

UMass Global Investigation, Hearing, and Appeal Processes for Title IX Policy Complaints of Sexual Misconduct

*Note: As used in this Policy, a **Complainant** is a person who is alleged to be a victim of Sexual Misconduct that violates the University's Title IX Sex and Gender-Based Discrimination and Harassment Policy (also referred to as the "Title IX Policy"). A **Responding Party** is a person who is alleged to have engaged in Sexual Misconduct in violation of the Title IX Policy.*

The information below details the investigation, hearing, and appeals processes as they relate to the University's Title IX Policy concerning complaints of Sexual Misconduct. This Policy applies to all complaints of Sexual Misconduct as defined under the Title IX Policy. Complaints of Sexual Misconduct as defined under the Title IX Policy that solely involve administrators, faculty, or staff will first be processed under this Policy. This Policy is available to all students on the University's website.

If the Title IX complaint process and investigation concludes that the complained-of conduct does not violate the University's Title IX Policy, the investigator will still assess the complaint for violations of the University's Policy Prohibiting Harassment when the complaint concerns non-students. If a Title IX complaint involving only non-students proceeds through a formal hearing process with a Hearing Committee or hearing officer under this Policy, and no violation of the Title IX Policy is established, then the Hearing Committee, hearing officer, or a designated member of Human Resources (not the investigator) will still assess whether any violation of the Policy Prohibiting Harassment occurred based on the evidence presented at the hearing.

Any violation of the Title IX Policy established following a formal hearing involving non-students will also be considered a violation of the Policy Prohibiting Harassment.

This information is being provided so that parties to a Title IX investigation, hearing, and appeal process relating to a complaint of Sexual Misconduct have complete and equal transparency in each respective process, including their rights. The process is not intended to be an adversarial process, but rather a process for UMass Global to comply with its obligations under the applicable law. No Complainant has the burden to prove any allegations, and no Responding Party has the burden to disprove allegations as part of the University's process.

Some things to note:

- The University endeavors to complete the investigation and hearing processes and impose sanctions, if any, typically within sixty (60) to ninety (90) days from the receipt of the complaint, barring any unforeseen or extenuating circumstances. These time frames may be extended for good cause. UMass Global will not unreasonably deny a student party's request for an extension of a deadline in this process during examination periods or school closures. The reason(s) for any extensions of deadlines or timelines in this Policy will be communicated to the Complainant and Responding Party in writing.

- Periodic status updates on the investigation will be provided to the Complainant and Responding Party.
- Certain allegations will call for the Title IX Coordinator(s) to implement initial short or interim solutions for the Complainant and/or the Responding Party, such as protective and/or supportive measures, no contact orders, class adjustments, suspension, or leave accommodations in accordance with the Student Conduct Code and/or UMass Global's Human Resources policies, before or after a formal complaint is made (or even if no formal complaint is made), during an investigation or at the conclusion of the hearing. Such measures are free of charge to the parties and designed to restore or preserve equal access to educational programs and activities. These supportive measures will not unreasonably burden the other party to a complaint. The Title IX Coordinator will engage in an interactive process with the Complainant to determine whether any supportive measures are necessary and provide such measures as appropriate and available or suggest other alternatives which may accomplish the same objectives.
- Interim no-contact orders will be used during a pending investigation if requested by a Complainant. Mutual no-contact orders will not be issued unless the Title IX Coordinator deems it necessary or justifiable to protect the Responding Party's safety or well-being, or to respond to interference with an investigation. If the Title IX Coordinator makes such a finding, the Title IX Coordinator will issue a written decision explaining the basis of the directive, including what potential sanctions may result from violating the no-contact order.
- Any short-term or interim solutions may be reversed, reassessed, or revisited depending on the complaint, investigation, hearing, and/or appeal outcomes.
- Interim suspensions or removal from education programs and activities may only be implemented after the Title IX Coordinator undertakes a safety and risk assessment and determines there is an immediate threat to the physical health or safety of any student or other individual arising from the allegations, which justifies removal. If such a measure is taken, the University will issue written notice to the Responding Party and an opportunity to challenge the measure.
- If at any point in the investigation, hearing, or appeal process the Title IX Coordinator, Title IX Hearing Committee, or Title IX Appeal Committee (or any externally designated hearing officer) determines that the alleged conduct does not result in a violation of the Title IX Policy, they may refer the case to the Regional Conduct Board for it to consider whether the conduct constitutes a violation of the Student Conduct Code.
- Any person who makes a report or provides testimony that is later found to be intentionally misleading, malicious, or false will be

subject to appropriate disciplinary action, up to and including dismissal (if a student) or termination (if an employee).

Investigation Process

Any information about a complaint alleging facts that, if proven, could constitute a violation of the Title IX Policy, should be sent to:

Justyn Howard
Assistant Vice Chancellor,
Student Conduct & Compliance
Title IX Coordinator
16355 Laguna Canyon Road
Irvine, CA 92618
949-383-3903
949-414-0046 (cell)
jhoward4@umassglobal.edu.
Title9office@umassglobal.edu

In the event that an incident involves alleged misconduct *by the Title IX Coordinator(s)* reports should be made directly to:

civilrightscomplaints@umassglobal.edu

Any UMass Global administrator, staff, or faculty member who receives a complaint or other information from a student, staff, or faculty member that could constitute a potential violation of the Title IX Policy must report all pertinent information to the Title IX Coordinator(s) listed above who is charged with handling these types of complaints and determining whether any investigation is required. The only exception to this reporting requirement is for a UMass Global employee who has confidentiality obligations, either as a therapist or other person acting in a professional capacity as required by law.

Receipt of Complaint and Investigation

1. Upon receiving notification of, or information about, a possible violation of the University's Title IX Policy relating to Sexual Misconduct (as defined in that Policy), UMass Global will take the following actions:
2. In the case of the receipt of information concerning a potential violation of the Title IX Policy or receipt of an informal complaint, the Title IX Coordinator will meet with the Complainant and explain the process for filing a formal complaint. If the Complainant does not want to proceed with a formal complaint, the Title IX Coordinator may also initiate a formal complaint and become the signatory of the complaint if the alleged Sexual Misconduct could, if proven, violate the Title IX Policy. However, the Title IX Coordinator must take into account the Complainant's wishes with respect to pursuing the process before initiating a formal complaint. The Title IX Coordinator also has the discretion to close the proceeding if one is not necessary (e.g., the Complainant does not want to pursue an investigation and the Title IX Coordinator determines it is not necessary).
3. In the case of a formal complaint, the Title IX Coordinator will impartially assess

whether the complaint:

- alleges a violation of the Title IX Policy.
- is made by a person in the United States who allegedly experienced the complained-of Sexual Misconduct.
- the complained-of Sexual Misconduct occurred in connection with any educational activity or other program or was an incident that occurred outside of an educational program or activity, whether on or off campus, if there is any reason to believe that the incident could contribute to a hostile educational environment or otherwise interfere with a student's access to education.
- the Title IX Coordinator(s) will make a factual determination about whether complained-of conduct is subject to this Policy upon receipt and review of any complaint or other information.
- indicates that the Complainant is the person filing the formal complaint against a Responding Party (whether a physical or digital signature or other indicators); and requests an investigation.
- If the Sexual Misconduct alleged in a formal complaint does not, on its face, constitute a violation of the Title IX Policy even if proven, did not occur in an educational program or activity or outside an educational program or activity with any reason to believe that the incident could contribute to a hostile educational environment or otherwise interfere with a student's access to education, or did not occur against a person in the United States, the complaint shall be dismissed. If the complaint is dismissed under this Policy and it involves non-student employees, the investigator will complete an investigation under the Policy Prohibiting Harassment to assess whether a violation of that Policy occurred.
- If the University dismisses a complaint for any of these reasons, the University shall send a written notice of dismissal, explaining the reason for dismissal, to the Complainant and the Responding Party, and offer an appeal based on procedural irregularity, new evidence, and conflict of interest/bias.
- The Title IX Coordinator reserves the right to exercise discretion and dismiss any formal complaint if the Complainant notifies the coordinator in writing that they want to withdraw the complaint, the Responding Party is no longer enrolled or employed at the University, or the circumstances prevent gathering evidence to reach a determination as to the formal complaint or allegations.

If the alleged facts within the complaint would constitute a violation of the Title IX Policy, UMass Global will do the following:

- Take immediate steps to intervene and end the behavior; and
- Take measures to remedy the effects of the behavior and to prevent it from reoccurring.

4. Upon receipt, University personnel will inform the Complainant in writing of the process that the Complainant should follow, including:
 - Confirmation of receipt of a report that the student may have been a victim of Sexual Harassment or Sexual Misconduct.
 - A request to meet with the Title IX Coordinator (or designee) to discuss options for responding to the report.
 - A statement that retaliation for filing a complaint or participating in the investigation process is prohibited.
 - Reference to the investigation, response, hearing, and disciplinary procedures established under this Policy.
 - Importance of preservation of any evidence.
 - Options regarding the assistance of local law enforcement, campus officials, the option to decline assistance or decline to notify local law enforcement.
 - Any interim protective and/or supportive measures that will be taken including but not limited to options for protective orders, removal from a course or setting by either party, or a referral to the CARES Team.
 - Available support resources including counseling, health, and mental health services.
 - The right to retain and consult with an advisor or support person of the party's choosing (including an attorney) at their own expense at every step of the process outlined in this Policy.
5. The Title IX Coordinator(s) will conduct a prompt, thorough and impartial investigation to determine whether or not the alleged facts within the complaint are subject to the Title IX Policy.
 - The Title IX Coordinator(s) will conduct an immediate preliminary investigation using a trauma-informed approach in an effort to quickly determine whether the alleged facts within the complaint are subject to the Title IX Policy.
 - The Parties shall receive written notice that a preliminary investigation has been opened by the Title IX Coordinator(s), including information about the identities of the parties involved (subject to the confidentiality assessment described below), the potential violations of University policy, the date/location of the alleged incident, the right to retain an advisor (including an attorney), the presumption of non-responsibility, the University's investigation and hearing process (including the availability of informal resolution, if applicable), and any initial investigative interview. Both parties shall be given sufficient time to prepare any response prior to the initial investigative interview(s). If new allegations are added during the course of the

investigation that could subject either party to new or additional sanctions, the Parties shall be subject to the same written notice requirement.

- If a Complainant requests confidentiality or does not wish to be identified as a Complainant or the signatory to a formal complaint, the Title IX Coordinator will address all possible options with the Complainant, including steps that may be taken to protect confidentiality. The investigator will make reasonable efforts to respect a Complainant's desire to maintain confidentiality through the investigative process, but the Complainant will be informed that strict confidentiality may not be possible where it may limit the University's or the Responding Party's ability to respond to the complaint. The University cannot guarantee that all requests for confidentiality will be honored if doing so will compromise its duty to perform a fair, thorough, and impartial investigation.

With respect to whether a Complainant's identity, or whether information reported concerning a potential Title IX Policy violation, can be treated as confidential, the Title IX Coordinator may consider: whether there are multiple or prior reports of sexual misconduct against the same Responding Party; whether the Responding Party used a weapon, physical restraints, or engaged in battery; whether the Responding Party is faculty or staff with oversight of students; whether there is a power imbalance between the Complainant and Responding Party; the safety of the Complainant; and the ability to conduct a thorough investigation and obtain relevant evidence in the absence of cooperation. The Title IX Coordinator will inform the Complainant about whether confidentiality can be honored under the circumstances and consistent with applicable laws. If confidentiality is not possible, the Title IX Coordinator will take appropriate measures to protect Complainant's safety, as requested.

After the preliminary investigation is completed, the University will notify the Complainant and Responding Party of its determination of whether the alleged facts within the formal complaint are subject to the Title IX Policy. If there is a determination that the alleged facts within the formal complaint are subject to the University's Title IX Policy, the University will send both the Complainant and the Responding Party a "Notice of Charges." If it is determined the alleged facts within the formal complaint could not be subject to the University's Title IX Policy, even if proven, the University will notify the Complainant and the Responding Party that the complaint and investigation are being closed on that basis. If the complaint is dismissed under this Policy and it involves non-student employees, the investigator will use the investigative findings to assess whether a violation of the Policy Prohibiting Harassment occurred and conduct any additional investigation as needed pursuant to that Policy.

- In cases where the preliminary investigation results in a determination that the alleged facts within the formal complaint are subject to the

University's Title IX Policy, the case will then move forward to a formal investigation.

As part of the formal investigation, the investigator will gather evidence that is directly related to the allegations, which may include interviews with the parties, interviews with witnesses, witness statements, and a review of other pertinent documents available including education records, personnel records, and/or police reports. The Complainant and Responding Party may request to inspect and review any evidence gathered during the investigation.

- As part of the investigation, the Complainant and Responding Party shall have the opportunity to provide evidence and to identify witnesses to assist the Title IX Coordinator in determining whether a policy violation has occurred. Any evidence available but not disclosed during the investigation might not be considered at a subsequent hearing.
- The University investigator (or hearing officer) shall not consider the past sexual history of a Complainant or Responding Party, except in the following limited circumstances:
 - Prior or subsequent sexual history between the Complainant and responding Party shall not be considered for any reason unless directly relevant to prove that physical injuries alleged to have been inflicted by Responding Party were inflicted by another person.
 - The existence of a dating relationship or prior or subsequent consensual sexual relations between the Complainant and Responding Party shall not be considered unless the evidence is relevant to how the parties communicated consent in prior or subsequent consensual sexual interactions.
 - The mere fact that Complainant and Responding Party engaged in other consensual sexual relations with one another is never sufficient, by itself, to establish that the conduct in question was consensual.
 - If the investigator (or hearing officer) considers the past sexual history of the Complainant or Responding Party for any of the above reasons, the investigator (or hearing officer) shall provide a written explanation to Complainant and Responding Party as to why consideration is consistent with the foregoing.
- When an investigative report is generated as a result of the formal investigation, the report will address any relevant evidence. The Complainant, Responding Party, and their respective advisors must be given an equal opportunity to review the evidence relied on by the investigator and comment on it prior to the report becoming final. The response period must be at least ten (10) days. The investigator will consider the responses prior to completing the final report. The final report must be completed and shared with the parties and their advisors at least ten (10) days prior to any hearing.
- After the formal investigation is completed, the Title IX Coordinator(s)

and/or investigator will refer the complaint, evidence, and investigation report to the Title IX Hearing Committee (or external hearing officer) to conduct a hearing (see Hearing Process below).

- If, after the formal investigation is completed, it is determined the alleged facts within the formal complaint could not be subject to the University's Title IX Policy, even if proven, the case will be closed. The Complainant and Responding Party will be notified concurrently. The Complainant and Responding Party have the right to meet with the Title IX Coordinator to receive information verbally as to why the investigation was closed.
- At any time, the Complainant maintains a right to file a criminal complaint with local law enforcement or government agencies. If the complaint is dismissed under this Policy and it involves non-student employees, the investigator will assess whether a violation of the Policy Prohibiting Harassment occurred.
- Informal resolutions: Some Complainants may wish to pursue an informal resolution of their allegations. To pursue an informal resolution, a formal complaint must first be filed. Options for informal resolution may include mediation, arbitration, or restorative justice, and such informal resolution options require both the Complainant and Responding Party's voluntary, written consent. Mediation will never be mandated to resolve allegations of Sexual Harassment. Voluntary resolution is never a requirement to obtain any remedial measures offered under this Policy. Any allegation of Sexual Violence, or that an employee sexually harassed a student, cannot be subject to informal resolution under any circumstances. Under no circumstances will the appointed investigator coordinate an informal resolution of any claim.

Hearing Process, Findings, and Sanctions

Title IX Hearing Committee: The Title IX Hearing Committee is appointed by the Executive Vice Chancellor (EVC) of Enrollment and Student Affairs, and the Associate Vice-Chancellor (AVC) of Human Resources. The Title IX Hearing Committee shall consist of any combination of three administrators, faculty, and/or staff members. It is responsible for reviewing and adjudicating alleged violations of the University's Title IX Policy following the completion of the formal investigative process. Depending on the circumstances of the Complaint, the University, in its sole discretion, may elect to designate an external hearing officer to preside over the Hearing instead of a Hearing Committee consisting of UMass Global community members.

The members of the Title IX Hearing Committee, or the external hearing officer, shall not have any conflict of interest or bias and shall have adequate training to handle matters involving Sexual Harassment, Sexual Misconduct, investigations, retaliation, grievance/hearing processes, evidence, and relevance determinations using a trauma-informed approach. Hearing officers may recuse themselves based on a conflict of interest. Parties and their advisors shall have five (5) days from the date the University notifies the parties of the names of the Hearing Committee members and/or officers to raise any potential conflict of interest concerns. Any determinations that are required as to whether a conflict of interest exists shall be made by the EVC of

Enrollment and Student Affairs in consultation with the AVC of Human Resources. Under no circumstances will the Hearing Committee or hearing officer include the Title IX Coordinator or the designated investigator.

A. Hearings

Upon receipt of notification from the Title IX Coordinator(s) to conduct a hearing, the Title IX Hearing Committee (or officer) will simultaneously notify the Complainant and the Responding Party of the date, time, and location of the hearing, along with the specific policy(ies) that may have been violated. All correspondence will be emailed to the UMass Global email account on record for a student, administrator, faculty, or staff member, and mailed via United States Postal Service to the address the University has in its official records, or such other address as may be provided for purposes of the Title IX hearing.

Prior to the hearing, the Complainant and Responding Party shall be provided the same opportunity to review the evidence from the investigation.

The Complainant and Responding Party may attend the hearing in person or, in certain instances, via phone or a virtual platform as determined in the sole discretion of the Committee (or officer) based on the circumstances.

Parties to a hearing are entitled to representation by a third-party advisor at any point in the process (i.e., a support person, advisor, or attorney). Opportunities for advisement and consultation breaks will be offered throughout the process.

Parties are not generally permitted to introduce new evidence or witnesses at the hearing if the evidence or witness was available at the time of the investigation. The Hearing Committee (or officer) has discretion to accept or exclude such evidence at the hearing for good cause.

The Parties may submit written questions to the Hearing Committee (or officer) in advance of the hearing for the Committee (or officer) to ask any witness. Advisors are permitted to cross-examine parties and witnesses presented at the hearing, subject to relevance determinations by the Hearing Committee (or officer), who has the discretion to exclude repetitive, irrelevant, or harassing questions. The Hearing Committee (or officer) is not bound by, but may take guidance from, formal rules of evidence. The non-examining party may submit written objections to the questions posed, which objections will be preserved by the record.

Parties may not directly cross-examine any witness and may only do so through an advisor. If a party does not have an advisor, the University shall appoint an advisor on the party's behalf (free of charge) to conduct cross-examination for that party. If for any reason a party cannot secure an advisor either by the party's own efforts or the University's efforts, the hearing will be postponed temporarily until an advisor becomes available.

The Complainant and the Responding Party have the right to identify witnesses and provide other information relevant to the issues to be decided in the hearing. The Committee (or officer) has discretion to determine the relevance of questions and whether to exclude or modify repetitive or harassing questions.

Evidence about a Complainant's prior sexual predisposition or behavior is not relevant, except under the limited circumstances outlined above in this Policy.

Any party or witness may request to answer questions by video from a remote location. The Complainant and Responding Party are not required to be physically present together during the hearing at any point during the process and may sit in separate rooms, provided technology is available to enable the Hearing Committee (or officer) to see and hear both parties and witnesses during the hearing.

The Title IX Hearing Committee (or officer) will review the evidence provided by the Title IX Coordinator(s), Complainant, Responding Party, and witnesses. Evidence may consist of witness testimony and documentation (including electronically stored information). The Title IX Hearing Committee (or officer) will be responsible for determining what evidence will be considered, and how much weight to give evidence that is presented. However, the Title IX Hearing Committee (or officer) cannot seek information protected by any legally recognized privilege or consider statements that were not subject to cross-examination (*e.g.*, witnesses who provide written statements, but who will not participate in cross-examination).

Credibility determinations by the Title IX Hearing Committee (or officer) may not be based on a person's status as a Complainant, Responding Party, or witness. Responding Parties are subject to a presumption of "no responsibility" during the hearing process. The Committee (or officer) cannot rely solely on a party or witnesses' absence from the hearing, or a party's refusal to answer questions or cross-examination, in determining responsibility for the alleged conduct.

An audio recording will be made of each hearing, and the recording will be made equally available to both parties for inspection and review upon request.

B. Findings

The determination of whether a policy violation occurred shall be made on the basis of a preponderance of the evidence, *i.e.*, whether it is **more likely than not** that the Responding Party violated the Title IX Policy. All decisions of the Title IX Committee (or officer) shall be rendered objectively and be based solely upon the factual material presented at the hearing, including the investigation file, witness testimony, and written material submitted prior to and in connection with these processes.

A Responding Party may not be found to have violated the Title IX Policy solely because the Party failed to appear at the hearing following proper notice by the University. However, the Title IX Committee (or officer) may, in its discretion, proceed with the hearing in the absence of any Respondent or Complainant who fails to appear. Should there be a hearing, the material in support of the charges shall be presented and considered regardless of whether or not the Responding Party or Complainant attends the hearing, provided any witness statements are subject to cross-examination.

If Title IX Hearing Committee (or officer) determines a violation of the Title IX Policy has not occurred, the case will be closed. The Complainant and Responding Party will be notified concurrently. The Complainant and the Responding Party have the right to appeal (see Appeal Process below). At any time, the Complainant maintains the right to file a criminal complaint with local law enforcement or government agencies.

In cases where the Title IX Hearing (or Appeal) Committee (or officer) determines that the alleged conduct does not result in a violation of the Title IX Policy, the Committee (or officer) may determine whether the conduct is a violation of the Student Conduct Code. In such circumstances where the Student Conduct Code is found to be violated, the Committee (or officer) may impose sanctions it determines are appropriate.

If a Title IX complaint involving only non-students proceeds through a formal hearing process under this Policy, and no violation of the Title IX Policy is established, then the Committee (or officer) or a designated member of Human Resources (not the investigator) will still assess whether any violation of the Policy Prohibiting Harassment occurred based on the evidence presented at the hearing.

Any violation of the Title IX Policy established following a formal hearing involving non-students will also be considered a violation of the Policy Prohibiting Harassment.

If the Title IX Hearing Committee (or officer) determines a Responding Party is responsible for a violation of the Title IX Policy, the Committee (or officer) will determine the consequences or sanctions for students as Responding Parties. (Where an administrator, faculty member, or staff member is the Responding Party, see below.)

The Title IX Hearing Committee (or officer) may also determine remedies to be offered to a Complainant, depending on the nature of the case, including changes to academic or work obligations under the University's control. Possible remedies may include providing an escort to ensure that the Complainant can move safely between classes; ensuring the Complainant and Responding Party do not share classes or extracurricular activities; providing Complainant services such as counseling and academic support services; or arranging for a Complainant to re-take a class, have extra time to complete a class, or withdraw from a class without an academic or financial penalty. The Title IX Hearing Committee (or officer) may also determine appropriate remedies otherwise needed to protect the University community at large (see Sanctions below).

The Complainant and Responding Party will be informed of the findings in writing, including the procedural steps taken from receipt of the formal complaint through the investigation and the hearing, findings of fact supporting the determination, conclusions regarding the application of the Policy to the facts, a statement and rationale for each, the finding on each allegation, including a determination regarding responsibility, and any disciplinary sanctions being issued. The determination shall also note if remedies are being provided to the Complainant. The determination shall be sent to both parties simultaneously and via UMass Global email, usually within five (5) working days of the decision. The determination will notify the parties of the University's procedure for appeal.

Depending on the nature of any violation determined by the Title IX Hearing Committee (or officer), the University will also take steps to prevent recurrence of any harassment and to correct any discriminatory effects on the Complainant and others, if appropriate.

c. Sanction(s)

Students

Any of the following disciplinary actions may be imposed upon any student found responsible for violating the Title IX Policy. There is no requirement that sanctions be progressive in nature. The University may, at its discretion, impose severe discipline for a student's first violation.

Each case should be evaluated based upon its individual circumstances:

Formal Warning – This is a written reprimand to the student that the student is violating or has violated the Title IX Policy and that any future violation(s) may result in more serious sanctions.

Interim Suspension – A temporary separation of the student from the University during the investigation and hearing process.

No-Trespassing Order – The student will be prohibited from entering onto campus or other University property and can be applied to any probation, suspension or expulsion status.

No-Contact Order – The student will be prohibited from contacting the Complainant or, where applicable, other members of the University community. This order may limit all contact or contact of a specific type or regarding a specific subject. No-contact orders issued following a finding responsibility will not be mutual and will only be implemented against a responsible party.

Probation – This reprimand is in effect for a prescribed period of time and includes the probability of more severe sanctions for any future violation(s) of the Title IX Policy. Additional education sanctions may be issued in conjunction with probationary status.

Suspension – Separation of the student from the University for a defined period of time, after which the student is eligible to return. Conditions for re-admission will be specified. **Suspensions will be noted on the student's transcript.** Students will be held responsible for meeting their financial obligations to the University and may not visit the University while under suspension.

Deferred Suspension – A suspension may be deferred by the Title IX Committee (or officer) allowing the student to remain at the University provided specified conditions are adhered to by the student. Failure to meet those conditions or further violations of the Title IX Policy will result in automatic suspension from the University.

Expulsion – Permanent surrender of all rights and privileges of membership in the University community and exclusion from the campus, from any University property, and from all University functions. Students will be held responsible for meeting their financial obligations to the University and may not visit any campus while under expulsion. **Expulsions will be noted on the student's transcript.** Students who have been expelled from the university are not eligible for readmission at any time.

Academic Sanctions – Revocation of degree, holding transcripts, removal from

classroom/courses.

Reflective assignments – Apology letters, research paper on an assigned topic, written responses to posed questions.

Restitution – Compensation for loss, damage, or injury (may take the form of appropriate service and/or monetary or material replacement).

Service benefiting the surrounding community.

Workshops – Decision-making skills workshops, anger management, alcohol and/or drug education, or other formal coaching or counseling.

Sanctions for prospective students not yet enrolled. May include but are not limited to:

- Admission and/or enrollment under probationary status, additional requirements possible
- Temporary denial of admission and/or enrollment for a period to be determined
- Permanent denial of admission and/or enrollment

Other Actions - In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

Sanctions imposed are implemented immediately unless the EVC of Enrollment and Student Affairs delays their implementation in extraordinary circumstances or pending the outcome of an appeal as described below.

Staff and Faculty

If, after the formal investigation and hearing process above is completed, it is determined that by a preponderance of the evidence a violation of the Title IX Policy has occurred by an administrator, staff, or faculty Responding Party, the Title IX Coordinator(s) will refer the complaint, investigation and hearing findings based on the processes below:

- A. **For Staff and Administrators.** Any findings pertaining to Responding Parties who are non-faculty employees of the University will be referred to the Associate Vice-Chancellor (“AVC”) of Human Resources (“HR”) (or designee). The AVC of HR will review the investigation and hearing findings, including but not limited to, documents, evidence, witness statements, etc., and may meet with the Complainant or, where applicable, the Title IX Coordinator (as signatory on a formal complaint), and Responding Party. The AVC of HR, after consulting with the Responding Party’s direct supervisor, will issue a written decision concerning corrective action or discipline, if any, to the Executive Vice Chancellor of Finance and Administration. The Complainant and Responding Party will be informed of any relevant corrective action or disciplinary action implemented based on a violation of this Policy simultaneously and via UMass Global email, usually within five (5) working days of the decision.

B. **For Faculty.** Consistent with the Full-Time Faculty Manual, any findings pertaining to Responding Party faculty members will be referred to the respective dean of the school in which the faculty member holds a primary appointment. The dean (or designee) will review the investigation and hearing findings, including but not limited to, documents, evidence, witness statements, etc. and may meet with the Complainant or, where applicable, the Title IX Coordinator (as signatory on a formal complaint), and Responding Party. The dean will issue a written decision concerning disciplinary action if any. The University will follow disciplinary, dismissal, and grievance procedures as more fully set forth in the Full-Time Faculty Manual. The Complainant and Responding Party will be informed of any relevant corrective action or disciplinary action implemented based on a violation of this Policy simultaneously and via UMass Global email, usually within five (5) working days of the decision.

Any of the following disciplinary actions may be imposed upon any administrator, staff, or faculty member found responsible for violating the Title IX Policy. There is no requirement that sanctions be progressive in nature. The University may, at its discretion, impose severe discipline for an administrator, staff, or faculty member's first violation. Each case should be evaluated based upon its individual circumstances:

- **Verbal, Written, or Final Written Warning** – These are all levels of a written reprimand to the administrator, staff, or faculty member that individual is violating or has violated the Title IX Policy and that any future violation(s) may result in more serious sanctions.
- **Interim Suspension (with or without pay)** – A temporary separation of the administrator, staff, or faculty member from the University during the investigation and hearing process.
- **No-Trespassing Order** – The administrator, staff, or faculty member will be prohibited from entering onto campus or other University property and can be applied to any probation, suspension, or termination status.
- **No-Contact Order** – The administrator, staff, or faculty will be prohibited from contacting the complainant or other members of the University community. This order may limit all contact or contact of a specific type or regarding a specific subject.
- **Restitution** – Compensation for loss, damage, or injury (may take the form of appropriate service and/or monetary or material replacement).
- **Workshops** – Decision-making skills workshops, anger management, alcohol and/or drug education, or other formal coaching or counseling.
- **Loss of Annual Pay Increase** – A loss of an upcoming expected annual

pay increase.

- **Loss of Oversight or Supervisory Responsibility** – This reprimand could mean loss of oversight of a particular area or supervisory responsibility for a particular employee or group of employees.
- **Demotion** – A loss of title to a level deemed appropriate by the AVC of HR or the appropriate dean.
- **Non-Renewal of Contract** – An independent contractor or faculty member may not have their contract renewed.
- **Termination** – Loss of status as an administrator, faculty, or staff member with the University, including the termination of a contract of an independent contractor or faculty member.
- **Other Actions** - In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

Other considerations related to sanctions:

- There is no limit to the number of sanctions that may be imposed for any single violation. Other than expulsion and/or suspension, sanctions will not be made part of the student's permanent transcript but will become part of the student's confidential conduct record.
- Failure to complete or comply with all sanctions as prescribed may result in an Administrative Hold and/or further sanctions, including suspension or termination, until such time as full compliance of sanctions is obtained.
- Unless otherwise specified, all sanctions take effect upon notification of results of the hearing outcome; however, sanction deadlines may be altered pending outcome of a potential appeal. Sanctions will be tracked by the Executive Vice Chancellor for Enrollment and Student Affairs or designee.

Appeal Process

Title IX Appeal Committee: The Title IX Appeal Committee is appointed by the Executive Vice Chancellor (EVC) of Enrollment and Student Affairs, and the Associate Vice-Chancellor (AVC) of Human Resources. The Title IX Appeal Committee shall consist of any combination of three administrators, faculty, and/or staff members. It is responsible for reviewing and adjudicating all Title IX hearing appeals. Depending on the circumstances of the appeal, the University in its sole discretion may elect to designate an external hearing officer to preside over the appeal instead of an Appeal Committee consisting of UMass Global community members.

The members constituting the Title IX Appeal Committee, or the external hearing officer, shall not have any conflict of interest or bias and shall not be a person who either investigated the complaint or rendered a decision at the hearing that is the subject of the appeal. Parties and their advisors shall have five (5) days from the date the University notifies the parties of the names of the Hearing Committee members and/or officer to raise any potential conflict of interest concerns. Any determinations that are required concerning whether a conflict of interest exists shall be made by the

EVC of Enrollment and Student Affairs in consultation with the AVC of Human Resources.

- A.** If the Complainant and/or Responding Party disagrees with the findings or sanctions in part or whole, either party may appeal the findings or sanctions in part or in whole only on one or more of the following grounds:
- The party has new evidence which was previously unavailable and could affect the outcome of the matter.
 - The party alleges that there was a procedural error that affected the outcome of the matter.
 - The party challenges the assertion that the evidence presented during the investigation process was sufficient/insufficient to support the outcome; or
 - The party alleges unfair bias by the investigator, Title IX Coordinator, or Title IX Hearing Committee (or officer) which affected the outcome of the matter.
- B.** A request for appeal shall be submitted in writing to the Title IX Appeal Committee Chair at knight@umassglobal.edu within five (5) business days of the receipt of the written hearing outcome and must clearly demonstrate the grounds for appeal, including documentation and/or reasoning as to why the ground(s) is (are) met.
- C.** Upon receipt of the request for appeal, it will be referred for review to the Title IX Appeal Committee (or officer). Both the Complainant and Responding Party must receive written notice of any appeal that is filed and be permitted to provide a written statement in support of, or challenging, the outcome. A request for appeal shall be limited to review of the documentation associated with the investigation, and initial hearing, including any documents and testimony presented at the hearing. If the appeal is based on material, new evidence which was previously unavailable, the request for appeal must provide or describe the evidence, explain how or why the evidence might affect the determination of whether a violation occurred or the appropriate sanctions, and explain why the evidence was previously unavailable to the party and any efforts made by the party to identify or obtain the evidence during the pendency of the investigation or hearing. If the Title IX Appeal Committee (or officer) determines that none of the criteria for an appeal have been met, the Title IX Appeal Committee (or officer) shall sustain the decision of the original hearing. If, however, any of the conditions are found to exist, the Title IX Appeal Committee (or officer) may:
1. Hear the full appeal.
 2. Hear only a portion of the appeal; or
 3. Render a decision without a hearing involving the parties.
- D.** In determining whether to modify any given sanction(s), the Title IX Appeal Committee (or officer) has the option to take either of the following actions:
1. Elect not to change any of the sanctions imposed by the Title IX Hearing

Committee (or officer); or

2. Reduce the severity of the sanctions imposed (the severity of the sanctions cannot be increased).
- E.** Should a party not appeal within the timeframe for appeal, the hearing decision, findings, and sanctions will be final and binding.
- F.** All appeal decisions will be final and binding. The outcome will be simultaneously communicated to the parties in writing, explaining the rationale for the outcome, within two (2) business days from the date of decision.