definition).

After dismissal, the Equal Opportunity Officer may offer appropriate supportive measures to the Complainant and to the Respondent, if Respondent was notified of the allegations prior to dismissal.

This decision to dismiss or screen out the complaint may be appealed. Such appeals must be made, in writing, to an Impartial Employee within ten (10) days and include the basis for the appeal. Where practicable, within ten (10) days of receiving the appeal, the Impartial Employee shall issue a written decision accepting, rejecting or modifying the Equal Opportunity Officer's decision. The Impartial Employee's decision is final.

III. 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 Discrimination Complaint Procedure as

administered by the Equal Opportunity Officer. The ADA/504 Coordinator is _____ and can be contacted at _____.

ADVERSE ACTION: A negative or unfavorable action or decision made against an individual that impacts their learning or working environment. Adverse actions include, but are not limited to, termination, suspension, demotion, transfer, loss or reduction of pay or benefits, grade reduction, changed working conditions, expulsion, denial of academic opportunities.

ADVISOR: A single person chosen by a Party, who may but is not required to be an attorney (for union employees this may be a union representative), who may be present in any meeting or proceeding prescribed by this Policy, and who may inspect and review evidence. The advisor's role is strictly limited to providing direct assistance to the party that they advise for the purposes of the complaint process. An advisor is not to impede, disrupt or hinder the procedures listed within this Policy and/or other institutional policies through intimidation or creating an environment that unreasonably interferes with anyone's ability to participate in the complaint process. Any person serving as an Advisor who is conducting themselves in such a manner is subject to removal from their role.

COMPLAINANT or COMPLAINING PARTY: The individual(s) filing the complaint, whether it is a current or former student(s) or employee(s), or current or former applicant for admission or employment, or a person other than a student or employee, who is alleged to have been subjected to conduct that could constitute a violation of the Plan if they were participating or attempting to participate in the College's education program or activity.

DAY: As used in this policy, shall mean a business day. 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 Equal Opportunity Officer or their designee may extend the time limits with notice to the parties in writing, or by mutual written agreement between the parties.

DESIGNATED DECISION-MAKER(S): An individual who is not the same person as the Equal Opportunity Officer, or their designee, chosen by the President (or in some cases the Board Chair) to reach a determination regarding responsibility by applying the standard of evidence the College has designated in the College's complaint process for use in all Discrimination Complaints. This individual may also be referred to as the "President's Designee" or "Board Chair Designee" or "Designated Official" or "Decision-Maker."

DISCRIMINATION COMPLAINT: A written or verbal complaint alleging a violation of the Plan, other than a Formal Complaint of Title IX Sexual Harassment. Complaints must be filed within 180 days (or six (6) months) of the last act of alleged discrimination, absent a showing of extenuating circumstances, as determined in the sole discretion of the Equal Opportunity Officer.

DISCRIMINATION COMPLAINT PROCESS: The process used to address all Complaints alleging a violation of the Plan, other than a Formal Complaint of Title IX Sexual Harassment.

EDUCATION PROGRAM OR ACTIVITY: Locations, events, or circumstances in which the College exercises substantial control over both the Respondent and the context in which the Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct occurs, either in-person or on-line. This also includes College sponsored functions, activities, or events including off campus events, conduct that occurs in a building owned or controlled by a student organization that is officially recognized by the College, and conduct that is subject to the College's disciplinary authority.

EMPLOYEE: A person, including faculty and staff, employed by the College, either full- or part-time, including Student-Employees when acting within the scope of their employment.

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, natural and protective hairstyles, other protected classification, or political or union affiliation.

EQUAL OPPORTUNITY OFFICER ("EO Officer" or "EOO"): A College employee assigned the responsibility of administering the College's Non-Discrimination Policy or their designee. The Equal Opportunity Officer shall serve as the College's Title VI Coordinator. The Equal Opportunity Officer may also serve as the College's Title IX Coordinator and/or the ADA/504 Coordinator. If the Equal Opportunity Officer is the person against whom the complaint is filed, the President shall designate another College official to act as the Equal Opportunity Officer for purposes of administering the Non-Discrimination Policy. The Equal Opportunity Officer is _____ and can be contacted at _____.

IMPARTIAL EMPLOYEE: An employee who has not participated in the complaint at issue, and has no conflict of interest or bias regarding the matter being addressed. The employee must have training or experience in mediating matters subject to this complaint process, and will be designated by the College, who reserves the right to select an Equal Opportunity Officer, ADA Coordinator or Title IX Coordinator from another Massachusetts Community College.

INFORMAL RESOLUTION: A mutual and voluntary agreement between the parties to resolve the allegations through either mediation or an administrative remedy, that is reached at any time prior to a determination being made at the conclusion of this process.

MANDATORY REPORTER: An employee of the college who is obligated to share Notice or reports of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct based on Race, Color, or National Origin.

NOTICE: When a Mandatory Reporter receives a direct, written, verbal, or third-party report, witnesses an incident, or otherwise knows about conduct that may constitute Discrimination or Harassment based on Race, Color, or National Origin.

PREPONDERANCE OF EVIDENCE: The evidentiary standard used in resolving all complaints filed under this Policy's Complaint Processes. The standard is met if the proposition is more likely to be true than not true (i.e.; more probable than not). Effectively, the standard is satisfied if there is greater than a 50 percent chance that the proposition is true.

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 perceived or actual 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.

For purposes of this Policy, conduct constitutes discrimination if:

a. Complainant is a member of a protected class/classification
b. Complainant suffered an adverse employment or education action
c. And
    1) The adverse action was because of Complainant's perceived or actual membership in a protected class or association with a member(s) of a protected class (i.e. disparate treatment), or
    2) The adverse action had a disparate impact on Complainant as compared to similarly-situated persons not of Complainant's protected class/classification

2. **Discriminatory Harassment / Hostile Environment**: A form of discrimination including verbal and/or physical conduct (of a non-sexual nature) based on legally protected characteristics and/or perceived or actual membership in a protected class. Discriminatory harassment refers to the specific actions that, if they occur frequently or are severe enough, may create a hostile environment.

   For purposes of this Policy, conduct constitutes discriminatory harassment / hostile environment if:

   a. there is verbal and/or physical conduct
   b. based on Complainant's actual or perceived membership in a protected class, or association with a member of a protected class
   c. Complainant was subjected to conduct directed at said protected class
   d. the conduct was subjectively offensive (i.e., unwelcome) and objectively offensive, and
   e. considering the totality of the circumstances, the conduct had the purpose or effect of creating an intimidating, hostile, or humiliating work or learning environment

3. **Retaliation**: Intimidation, threats, coercion, or discrimination against any person by the College, a student, or an employee or other person authorized by the College to provide aid, benefit, or service under the College's education program or activity, for the purpose of interfering with any right or privilege under this Policy. Retaliation includes taking adverse employment or educational action against a person who files claims, complaints or charges under this Policy, 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. Whether a particular action is adverse in any given case would require a fact-specific analysis of how the action would affect a reasonable person in the Complainant's position.

   For purposes of this Policy, conduct constitutes retaliation if:

   a. Complainant engaged in a protected activity[5]
   b. Respondent was aware of Complainant's alleged protected activity
   c. Complainant suffered an adverse employment or education action, and
   d. Causal connection between the alleged protected activity and adverse action

[5] For purposes of this Policy, protected activity includes 1) Filing a complaint with the College, such as discrimination or harassment; 2) asking the College (e.g. supervisor) to stop alleged discrimination or harassment; 3) cooperating in an internal investigation; 4) filing a complaint with the EEOC, MCAD, or OCR; and/or 5) speaking to an attorney.

4. **Title IX Sexual Harassment**

   See Section E below.

5. **Sex-Based Harassment**

   When a Formal Complaint of Title IX Sexual Harassment is not filed, and therefore the Title IX Sexual Harassment Formal Complaint Process (*found herein at Section F)* is not activated, the College reserves the right to address such other complaints under the Discrimination Complaint Process (*found herein at Section D)*. Complaints addressed under this section may include claims of discrimination based on sex (male, female, intersex), including but not limited to, sexual harassment and harassment based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity, *quid pro quo* harassment, hostile environment harassment, or one of four specific sex offenses referenced in the Clery Act, as amended by VAWA, or any offenses referenced in the Massachusetts Campus Sexual Violence Law of 2021.

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. Caste - A person's actual or perceived descent-based or hereditary status, typically involving social stratification or classes.

c. Color - The actual or perceived pigmentation, complexion, or shade/tone of a person's skin (i.e., lightness, darkness, or other color characteristic of a person's skin), regardless of that person's Race or Ethnicity; variations in skin tone among persons of the same race.

d. Colorism - Conduct that excludes, harms, persecutes, or expresses hatred or animus toward individuals or groups, or that is unequal, based on actual or perceived Color.

e. 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.

f. Ethnicity - Belonging to a population, group, or subgroup of people based on shared culture/cultural background (e.g., language, food, music, dress, values, and beliefs), history, ancestry, or descent, or having the characteristics commonly attributed to such Ethnicity; See National Origin.

g. Gender Identity - An individual's sense of their gender as male, female, a blend of both, or neither, which may or may not be different from their sex assigned at birth. Gender identity is a term that covers a multitude of identities including, but not limited to, gender nonconforming individuals, nonbinary individuals, and transgender individuals, and includes any person whose gender identity or gender presentation falls outside of or is perceived to be outside stereotypical gender norms.

h. 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.

i. LGBTQIA+ - Refers to people who are lesbian, gay, bisexual, transgender, queer, questioning, asexual, intersex, nonbinary, or describe their sex characteristics, sexual orientation, or gender identity in another similar way.

j. National Origin - A person's actual or perceived place of origin, ancestry, Ethnicity/Ethnic Characteristic, language or accent, cultural heritage, surname or name associated with a nation, or association with people of a particular nation or origin, regardless of a person's citizenship or immigration status. For the purposes of this definition, National Origin also encompasses actual or perceived Shared Ancestry, Ethnic Characteristics, or citizenship or residency in a country with a dominant religion or distinct religious identity; A "national origin group" or "ethnic group" is a group sharing a common language, culture, ancestry, and/or other similar social characteristics.

k. Natural and Protective Hairstyles - All hairstyles covered under the Massachusetts CROWN Act, including but not limited to, braids, locs, twists, Bantu knots, hair coverings and other formations.

l. Parental Status - The status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of physical or mental disability, is:

1) A biological parent;
2) An adoptive parent;
3) A foster parent;
4) A stepparent;
5) A legal custodian or guardian;
6) *In loco parentis* with respect to such person; or
7) Actively seeking legal custody, guardianship, visitation, or adoption of such a person.

m. Persons of Color - Members of the following racial classifications: Black, American Indian/Native Alaskan, Asian/Pacific Islander, and Hispanic/Latino.

n. Pregnancy or Related Condition - Pregnancy, childbirth, termination of pregnancy, or lactation; or medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or recovery from pregnancy, termination of pregnancy, lactation or related medical conditions.

o. Race - Discrimination laws do not contain a definition of "race," but are interpreted to prohibit discrimination on the basis of a person's actual or perceived (by others) membership in a group characterized by shared ancestry or physical, cultural or ethnic 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.

p. Racism - Conduct that excludes, harms, persecutes, or expresses hatred or animus toward individuals or groups, or that is unequal, based on actual or perceived Race.

q. Religion - "Religion" and "creed" have the same or equivalent meaning: all religious and spiritual observances, practices, and sincerely held beliefs.

r. Sex Characteristics - Sex characteristics is intended to refer to physiological sex-based characteristics. Discrimination based on a person's physiological sex characteristics may include discrimination based on a person's anatomy hormones, and chromosomes associated with male or female bodies. Discrimination on the basis of sex characteristics includes discrimination based on intersex traits.

s. Sexual Orientation - Actual or perceived heterosexuality, homosexuality, bisexuality, pansexuality, or asexuality either by orientation or by practice, including but not limited to LGBTQIA+ people as defined in this policy.

t. Sex Stereotypes - Fixed or generalized expectations regarding a person's aptitudes, behavior, self-presentation, or other attributes based on sex.

u. 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, individuals in those classifications shall be protected against discrimination under this Policy.

REMEDIES: Actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence of behaviors prohibited by the Policy, and restore access to the College's Education Program or Activity.

RESOLUTION: The result of an informal Resolution or the Complaint Process.

RESPONDENT OR RESPONDING PARTY: The person against whom a complaint is directed. Only a person in their individual capacity can be a Respondent in a complaint process; not a department, program, student organization, or other college affiliated group. Until a final decision is issued, the Respondent is presumed not responsible.

SANCTION: A consequence imposed on a Respondent who is found to have violated the Policy.

STUDENT: Any individual who has accepted an offer of admission, or who is registered for or enrolled in for-credit or non-credit-bearing coursework, and who maintains an ongoing educational relationship with the Recipient, even if not currently taking classes.

SUPPORTIVE MEASURES: Supportive measures means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to:

1. Restore or preserve that party's access to the College's education program or activity, including measures that are designed to protect the safety of the parties or the College's educational environment; or
2. Provide support during the College's complaint processes or during an informal resolution process.

IV. Discrimination Complaint Process

The following rules apply throughout all phases of the complaint process: (1) all parties to a complaint may have an advisor; (2) the role of an 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 grade dispute based on alleged Prohibited Conduct shall proceed under this Policy and not the Grade Appeal Process; and (5) all findings reached under this Complaint Procedure must be based on a "preponderance of evidence" (i.e.; more likely than not) standard.

When a Complainant believes that they have been subjected to Prohibited Conduct, the Complainant may make a complaint with the Equal Opportunity Officer. If the Equal Opportunity Officer is the Responding Party, the Complainant may make a complaint with the Assistant Vice President of Human Resources or Vice President of Human Resources. If the President is the Responding Party, then the Equal Opportunity Officer shall notify the Chair of the College's Board of Trustees, who may choose to refer the matter to an independent investigator. If a member of the College's Board of Trustees is the Responding Party, then the Equal Opportunity Officer shall notify the Chair or Vice Chair of the College's Board of Trustees, who may choose to refer the matter to an independent investigator.

a. Informal Resolution

At any time prior to determining whether the alleged conduct occurred, the College may offer to Complainant and Respondent an informal resolution process. Such an offer will be made to both parties in writing and will include an outline of each party's rights and responsibilities in the informal resolution process. Additionally, either party may request informal resolution.

The College must obtain the parties' voluntary consent to the informal resolution process and does not require waiver of the right to an investigation and determination of a complaint as a condition of enrollment, continued enrollment, employment, continued employment or exercise of any other right. Before the initiation of the informal resolution process, the College must provide to the parties notice that explains: (1) the allegations; (2) the requirements of the informal resolution process; (3) that, prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume the College's complaint processes; (4) that the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming complaint processes arising from the same allegations; (5) the potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and (6) what information the College will maintain and whether and how the College could disclose such information for use in complaint processes if complaint processes are initiated or resumed.

An informal resolution is achieved through open or closed dialogue between the parties that allows for the airing of any misunderstandings or disputed issues. During the informal resolution process, Respondent may accept responsibility or accountability for the alleged behavior or harm caused. Potential terms in an informal resolution agreement may include but are not limited to:

- Restrictions on contact; and
- Restrictions on the Respondent's participation in one or more of the College's programs or activities or attendance at specific events, including restrictions the College could have imposed as remedies or

disciplinary sanctions had the College determined at the conclusion of the complaint processes that the alleged conduct occurred.

If the parties accept the informal resolution, its terms shall be reduced to writing, signed by both parties, and the Equal Opportunity Officer shall retain the document, with copies to the parties; thereafter, the matter shall be considered resolved between the parties. In the case where Respondent is an employee, prior to execution of a resolution, they will be notified that a copy of the informal resolution may be placed in their personnel file. The parties may request from the College that an informal resolution not be placed in Respondent's personnel file; however, the College retains the sole discretion to approve or to deny this request. In cases where such request is denied, each party reserves their right to withdraw from the informal resolution process and resume the complaint process. All other documents related to the informal resolution of a complaint shall be kept separate from the personnel file. 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 retaliation, which is strictly prohibited under this Policy.

Step 1 – Investigation

Prohibited Conduct (Excluding Title IX Sexual Harassment): The complaint shall contain a statement of all known facts pertaining to the alleged violation and shall be filed preferably on the Discrimination Complaint Form (see Appendix A). Verbal complaints shall be reduced to writing by the Equal Opportunity Officer, and reviewed and signed by the Complainant within ten (10) days. If a student is involved, the Equal Opportunity Officer shall notify the Vice President of Student Affairs or Dean of Students. If an employee is involved, the Equal Opportunity Officer shall notify Human Resources.

Evidence: The Equal Opportunity Officer will request that Complainant provide any and all evidence in their possession, custody or control that support the allegations raised in their complaint.

The Equal Opportunity Officer will notify the Responding Party in writing within fourteen (14) days of their determination that the complaint is to be investigated rather than dismissed and provide the Responding Party with a copy thereof (see Appendix B). 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 Equal Opportunity 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 Equal Opportunity Officer shall conduct an investigation. The Equal Opportunity Officer will schedule meetings with the parties and witnesses (if applicable). Upon request, the Equal Opportunity Officer will provide a written description of the evidence prior to the initial meeting. Each party is permitted one advisor of their choice, who may but is not required to be, an attorney (for union employees this may be a union representative), who may be present during their meeting(s), and who may inspect and review evidence. The advisor's role is strictly limited to providing direct assistance to the party that they advise for the purposes of the complaint process.

After questioning of the parties and witnesses has concluded, the Equal Opportunity Officer shall issue a Report of Preliminary Findings which shall specify the investigation undertaken, including a written description of the evidence, and summarize their preliminary findings of fact and policy violations. There are no recommendations at this stage as the findings are not final. Upon request, each party will have an equal opportunity to obtain a copy of the evidence, and provide additional evidence that may be relevant. The preliminary report shall be delivered to the parties in hand, by first class mail, their College-issued email address (if applicable), or their personal email (upon request). If the investigation is not completed within thirty (30) days, status updates shall be provided to the parties every thirty (30) days until it is completed. Any request by a party to extend a deadline established under this procedure shall be presented in writing to the Equal Opportunity 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 Equal Opportunity Officer. Rebuttal Statements are optional, and offer an opportunity for either party to address the specific findings of the Equal Opportunity Officer. The parties may present no new allegations at that time. Where practicable, within ten (10) days of receiving the parties' Rebuttal Statements, the Equal Opportunity Officer shall review the Rebuttal Statements, take additional action if needed (ex. conduct additional interviews and issue a revised preliminary report), and prepare and submit a Report of Final Findings and Recommendations to the Designated Decision-Maker for consideration.

Step 2 – Review and Decision by the Designated Decision-Maker

Where practicable, within ten (10) days of receipt of the Report of Final Findings and Recommendations, the Designated Decision-Maker shall issue a written decision to the parties. The written decision shall accept, reject or modify the Report of Final Findings and Recommendations. The Designated Decision-Maker's written decision shall be delivered in hand, by first class mail, at their College-issued email address (if applicable), or at their personal email (upon request), and shall include the Report of Final Findings and Recommendations.

If there is a determination that a violation occurred, as appropriate, the Designated Decision-Maker shall require the Equal Opportunity Officer to coordinate the provision and implementation of remedies to Complainant and other persons identified as having had equal access to the College's education program, activity or workplace limited or denied, coordinate the imposition of any disciplinary sanctions on a Respondent, and require the Equal Opportunity Officer to take other appropriate prompt and effective steps to ensure that discrimination does not continue or recur within the College's education program, activity or workplace.

If the Responding Party is a student, the provision and implementation of remedies shall be coordinated with the Vice President of Student Affairs or Dean of Students. If the Responding Party is an employee including student-employees acting in the scope of their employment, the provision and implementation of remedies shall be coordinated with Human Resources.

If the President is a Responding Party, then the Chair of the College's Board of Trustees shall select the Designated Decision-Maker(s). If a member of the College's Board of Trustees is a Responding Party, then the Chair or Vice Chair of the College's Board of Trustees shall select the Designated Decision-Maker(s).

Step 3 – Appeal to President

A party may file an appeal with the President within ten (10) days of receiving the Designated Decision-Maker's decision. A party may appeal for the following reasons only:

a. Procedural irregularity that would change the outcome;
b. New evidence that would change the outcome and that was not reasonably available when the determination of whether a violation occurred or dismissal was made; and/or
c. The Equal Opportunity Officer, investigator, or Decision-Maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.

Where practicable, within ten (10) days of receiving the appeal, the President shall issue a written decision accepting, rejecting or modifying the Designated Decision-Maker's decision. The President's decision is final provided that any corrective action and/or discipline imposed are subject to applicable collective bargaining agreements, employee handbooks and/or College policies.

If the President is a Responding Party, then the Chair of the College's Board of Trustees shall issue a written decision accepting, rejecting or modifying the Designated Decision-Maker's decision, and such decision shall be final. If a member of the College's Board of Trustees is the Responding Party, then the Chair or Vice Chair of the College's Board of Trustees shall issue a written decision accepting, rejecting or modifying the Designated Decision-Maker's decision.

Appendix A –Discrimination Complaint Form

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 Non-Discrimination Policy.

This complaint form should not be used for Title IX Sexual Harassment (ex. sexual violence, unwanted sexual conduct, *quid pro quo* harassment by an employee), which is covered by the Title IX Sexual Harassment Formal Complaint Process and requires a live hearing.

All reasonable efforts will be made to maintain the confidentiality of the parties involved during the complaint procedure.

Retaliation against a student, employee or any other person in the College for filing a complaint or for cooperating in an investigation of a complaint is strictly prohibited. All parties to a complaint may have an 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:_____ Other: _____

Program/Department:_____

C. Type of Prohibited Conduct (please check applicable category(ies):

___ Discrimination
___ Discriminatory Harassment
___ Retaliation
___ Sex-Based Harassment (except Title IX)

D. Type of alleged discrimination or harassment (please check applicable category(ies)):

___ Veteran Status
___ Race/Color
___ National Origin
___ Age
___ Disability
___ Genetic Information
___ Religion/Creed
___ Pregnancy or Related Conditions
___ Parental Status
___ Gender Identity
___ Sexual Orientation
___ Sex Characteristics
___ Sex Stereotypes
Other: _____

∗Please see the Plan (pg.15) for definitions of above terms

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

_____

_____

_____

F. List any witnesses to the alleged discriminatory conduct and the nature of the information they can provide:_____

_____

_____

_____

_____

G. Description of Complaint - please list the sequence of events, including dates, if possible, and any relevant facts and statements to support your complaint of discrimination:

_____

_____

_____

_____

_____

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_____

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_____

_____

(If additional writing space is needed, please attach additional sheets)

To the best of my knowledge and belief, the above information is complete, true and accurate and not a "false complaint" as defined under this Policy. I hereby submit this complaint under the College's Discrimination Complaint Procedure.

_____

Signature of Complainant and Date

Received by (College Official's name/title): _____

Date Received: _____

Date of Dismissal (Screen Out)/No Dismissal (Screen In) Determination: _____

Appendix B - Notice to Respondent

College Letterhead

To: _____, Respondent

Cc: _____, Complainant

From: _____, (*Title of EO Officer*)

Subject: Discrimination Complaint

Date: _____

This is to notify you that on _____ a complaint alleging a violation of the College's Non-Discrimination Policy was filed against you. A copy of the complaint is attached, as is a copy of the complaint procedure. You have ten (10) days from your receipt of this notice, to submit to me a written response to the complaint.

You will be contacted to schedule an appointment to discuss this matter. Retaliation against a student, employee or any other person for filing a complaint or for cooperating in an investigation related thereto is strictly prohibited.

Please note that you may have an advisor of your choice, and that the advisor may, but is not required to be, an attorney or union representative (if applicable).

Please be advised that you are presumed not responsible for the alleged conduct until a determination is made at the conclusion of this process, and that prior to any determination, you and your advisor will have an opportunity to present relevant and not otherwise impermissible evidence. You and your advisor are also entitled to any investigative reports and a description of the evidence. Upon request, you and your advisor will have an opportunity to access the relevant and not otherwise impermissible evidence.

All reasonable efforts will be made to maintain confidentiality during the complaint procedure in accordance with the Non-Discrimination Policy. Further, if any disciplinary sanctions are imposed as a result of an investigation under this Policy, all such sanctions shall be regarded as an administrative action subject to all terms and conditions of applicable collective bargaining agreements (if applicable), employee handbook, and other College policies and procedures.

All questions concerning this matter should be addressed to the College official referenced above.

E. TITLE IX SEXUAL HARASSMENT

I. Introduction

For purposes this Policy, Title IX Sexual Harassment means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the College conditioning the provision of an aid, benefit, or service on another employee's or student's participation in unwelcome sexual conduct ("quid pro quo" harassment by an employee); or

2. Unwelcome conduct of a sexual nature determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to a College education program or activity ("hostile environment harassment"); or

3. Any instance of sexual assault (as defined in the Clery Act (20 U.S.C. 1092(f)6)(A)(v)), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA)(34 U.S.C. 12291 *et. seq*.)

It is the goal of the Community Colleges to promote an educational environment and workplace that is free of all forms of sexual harassment. Sexual harassment of students or employees occurring in the classroom or the workplace will not be tolerated by the Community Colleges. 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 not tolerated. To achieve our goal of providing both a workplace and learning environment free from sexual harassment, the conduct that is described in this policy will not be tolerated.

Because the Community Colleges take allegations of Title IX Sexual Harassment seriously, we will respond promptly to Formal Complaints of Title IX Sexual Harassment, and where it is determined that 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, employee handbooks, and/or other college policies and procedures.

II. Title IX Coordinator

The College's Title IX Coordinator is _____ and can be contacted at _____.

The College shall employ a Title IX Coordinator. The Title IX Coordinator may also serve as the College's EO Officer. 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 sex discrimination and Title IX Sexual Harassment in all College operations, as well as retaliation for the purpose of interfering with any right or privilege secured by Title IX aspects of this Policy. The Title IX Coordinator shall be adequately trained to perform their duties, including understanding the legal aspects of Title IX, conducting investigations of Title IX Sexual Harassment, administering an investigative process that protects the safety of victims and promotes accountability and providing annual campus-wide training to members of the College community.

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 Title IX Sexual Harassment;

- file a complaint or make a report of Title IX Sexual Harassment;
- 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 Title IX Sexual Harassment.

The Title IX Coordinator's functions and responsibilities include, but are not limited to, coordinating 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; providing leadership, direction and supervision for all activities and personnel of the Title IX program; providing ongoing training, consultation, and technical assistance on Title IX for all students, employees and Responsible Employees; overseeing the prompt, effective, and equitable intake, investigation, processing, issuing of findings of fact or management of hearing process, and timely resolution of all Title IX Sexual Harassment matters; organizing and maintaining grievance files, disposition reports, and other records regarding Title IX compliance; and serving as principal contact for government inquiries pursuant to Title IX.

III. General Information for All Title IX Sexual Harassment Formal Complaints

a. Formal Complaints of Title IX Sexual Harassment

All Formal Complaints of Title IX Sexual Harassment shall proceed under this Policy's Title IX Sexual Harassment Formal Complaint Process. To file a Formal Complaint a person may do so by contacting the College's Title IX Coordinator. A report of an allegation of Title IX Sexual Harassment may also be presented to other "Responsible Employees" at the College. These persons are also available to discuss any concerns a person may have and to provide information about the Policy.

b. Duty to Cooperate

Every faculty member, librarian, administrator, staff member, employee, agent, or other person authorized by the College to provide aid, benefit, or service under the College's education or activity has a duty to cooperate fully and unconditionally in an investigation conducted pursuant to the Title IX Sexual Harassment Formal Complaint Procedure, subject to the provisions of any relevant collective bargaining agreements, employee handbooks, or other college policies and procedures. In addition, every individual participating or attempting to participate in the College's education program or activity has a duty to cooperate fully and unconditionally in an investigation conducted pursuant to this Policy's Complaint Procedure.

This duty includes, among other things, speaking with the 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. Any disciplinary action shall be consistent with applicable collective bargaining agreements, employee handbooks, and/or college policies and procedures.

c. Duty to Report

- **General Responsibility to Report Prohibited Conduct**

Except for Confidential Employees, no member of the College community who receives a Formal Complaint of Title IX Sexual Harassment can ignore it; they should give to the person making the Formal Complaint as

much assistance in bringing it to the attention of the Title IX Coordinator as is reasonably appropriate given their position at the College and relationship with the person making the Formal Complaint, report directly to 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.

- **Failure to Report Prohibited Conduct**

Incidents of failure to report by a college employee will be investigated by the Title IX Coordinator as a violation of this Policy. An employee found responsible for failing to notify the Title IX Coordinator of conduct that reasonably may constitute Title IX Sexual Harassment or failing to provide an individual with the contact information of the Title IX Coordinator and information on how to make a Formal Complaint, may be subject to action and/or discipline which may include, but is not limited to, mandatory counseling or training, verbal or written warnings, suspension, termination from employment, and/or expulsion from the College, subject to the applicable collective bargaining agreements, employee handbooks, or other college policies and procedures.

- **Reporting of Title IX Sexual Harassment by Responsible Employees**

Allegations involving Title IX Sexual Harassment shall be reported by all "Responsible Employees" to the Title IX Coordinator 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 Sexual Harassment; who has been given the duty of reporting Title IX Sexual Harassment to the Title IX Coordinator or other appropriate college designee; or whom a student could reasonably believe has this authority or duty.

- **Mandatory Reporting of Abuse and Neglect 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, sexual harassment, or neglect, 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 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 abuse or neglect is suspected of adults age 60 or older or children and adults with disabilities. For more information on these reporting requirements please contact the College's Title IX Coordinator or Equal Opportunity Officer.

Any member of the College community who has a question about their responsibilities under this Policy should contact the Title IX Coordinator.

d. Sexual Harassment Investigation

A Formal Complaint of Title IX 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 Title IX Sexual Harassment Formal Complaint Process and may include a private interview with the person filing the Formal Complaint and with witnesses. The person alleged to have committed Title IX 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.

e. 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 Title IX Coordinator and the administrator charged with enforcing conduct policies. For example, if the Responding Party is a student, the Title IX Coordinator and Student Code of Conduct Administrator may jointly investigate the Formal 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 Title IX Coordinator, Human Resources 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, subject to the applicable collective bargaining agreements, employee handbooks, or other college policies and procedures.

f. Interim Action and Emergency Removal

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 violation of state or federal law. In such cases, the College shall provide the employee or student notice 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.

The College shall make reasonable efforts to minimize disruption in the professional or educational experience of all affected parties. The College, Complainant, and Respondent will take reasonable efforts to preserve all relevant materials to a Formal Complaint, including communications (e.g. email and voice) and documents.

g. Disciplinary Action

Discipline for violating this Policy may include, but is not limited to, mandatory counseling or training, verbal or written warnings, suspension, termination from employment, or expulsion from the College. 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, employee handbooks, or other college policies and procedures.

h. Consensual Relationships

- **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.

- **Relationships Between Supervisors, Subordinates or Co-Workers**

A consenting romantic and/or sexual relationship between a supervisor and subordinate or coworkers 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.

i. Identification

Personal identifiable information about parties of sexual violence 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 Formal Complaint, delivering resources or support services to the Complainant or as public safety requires. The College does not publish the names or other identifiable information of parties of sexual violence 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, an individual may request that no directory information maintained by the College be released absent their prior, written consent.

j. Supportive Measures

Title IX requires the College to take non-disciplinary/non-punitive reasonable steps to preserve or restore equal access to its education programs and activities and protect individuals from any Title IX Sexual Harassment or other Prohibited Conduct, including offering supportive measures before the final outcome of an investigation, irrespective of whether the complainant ever chooses to file a Formal Complaint. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter all forms of sexual harassment. The College shall take these steps promptly once it has notice of an allegation of Title IX Sexual Harassment, including sexual violence. Examples of interim measures include, but are not limited to, the following:

- Referrals to internal and/or external counseling resources;
- Extensions of deadlines or other course-related adjustments (for example: changing class schedule, withdrawal without penalty, providing student services such as tutoring, alternate class completion options);
- Modifications of work schedules or job assignments;
- Campus escort services;
- Mutual restrictions on contact between the parties;
- Changes in work or housing locations (if applicable);
- Leaves of absence, increased security and monitoring of certain areas of the campus; and
- Other similar measures.

The specific supportive 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 supportive measures to take, including, for example, the specific needs expressed by either party; the severity or pervasiveness of the allegations; any continuing effects on either party; whether the parties share the same classes, dining hall schedule, transportation, or job location; and whether other judicial measures have been taken to protect either/both parties (*e.g.*, civil protection orders).

In general, when taking supportive measures, the College shall minimize the burden on either party. The College must maintain as confidential any supportive measures provided to either party, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures.

k. 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 policy and/or the Student Code of Conduct. While the College does not condone such behavior, it places a priority on addressing allegations of sexual violence. Accordingly, the College shall not pursue discipline against a student who reports, witnesses or possesses personal knowledge of an incident of sexual violence unless the College determines that the report was not made in good faith or that the violation was egregious. An egregious violation shall include, but not be limited to, taking an action that places the health and safety of another person at risk.

l. Knowingly Making a False Report

Knowingly making a false complaint under this Policy is a serious offense. If an investigation reveals that Complainant knowingly made a false complaint, the College shall take appropriate actions and issue sanctions pursuant to other applicable College policies. The imposition of such sanctions does not constitute retaliation under this Policy. A report made in good faith, however, is not considered false merely because the evidence does not ultimately support the allegation.

m. Protections for Complainant Regarding Sexual Violence

A person subjected to sexual violence shall:

- Be provided with a copy of the College's *Sexual Violence – Complainant's Rights and Information Advisory*, which shall include information concerning counseling, health, and mental health services, victim advocacy and support, law enforcement assistance, and other services available on and off campus*;*
- Have the right to pursue, or not pursue, assistance from campus administration officials 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 an advisor 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 to the respondent 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 respondent by the College and the College's notification procedures, responsibilities and commitment to honor any court-issued restraining or protective orders, to the extent permitted by law.

n. 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 Equal Opportunity Officer and/or Title IX Coordinator.

o. Rape Crisis Center Contact Information[6]

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/.

Rape Crisis Centers offer FREE services to survivors of sexual assault, 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.

Central Massachusetts
Rape Crisis Center of Central Mass., Worcester, 800-870-5905 Hotline, 888-887-7130 TTY
Rape Crisis Center of Central Mass., Milford, 800-511-5070 Hotline, 508-478-4205 TTY

Greater Boston Area
Boston Area Rape Crisis Center, Cambridge, 800-841-8371 Hotline, 617-492-8306 TTY

[6] Contact information for Massachusetts Rape Crisis Centers ***may be subject to change***. Current contact information can be found at the Commonwealth's Executive Office of Health and Human Services' Website under "Consumer" information at http://www.mass.gov/eohhs/ or https://www.mass.gov/info-details/rape-crisis-centers.

Northeastern Massachusetts
YWCA Northeastern Massachusetts, 877-509-9922, 978-686-8840 TTY
Rape Crisis Services of Greater Lowell, 800-542-5212 Hotline, 978-452-8723 TTY
YWCA North Shore Rape Crisis Center, Lynn, 800-509-9922 Hotline

Southeastern Massachusetts
A Safe Place, Nantucket, 508-228-2111 Hotline, 508-228-7095 TTY
Independence House, Hyannis, 800-439-6507 Hotline, 508-771-6782 TTY
Women Support Services, Vineyard Haven, 508-696-7233 Hotline, 774-549-9659 TTY
Greater New Bedford Women Center, New Bedford, 508-996-6636 Hotline, 508-996-1177 TTY
New Hope, Attleboro, 800-323-4673 Hotline, 508-323-4673 TTY
Womansplace Crisis Center, Brockton, 508-588-8255 Hotline, 508-894-2869 TTY

Western Massachusetts
Elizabeth Freeman Center, Pittsfield, 866-401-2425 Hotline, 413-499-2425 TTY
Everywoman Center, Amherst, 413-545-0800 Hotline, 413-577-0940 TTY
NELCWIT, Greenfield, 413-772-0806 Hotline, 413-772-0815 TTY
YWCA, Springfield, 800-796-8711, 413-733-7100 TTY

p. State and Federal Remedies

Filing a Formal Complaint under this Policy does not prohibit you from filing a complaint with the governmental agencies set forth below.

Massachusetts Commission Against Discrimination ("MCAD")

Boston Office:	**Worcester Office:**	**Springfield Office:**
One Ashburton Place	Worcester City Hall	436 Dwight St., Rm. 220
Rm. 601	18 Chestnut St., Rm. 520	Springfield, MA 01103
Boston, MA 02108	Worcester, MA 01608	(413) 739-2145
(617) 994-6000	(508) 453-9630	

United States Equal Employment Opportunity Commission ("EEOC")
15 New Sudbury Street
Room 475
Boston, MA 02203
(800) 669-4000

United States Department of Education Office For Civil Rights ("OCR")
5 Post Office Square, 8th Floor
Boston, MA 02109
(617) 289-0111

q. Records Retention

The Title IX Coordinator shall retain all records related to a Title IX Sexual Harassment Formal Complaint for seven (7) years.

IV. Title IX Sexual Harassment Policy Definitions

ADVISOR: A single person chosen by a Complaining or Responding Party, who may but is not required to be an attorney (for union employees this may be a union representative), who may be present in any meeting or

proceeding prescribed by this Policy, and who may inspect and review evidence. The advisor's role is strictly limited to providing direct assistance to the party that they advise for the purposes of the complaint process. An advisor is not to impede, disrupt or hinder the procedures listed within this Policy and/or other institutional policies through intimidation or creating an environment that unreasonably interferes with anyone's ability to participate in the complaint process. Any person serving as an Advisor who is conducting themselves in such a manner is subject to removal from their role.

COMPLAINANT or COMPLAINING PARTY: The individual(s) filing the Formal Complaint. In cases involving Title IX, this is an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

CONFIDENTIAL EMPLOYEE: Confidential employee means:

1. An employee of the College whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this part, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies;

a) Confidential Employees include:
   i. licensed mental health counselors;
   ii. licensed health care personnel;
   iii. Confidential Resource Providers; and
   iv. other employees as designated by the College.

2. A list of Confidential Employees shall be posted at the College.

3. An employee of the College whom the College has designated as confidential under this part for the purpose of providing services to persons related to Title IX Sexual Harassment. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about Title IX Sexual Harassment in connection with providing those services; or

4. An employee of the College who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about Title IX Sexual Harassment – but the employee's confidential status is only with respect to information received while conducting the study.

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.

DAY: As used in this policy, shall mean a business day. 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 Title IX Coordinator or their designee may extend the time limits with notice to the parties in writing, or by mutual written agreement between the parties.

DESIGNATED DECISION-MAKER: An individual who is not the same person as the Title IX Coordinator, or their designee, chosen by the President to reach a determination regarding responsibility by applying the standard of evidence the College has designated in the College's complaint process for use in all Formal Complaints of Title IX Sexual Harassment. This individual may also be referred to as the "President's Designee" or "Board Chair Designee" or "Designated Official" or "Decision-Maker."

EDUCATION PROGRAM OR ACTIVITY: Locations, events, or circumstances in which the College exercises substantial control over both the Respondent and the context in which the Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct occurs, either in-person or on-line. This also includes College sponsored functions, activities, or events including off campus events., conduct that occurs in a building owned or controlled by a student organization that is officially recognized by the College, and conduct that is subject to the College's disciplinary authority.

EMPLOYEE: A person, including faculty and staff, employed by the College, either full- or part-time, including Student-Employees when acting within the scope of their employment.

FORMAL COMPLAINT: Formal Complaint means a document signed by a Complainant or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a Respondent about conduct within the College's education program or activity, and requesting initiation of the College's complaint process, including an investigation of the allegation of Title IX Sexual Harassment. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the College with which the Formal Complaint is filed. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed for the Title IX Coordinator, and by any additional method designated by the College. As used in this definition the phrase "document filed by a Complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the College that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint.

INFORMAL RESOLUTION: A mutual and voluntary agreement between the parties to resolve the allegations through either mediation or an administrative remedy, that is reached at any time prior to a determination being made at the conclusion of this process.

PREPONDERANCE OF EVIDENCE: The evidentiary standard used in resolving all Formal Complaints filed under this Policy's Complaint Processes. The standard is met if the proposition is more likely to be true than not true (i.e.; more probable than not). Effectively, the standard is satisfied if there is greater than a 50 percent chance that the proposition is true.

RESOLUTION: The result of an informal Resolution or the Title IX Sexual Harassment Formal Complaint Process.

RESPONDENT OR RESPONDING PARTY: An individual who has been reported to be the perpetrator of conduct that could constitute Title IX Sexual Harassment. Only a person in their individual capacity can be a Respondent in a complaint process; not a department, program, student organization, or other college affiliated group. The Respondent is presumed not responsible.

RESPONSIBLE EMPLOYEES: Allegations involving 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 these offenses; who has been given the duty of reporting 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, program coordinators, campus police, club/activity advisors, coaches, managers or supervisors.

SANCTION: A consequence imposed on a Respondent who is found to have violated the Policy.

STUDENT: Any individual who has accepted an offer of admission, or who is registered for or enrolled in for-credit or non-credit-bearing coursework, and who maintains an ongoing educational relationship with the Recipient, even if not currently taking classes.

SUPPORTIVE MEASURES: Supportive measures means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to:

1. Restore or preserve that party's access to the College's education program or activity, including measures that are designed to protect the safety of the parties or the College's educational environment; or
2. Provide support during the College's complaint processes or during an informal resolution process.

TITLE IX COORDINATOR: A College employee, or their designee, assigned the responsibility for maintaining the College's compliance with Title IX, the Massachusetts Campus Sexual Violence Law of 2021, and the related policies of the College. The Title IX Coordinator is responsible for administering this Policy, the Title IX Sexual Harassment Policy, and its Formal Complaint Process. The Title IX Coordinator may also serve as the College's Equal Opportunity Officer. If these positions are held by different individuals, the EO Officer 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 their duties. The College's Title IX Coordinator is _____ and can be contacted at _____.

TITLE IX SEXUAL HARASSMENT FORMAL COMPLAINT PROCESS: The process used to address Formal Complaints of Title IX Sexual Harassment.

TITLE IX SEXUAL HARASSMENT: Title IX regulations require institutions of higher education to implement a policy to address sexual harassment, which shall include sexual violence, as specifically defined by the U.S. Department of Education. Accordingly, Formal Complaints of Title IX Sexual Harassment will be subject to review in accordance with the Title IX Sexual Harassment Formal Complaint Process (*found herein at Section F*). Notwithstanding, where a Formal Complaint of Title IX Sexual Harassment is not filed, the College reserves the right to address such other complaints under the Discrimination Complaint Process (*found herein at Section D*) and using the definition of or Sex Based Harassment as provided herein.

"Title IX Sexual Harassment" for purposes of Title IX and this Policy means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the College conditioning the provision of an aid, benefit, or service on another employee's or student's participation in unwelcome sexual conduct ("quid pro quo" harassment by an employee); or

2. Unwelcome conduct of a sexual nature determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to a College education program or activity ("hostile environment harassment"); or

3. Any instance of sexual assault (as defined in the Clery Act (20 U.S.C. 1092(f)6)(A)(v)), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA)(34 U.S.C. 12291 *et. seq*.) (for ease of reference the definitions as they appear in those laws are provided below):

   (A) Sexual assault means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation including:

      1. Rape, defined as the carnal knowledge of a person, without the consent of the person, including instances where the person is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity;
      2. Sodomy is oral or anal sexual intercourse with another person, without the consent of the person, including instances where the person is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity;
      3. Sexual Assault With An Object, defined as the use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the person, including instances where the person is incapable of giving consent because of their youth or because of age or because of temporary or permanent mental or physical incapacity;
      4. Fondling, defined as the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the person, including instances where the victim is incapable of giving consent because of their youth or because of age or because of temporary or permanent mental or physical incapacity;
      5. Incest, defined as nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law;
      6. Statutory Rape, defined as nonforcible sexual intercourse with a person who is under the statutory age of consent.

   (B) Dating violence means violence committed by a person--

      1. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
      2. where the existence of such a relationship shall be determined based on the consideration of the following factors:
         a) The length of the relationship;
         b) The type of relationship;
         c) The frequency of interaction between the persons involved in the relationship;

   (C) Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitation with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family laws of the jurisdiction;

   (D) Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to-(i) fear for their own safety or the safety of others; or (ii) suffer substantial emotional distress.

For Title IX Sexual Harassment Formal Complaints, a Complainant must be participating in or attempting to participate in the education program or activity of the College with which the Formal Complaint is filed.

F. TITLE IX SEXUAL HARASSMENT FORMAL COMPLAINT

This Title IX Sexual Harassment Formal Complaint Process shall be available for allegations involving a Formal Complaint of Title IX Sexual Harassment.[7]

The College may consolidate Formal Complaints as to allegations of Title IX Sexual Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations arise out of the same facts or circumstances. A party may raise concerns to the Title IX Coordinator (or designee) as to any consolidation; however, the College retains the right to proceed with any consolidation in its sole discretion.

I. Jurisdiction of the College

By simultaneous written notice to the parties, the College *must* dismiss or "screen out" any Formal Complaint with regard to that conduct for purposes of Title IX Sexual Harassment, if the conduct alleged:

- Would not constitute Title IX Sexual Harassment as defined, even if proven;
- Did not occur in the College's education program or activity; or
- Did not occur against a person in the United States.

The College *may* dismiss any Formal Complaint for the purposes of Title IX Sexual Harassment if:

- A Complainant withdraws the Formal Complaint or any allegations therein;
- The Respondent is no longer enrolled or employed by the College; or
- Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.[8]

In the case that a Formal Complaint is precluded from review under the Title IX Sexual Harassment Formal Complaint Procedure, the College reserves the right to address such other complaints under the Discrimination Complaint Process (*found herein at Section D*).

II. Informal Resolution Procedures

The College has discretion to determine whether it is appropriate to offer an informal resolution process when it receives information about conduct that reasonably may constitute Title IX Sexual Harassment, when a Formal Complaint of Sexual Harassment is made, or when the alleged conduct would present a future risk of harm to others and may decline to offer informal resolution despite one or more of the parties' wishes.

At any time prior to determining whether the alleged conduct occurred, the College may offer to Complainant and Respondent an informal resolution process. Such an offer will be made to both parties in writing and will include an outline of each party's rights and responsibilities in the informal resolution process. Additionally, either party may request informal resolution.

The College must obtain the parties' voluntary consent to the informal resolution process and does not require waiver of the right to an investigation and determination of a complaint as a condition of enrollment, continued enrollment, employment, continued employment or exercise of any other right. Before the initiation of the informal resolution process, the College must provide to the parties notice that explains: (1) the allegations; (2) the requirements of the informal resolution process; (3) that, prior to agreeing to a resolution, any party has

[7] A College may address sexual harassment affecting its students or employees that falls outside Title IX's jurisdiction, including by providing supportive measures or pursuing action and/or discipline consistent with applicable policies.

[8] This decision may be appealed consistent with the appeal procedure in Step 4 below.

the right to withdraw from the informal resolution process and to initiate or resume the College's complaint processes; (4) that the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming complaint processes arising from the same allegations; (5) the potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and (6) what information the College will maintain and whether and how the College could disclose such information for use in complaint processes if complaint processes are initiated or resumed.

An informal resolution is achieved through open or closed dialogue between the parties that allows for the airing of any misunderstandings or disputed issues. During the informal resolution process, Respondent may accept responsibility or accountability for the alleged behavior or harm caused. Potential terms in an informal resolution agreement may include but are not limited to:

- Restrictions on contact; and
- Restrictions on the Respondent's participation in one or more of the College's programs or activities or attendance at specific events, including restrictions the College could have imposed as remedies or disciplinary sanctions had the College determined at the conclusion of the complaint processes that the alleged conduct occurred.

The informal procedure shall not be used in an effort to resolve student allegations of any type of Title IX Sexual Harassment (as defined in Section E) asserted against an employee.

If the parties accept the informal resolution, its terms shall be reduced to writing, signed by both parties, and the Title IX Coordinator shall retain the document, with copies to the parties; thereafter, the matter shall be considered resolved between the parties. In the case where Respondent is an employee, prior to execution of a resolution, they will be notified that a copy of the informal resolution may be placed in their personnel file. The parties may request from the College that an informal resolution not be placed in Respondent's personnel file; however, the College retains the sole discretion to approve or to deny this request. In cases where such request is denied, each party reserves their right to withdraw from the informal resolution process and resume the complaint process. All other documents related to the informal resolution of a complaint shall be kept separate from the personnel file. 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 retaliation, which is strictly prohibited under this Policy.

III. Title IX Sexual Harassment Formal Complaint Process

A Complainant may make a Formal Complaint with the Title IX Coordinator. If the Title IX Coordinator is the Responding Party, the Complainant may make a Formal Complaint with the Assistant Vice President of Human Resources or Vice President of Human Resources. If the President is a Responding Party, then the Title IX Coordinator shall notify the Chair of the College's Board of Trustees, who may choose to refer the matter to an independent investigator. If a member of the College's Board of Trustees is the Responding Party, then the Title IX Coordinator shall notify the Chair or Vice Chair of the College's Board of Trustees, who may choose to refer the matter to an independent investigator.

Step 1 – Investigation

Upon receipt of a Formal Complaint (preferably in the format of Appendix C), the Title IX Coordinator (or designee) must promptly contact the Complainant confidentially to discuss the availability of supportive measures and resources, consider the Complainant's wishes with respect to these supportive measures, and explain to the Complainant the Title IX Sexual Harassment Formal Complaint Process. If a student is involved, the Title IX Coordinator shall notify the Vice President of Student Affairs or Dean of Students. If an employee is involved, the Title IX Coordinator shall notify Human Resources.

Within seven (7) days of days of their determination that the Formal Complaint is to be investigated, the Title IX Coordinator will notify the Respondent in writing of the Formal Complaint (see Appendix D), provide the Respondent with a copy thereof and discuss supportive measures. The timeliness of such notification shall be in accordance with the appropriate collective bargaining agreement, if applicable. The Respondent shall have ten (10) days from receipt of notice to submit to the Title IX Coordinator a written response to the Formal 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 Title IX Coordinator shall conduct an investigation and issue all evidence[9] gathered to the parties (and Advisors) for review and written response within ten (10) days upon their receipt. If the investigation is not completed within thirty (30) days, status updates shall be provided to the parties every thirty (30) days until it is completed.

Upon receipt of said parties' written response(s), or the date they were due if none were submitted, the Title IX Coordinator will have ten (10) days to complete and send an investigative report that fairly summarizes the relevant evidence to each party (and Advisor) for their review and written response within ten (10) days upon their receipt. Within ten (10) days of receipt, the Title IX Coordinator shall review the responses (if any) and prepare and submit the final investigative report including all relevant evidence (and including a section denoting all evidence submitted that was found by the Title IX Coordinator not to be relevant) to the Decision-Maker; simultaneously, the Title IX Coordinator shall notice all parties of a hearing date that shall take place no later than ten (10) days later. If the investigative report and/or final investigative report are not completed within ten (10) days, status updates shall be provided to the parties every ten (10) days until it is completed.

Any request by a party to extend a deadline established under this Procedure shall be presented in writing to the Title IX Coordinator.

Step 2 – Hearing

The Title IX Coordinator (or designee) will be responsible for coordinating the hearing process. The Decision-Maker shall be responsible for conducting the hearing. The duties of the Title IX Coordinator will include: scheduling the hearing; notifying the parties, advisors, and witnesses of the hearing; ensuring that the trained Decision-Maker is provided with appropriate materials including a copy of the final investigative report and any exhibits; coordinating videoconferencing (if necessary); and securing a location for the hearing. The Title IX Coordinator will also act as liaison between the parties and the Decision-Maker on procedural matters. A hearing is conducted in private. If a Respondent or Complainant has a good faith belief that the individual selected as the Decision-Maker has a specific bias or conflict of interest, they may file a request with the Title IX Coordinator for a replacement within three (3) days of being noticed of the Decision-Maker's identity. The Title IX Coordinator (or designee) shall review the request and make a decision in no more than three (3) days either granting the request or providing reasons for denying the request. All procedural questions are subject to the final decision of the Decision-Maker.

[9] A College cannot access or use a party's medical, psychological or similar treatment record unless it obtains the party's voluntary, written consent to do so. All parties (and their Advisors) are strictly prohibited from disseminating any of the evidence subject to inspection and review, or from using such evidence for any purpose unrelated to the Title IX Sexual Harassment Formal Complaint Process.

In general, hearings will proceed as follows:

- **a.** The Decision-Maker[10] shall summarize the Hearing Policy and allow the Title IX Coordinator the opportunity to briefly state the allegations and summarize the investigative report.
- **b.** Each party's advisor will be given the opportunity to question the other party and any witnesses by presenting questions to the Decision-Maker (including questions on credibility). If the Decision-Maker determines a question is relevant, the other party will be asked to respond.
- **c.** The Decision-Maker shall have a final opportunity to question the parties.
- **d.** The Decision-Maker will conclude the hearing by informing the parties that they will issue a decision to the parties and their advisors within seven (7) days of the hearing, and that it will be based upon a Preponderance of the Evidence standard (i.e.; more likely than not).

Hearing Policy

Questions and evidence about a Complainant's prior sexual behavior will be deemed irrelevant unless offered to prove that someone other than the Respondent committed the alleged misconduct or offered to prove consent.

If a party does not have an advisor present at the live hearing, the College will choose a trained member of the community to conduct cross-examination on behalf of that party. All advisors are limited to active participation in the question and follow-up cross-examination part of the live hearing. Further, Advisors are the only parties allowed to present questions (cross-examination or otherwise) to the Decision-Maker.

Generally, live hearings may be conducted with all parties physically present in the same geographic location. At the request of either party, the College must provide for the live hearing to occur with the parties located in separate rooms with technology enabling the Decision-Maker and parties to simultaneously see and hear the party or the witness answering questions. At the request of either party, the College must provide for the live hearing to occur with the parties using a videoconferencing platform with technology enabling the Decision-Maker and parties to simultaneously see and hear the party or the witness answering questions.

Only relevant questions or cross-examination questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Decision-Maker must first determine whether the question is relevant and explain to the party's Advisor asking cross-examination questions any decision to exclude a question as not relevant. Parties and witnesses may choose to opt-out of participating in cross-examination, and Respondents may utilize their Fifth Amendment rights against self-incrimination. A party's refusal to answer cross-examination questions can be a basis for assessing credibility if the Decision-Maker is unable to ask relevant questions.

Formal rules of evidence applied in courtroom proceedings (e.g., Massachusetts Evidence Code) do not apply in the hearing. The Decision-Maker will make an official audio recording of the hearing. The recording is College property. No other recording of the hearing is permitted. The audio recording will be retained by the Title IX Coordinator. The College shall grant in-person access to the recording to the parties for inspection and review; such access shall be in the presence of the Title IX Coordinator or their designee. The parties are prohibited from making any copies of such recording. The recording shall only be released in compliance with applicable discovery proceedings in any future legal/administrative proceedings. The Decision-Maker controls the hearing, is responsible for maintaining order during the hearing, and makes whatever rulings are necessary to ensure a fair hearing. The Decision-Maker's decisions in this regard are final.

[10] A College's Title IX Coordinator, Designated Decision-Maker, investigator(s) and any college-chosen advisor must receive training on this Policy, issues of relevance, and how to apply the rape shield protections (*see first paragraph of Hearing Policy*) provided only for Complainants.

Step 3 – Review and Decision by the Decision-Maker

Unless good cause for additional time is shown, the Decision-Maker must issue a written determination regarding responsibility to all parties (and their Advisors) simultaneously, within ten (10) days of the hearing. The written determination must include — Identification of the allegations potentially constituting sexual harassment; A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; Findings of fact supporting the determination; Conclusions regarding the application of the College's code of conduct to the facts; A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the Complainant; and the College's procedures and permissible bases for the Complainant and Respondent to appeal. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely. The Title IX Coordinator is responsible for effectuating any remedies including referral to appropriate College administrators as may be applicable.

If the President is the Responding Party, then the Chair of the College's Board of Trustees shall select the Designated Decision-Maker. If a member of the College's Board of Trustees is the Responding Party, then the Chair or Vice Chair of the College's Board of Trustees shall select the Designated Decision-Maker.

Step 4 – Appeal to the President

A party who is not satisfied with the Title IX Coordinator's decision to implement an emergency removal or dismiss a Formal Complaint; or, the Decision-Maker's written decision may file an appeal with the President within ten (10) days of receiving said decision, respectively on the following bases: procedural irregularity that affected the outcome of the matter, newly discovered evidence that could affect the outcome of the matter, and/or that any Title IX personnel (including the Decision-Maker) had a conflict of interest or bias, that affected the outcome of the matter. Where practicable, within ten (10) days of receiving the appeal, the President shall issue a written decision simultaneously to all parties, accepting, rejecting or modifying the decision, describing the result of the appeal and the rationale for the result. The President's decision is final provided that any corrective action and/or discipline imposed are subject to applicable collective bargaining agreements, employee handbooks, and college policies.

If the President is a Responding Party, then the Chair of the College's Board of Trustees shall issue a written decision accepting, rejecting or modifying the Designated Decision-Maker's decision, and such decision shall be final. If a member of the College's Board of Trustees is a Responding Party, then the Chair or Vice Chair of the College's Board of Trustees shall issue a written decision accepting, rejecting or modifying the Designated Decision-Maker's decision.

APPENDIX C – TITLE IX SEXUAL HARASSMENT FORMAL COMPLAINT FORM

TITLE IX SEXUAL HARASSMENT FORMAL COMPLAINT FORM

The purpose of this form is to record information required to initiate an investigation into an alleged violation of the College's Title IX Sexual Harassment Policy. Please be advised that the Title IX Sexual Harassment Process requires a live hearing.

All reasonable efforts will be made to maintain the confidentiality of the parties involved during the process in accordance with the 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 an advisor (for union employees this may be a union representative) assist them throughout the process.

Date Filed: Date(s) of Alleged Conduct:

A. Name (Print):_____

B. Check One: Student:_____ Employee:_____

Department:

C. Type of alleged Title IX Conduct[11] (check at least one but all that apply)

Stalking ___ Unwanted sexual conduct____

Sexual violence___ (sexual assault, dating violence, domestic violence)

Conditioning the provision of an aid, benefit, or service on participation in unwanted sexual conduct (*quid pro quo* harassment by an employee)____

*If sexual violence is alleged, specify type as defined under this Policy:

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

E. List any witnesses to the alleged conduct and the nature of information they can provide:_____

[11]Title IX regulations require institutions of higher education to implement a policy to address sexual harassment/sexual violence as specifically defined by the U.S. Department of Education. Accordingly, Formal Complaints of Title IX Sexual Harassment will be subject to review in accordance with the Title IX Sexual Harassment Formal Complaint Process (*Section F*). Notwithstanding, where a Formal Complaint of Title IX Sexual Harassment is not filed, the College reserves the right to address such other complaints under the Discrimination Complaint Process (*found herein at Section D*) and using the definition of Sex Based Harassment as provided herein.

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F. Description of Title IX Sexual Harassment Formal Complaint - please list the sequence of events, including dates, if possible, and any relevant facts and statements that demonstrate the alleged Title IX Sexual Harassment Violation:

(If additional writing space is needed, please attach additional sheets)

To the best of my knowledge and belief, the above information is complete, true and accurate and not a "false charge" as defined under this Policy. I hereby submit this Formal Complaint under the College's Title IX Sexual Harassment Formal Complaint Procedure.

Signature of Complainant & Date

Received by (College Official's name/title): _____

Date Received: _____

Date of Dismissal (Screen Out)/No Dismissal (Screen In) Determination:

APPENDIX D - NOTICE TO RESPONDENT (RE FORMAL COMPLAINT)

College Letterhead

To: , Responding Party
From: _____, (Title of Title IX Coordinator)
Subject: Title IX Sexual Harassment Formal Complaint
Date: _____

This is to notify you that on a Formal Complaint alleging a violation of the College's Title IX Sexual Harassment Policy was filed against you with the College. A copy of the Formal Complaint is attached, as is a copy of the Title IX Sexual Harassment Formal Complaint process. Within ten (10) days of your receipt of this notice, please submit to me a written response to this Formal 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 this process in accordance with the College's Title IX Policy. Further, if any disciplinary sanctions are imposed as a result of an investigation under this Policy, all such sanctions shall be regarded as an administrative action subject to all terms and conditions of applicable collective bargaining agreements.

All questions concerning this matter should be addressed to the College official referenced above. Further, all parties to a complaint may have an advisor (for union employees this may be a union representative) assist them throughout the process.