



## **ASSUMPTION COLLEGE SEXUAL MISCONDUCT POLICY**

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## **IMPORTANT INFORMATION FOR INDIVIDUALS WHO MAY BE VICTIMS OF SEXUAL MISCONDUCT**

All types of Sexual Misconduct are inappropriate and are taken seriously by the College. In all cases, the College's first priority is to provide the victim of Sexual Misconduct with support and guidance in taking steps to address their safety and their physical and emotional health. Suggested Actions for victims of Sexual Misconduct can be found in [Appendix B](#) to this Policy.

### **INTRODUCTION**

#### **Statement of Policy**

Assumption College (the "College") is committed to maintaining a safe and respectful learning, living, and working environment for all members of the College community free from gender-based discrimination and violence, including, but not limited to, Sexual Harassment, Sexual Assault, Sexual Exploitation, Relationship Violence, and Stalking (collectively referred to herein as "Sexual Misconduct").

Sexual Misconduct is antithetical to the mission and values of the College and will not be tolerated. The College prohibits all forms of Sexual Misconduct and will take prompt action to eliminate such conduct, prevent its recurrence, and remedy its effects. A Student, Employee or Third Party determined by the College to have violated this policy will be subject to sanctions, up to and including the termination of their relationship with the College and/or the privilege of being on College premises withdrawn.

#### **Applicability**

All members of the College community are covered by this policy including students enrolled for credit or non-credit-bearing coursework ("Students"); College employees, including full-time and part-time faculty, staff, and administrators ("Employees"); as well as third parties such as contractors, vendors, visitors, and guests ("Third Parties") (collectively referred to herein as "Community Member").

This policy will apply to any instance in which a Community Member is alleged to have engaged in Sexual Misconduct against anyone, regardless of the Complainant's or Respondent's sexual orientation or gender when:

- (1) the conduct occurs on College premises or other property owned or controlled by the College;
- (2) the conduct occurs in the context of a College employment or education program or activity, regardless of location, including, but not limited to College-sponsored study abroad, research, on-line or internship programs; or
- (3) the conduct occurs outside the context of a College employment or education program or activity, but has continuing adverse effects on or creates a hostile environment for a Community Member while on College premises or other property owned or controlled by the College, or in any College employment or education program or activity.

Where conduct in violation of this policy also violates any other College policies, the College's response will be governed by the procedures described herein. Where this policy applies, its provisions will supersede any conflicting provision contained in other College policies.

### **Period of Limitations**

A Complaint of Sexual Misconduct may be filed at any time, regardless of the length of time between the alleged Sexual Misconduct and the decision to file the Complaint. However, the College strongly encourages individuals to file Complaints promptly. A delay in filing a Complaint may compromise the College's ability to investigate the allegation and to take disciplinary action, particularly if neither the Complainant nor the Respondent is employed by the College or enrolled as a Student at the time the Complaint is made.

### **Statement of Non-Discrimination and Coordination of Policies**

The College is committed to adhering to all state and federal laws prohibiting discrimination in its educational programs and activities including employment on the basis of a person's race, sex, religion, color, national origin, age, marital or parental status, military service or veteran status, gender, disabilities, genetic information or other legally protected status, consistent with its Catholic identity and mission as permitted by law.<sup>1</sup>

This policy supports the College's commitment to compliance with Title IX of the Education Amendments of 1972 (Title IX), a federal civil rights law that prohibits discrimination on the basis of sex in education programs and activities, as well as other federal and state laws prohibiting discrimination in education and employment including Title VII of the Civil Rights Act of 1964 and The Massachusetts Fair Employment Practices Act, M.G.L. Ch. 151B.

Questions about the College's policies prohibiting discrimination and/or reports concerning discrimination, harassment or retaliation can be directed to the Director of Government and Community Relations and Title IX Coordinator, Daniel DiTullio, whose office is located in the Office of the President on the first floor of La Maison and who can be contacted by phone at (508) 767-7172 or by email at TitleIX@assumption.edu.

In addition to making reports to the College, individuals may direct questions and/or complaints regarding sex-based discrimination to the United States Department of Education Office for Civil Rights, at (OCR@ed.gov or (800) 421-3481), or to the United States Equal Employment Opportunity Commission, John F. Kennedy Federal Building, 475 Government Center, Boston, MA (617) 565-3200 and the Massachusetts

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<sup>1</sup> The prohibition of forms of discrimination not covered by this policy is addressed in the College's Non-Discrimination and Anti-Harassment Policy.

Commission Against Discrimination, 484 Main Street, Room 320, Worcester, MA (508) 453-9630, concerning prohibited discrimination in employment.

**Individuals with Disabilities**

The College will provide appropriate accommodations for individuals with disabilities, to the extent necessary and available, to access and participate in the procedures outlined in this Policy. An individual seeking accommodation must notify the Title IX Coordinator of their need for accommodation. Requests for accommodations for Employees and Students may be reviewed in consultation with Human Resources and/or the Office of Disability Services, respectively.

**TITLE IX COORDINATOR AND DEPUTY COORDINATORS**

The College has designated the Director of Government and Community Relations, Daniel DiTullio to serve as its Title IX Coordinator.<sup>2</sup> The Title IX Coordinator is charged with oversight and coordination of the College’s activities with respect to Title IX compliance and for identifying and addressing any patterns or systemic problems involving Sexual Misconduct; monitoring the College’s investigation, response, and resolution of Complaints under this policy, and for ensuring appropriate actions to eliminate violations, prevent their recurrence, and remedy their effects. The College has also designated Deputy Title IX Coordinators to assist the Title IX Coordinator in the discharge of these responsibilities.

The Title IX Coordinator is available to meet with any Community Member to discuss this policy or any issues or concerns with respect to the College’s Title IX related policies, procedures and activities. The Title IX Coordinator and Deputy Title IX Coordinators can be contacted by telephone, email, or in person during regular office hours:

<b>Title IX Coordinator</b>	Daniel DiTullio, Director of Government and Community Relations TitleIX@assumption.edu (508) 767-7172 La Maison, Office of the President
<b>Deputy Title IX Coordinator</b>	Christine Lowthert Associate Director of Athletics c.lowthert@assumption.edu (508) 767-7086 Laska Gymnasium
<b>Deputy Title IX Coordinator</b>	Kaitlin Bevins Assistant Director of Student Activities km.bevins@assumption.edu

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<sup>2</sup> The Title IX Coordinator may designate a Deputy Title IX Coordinator or another qualified person to assume all or part of any of his or her duties under this policy. Therefore, where the Title IX Coordinator is identified as the person responsible for some aspect of this policy, such provision should be read with the understanding that any duty or function of the Title IX Coordinator may be performed by his or her designee.

	(508) 767-7117 Hagan Campus Center
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<b>Deputy Title IX Coordinator</b>	Benjamin Kadamus Assoc. Dir. Res. Life, Residential Life 508-767-7505 <a href="mailto:ba.kadamus@assumption.edu">ba.kadamus@assumption.edu</a> Salisbury Hall - Room 107
<b>Deputy Title IX Coordinator</b>	Robin Pellegrino Director of Human Resources rpellegrino@assumption.edu 508-767-7599 Alumni Hall, Room 109

## PROHIBITED CONDUCT

Conduct prohibited under this policy includes the following forms of behavior:

### Sexual Harassment

Sexual Harassment is any unwelcome sexual advance, request for sexual favors, or other unwanted conduct of a sexual nature, whether verbal, non-verbal, graphic, physical, or otherwise, when:

(1) submission to or rejection of such conduct is either an explicit or implicit term or condition of an individual's employment, academic standing, evaluation of academic work or advancement in an academic program, or is used as the basis for College decisions affecting the individual (often referred to as "quid pro quo" or "this for that" harassment); or

(2) such conduct creates a hostile environment. A "hostile environment" exists when the conduct has the purpose or effect of unreasonably interfering with an individual's learning, working, or living environment, or limiting or depriving an individual of the ability to participate in or benefit from the College's employment or educational programs and/or activities. Conduct must be sufficiently severe or pervasive to create an intimidating, threatening, abusive, hostile, humiliating, or sexually offensive learning, working, or living environment.<sup>3</sup> A single incident of Prohibited Conduct can support the existence of a hostile environment (for example, Sexual Assault or Sexual Exploitation).

Examples of conduct that may constitute Sexual Harassment include, but are not limited to:

- Unwelcome sexual advances, whether they involve physical touching or not;

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<sup>3</sup> Title IX does not reach curriculum or in any way prohibit or abridge the use of particular textbooks or curricular materials. *See* 28 C.F.R. § 54.455; 34 C.F.R. § 106.42. Furthermore, OCR's 2001 *Guidance* stated that "Title IX is intended to protect students from sex discrimination, not to regulate content of speech... [T]he offensiveness of a particular expression as perceived by some students, standing alone, is not a legally sufficient basis to establish a sexually hostile environment under Title IX." Department of Education, Office for Civil Rights, *Revised Sexual Harassment Guidance* (2001) at 22. *See also* OCR Dear Colleague Letter on the First Amendment, July 28, 2003 (explaining that "OCR's regulations should not be interpreted in ways that would lead to the suppression of protected speech on public or private campuses.").



- Sexual innuendos, jokes, written or verbal references to sexual conduct, gossip regarding one's sex life, commenting on an individual's body, discussion or inquiry about an individual's sexual orientation, sexual activity, deficiencies, or prowess;
- Displaying or circulating sexually suggestive objects, pictures, videos, or cartoons, including via electronic communications;
- Bullying or hazing based on sex or gender.

### **Sexual Assault**

Sexual Assault consists of (1) Non-Consensual Sexual Touching and/or (2) Non-Consensual Sexual Intercourse (the definition of Consent applicable to this policy is explained below).

Non-Consensual Sexual Touching: the intentional touching of another person, however slight, in a sexual manner with any object without Consent. Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth, buttocks or other bodily orifice of another, whether clothed or unclothed, or intentionally touching another with any of these body parts; or making another touch any person or themselves with or on any of these body parts in a sexual manner.

Non-Consensual Sexual Intercourse: any sexual penetration, however slight, with any object or body part by one or more persons upon another without Consent. Sexual Intercourse includes (a) vaginal penetration by a penis, object, tongue, or finger; (b) anal penetration by a penis, object, tongue, or finger; and (c) any contact, no matter how slight, between the mouth of one person and the genitalia of another person.

### **Sexual Exploitation**

Sexual Exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute Sexual Assault. Examples of Sexual Exploitation include, but are not limited to: making public sexual activity with another student without that other student's Consent; prostituting another student; non-consensual recording (video or audio) sexual activity; going beyond the boundaries of Consent (such as letting your friends hide in the closet to watch you having consensual sex); voyeurism; and/or knowingly transmitting a sexually transmitted infection or HIV to another student.

### **Relationship Violence**

Relationship violence, including dating violence, domestic violence and intimate partner violence, is defined as coercive behaviors that serve to exercise control and power in an intimate relationship. The coercive and abusive behaviors can be physical, sexual, psychological, verbal, and/or emotional. Relationship violence can occur between current or former intimate partners who have dated, lived together, have a child together,

currently reside together on or off campus, or who are otherwise connected through a past or existing intimate relationship. It can occur in opposite-sex and same-sex relationships.

Examples of relationship violence include, but are not limited to: attempting to cause or causing bodily injury by hitting, slapping, punching, hair pulling, kicking, sexual assault and/or other forms of unwanted physical contact that cause harm; knowingly restricting the movements of another person; isolating or confining a person for a period of time; controlling or monitoring behavior; being verbally and/or emotionally abusive; exhibiting extreme possessiveness or jealousy.

### **Stalking**

Stalking is a course of conduct (two or more acts) directed at a specific person that would cause a reasonable person to (a) fear for their safety or the safety of others or (b) suffer substantial emotional distress. Stalking behaviors include, but are not limited to, non-consensual communication (including in-person communication, telephone calls, voice/text/email messages, social networking site postings, instant messages, postings of pictures or information on websites, written letters, gifts, or any other communications that are undesired and/or place another person in fear); following, pursuing, waiting, or showing up uninvited at a workplace, place of residence, classroom, or other locations frequented by a person; surveillance and other types of observation, whether by physical proximity or electronic means.

### **Inducing Incapacitation**

Providing alcohol or drugs to an individual, with or without that individual's knowledge, with the purpose or intent of taking advantage of that individual's impairment or intoxication in furtherance of any conduct prohibited under this policy.

### **Aiding or Facilitating**

Aiding or facilitating Sexual Misconduct means promoting or encouraging the commission of any behavior prohibited under this policy. Community Members are prohibited both from personally engaging in Sexual Misconduct, and also from engaging in conduct which assists or encourages another person or persons to engage in such conduct (for example, acting as a lookout or inciting another to engage in prohibited conduct).

### **Attempted Violations**

In most circumstances, the College will treat attempts to commit any of the conduct prohibited by this policy as if those attempts had been completed.

### **Retaliation**

Retaliating is seeking retribution against a Complainant, Respondent, or any individual or group of individuals involved in making a report or the investigation and/or resolution of an allegation of Sexual Misconduct. Retaliation can be committed by any individual or

group of individuals, not just a Respondent or Complainant. Retaliation may include, but is not limited to, threats, verbal abuse or violence, other forms of harassment, and/or making false statements about another person in print or verbally with intent to harm that person's reputation. Retaliation will violate this policy even where there is a finding of "no responsibility" on the underlying allegation(s) of Sexual Misconduct.

## **CONSENT**

Engaging in sexual activity of any type with another person without his or her Consent is prohibited. Consent is defined as a freely and affirmatively communicated willingness to participate in sexual activity, expressed either by words or clear, unambiguous actions. Individuals who choose to engage in sexual behavior should verbally communicate their intentions and Consent to engage in specific sexual activity as clearly as possible.

Consent may be withdrawn at any time. An individual who seeks to withdraw consent should communicate, through clear words or actions, a decision to cease the sexual activity. Once Consent is withdrawn, the sexual activity must cease immediately.

A person who initiates a sexual activity is responsible for obtaining Consent for that activity. Lack of protest, lack of resistance, silence and/or passivity do not constitute Consent. Relying solely on non-verbal communication before or during sexual activity can lead to misunderstanding and may result in a violation of this policy.

Consent to one form of sexual activity or with one partner does not, by itself, constitute Consent to another form of sexual activity or with others. In addition, Consent to sexual activity on a prior occasion does not, by itself, constitute Consent to future sexual activity. In cases where the parties are or were engaged in a prior or ongoing consensual sexual relationship, the manner and nature of prior communications between the parties and the context of the relationship may have a bearing on evaluating the presence of Consent, but any sexual activity must still be mutually agreed upon.

Consent, even when given, is ineffective if given by a minor (in Massachusetts, those not yet sixteen (16) years of age), by individuals who are incapacitated, or when obtained by force, violence, threats, intimidation, or coercion.

### **Incapacity**

A person who is incapacitated is unable, temporarily or permanently, to give Consent because she or he lacks the ability to make informed, rational judgments about whether or not to engage in sexual activity as a result of mental or physical helplessness, sleep, unconsciousness, or lack of awareness that sexual activity is taking place.

Mental helplessness means a person who is incapable of appraising or controlling his or her own conduct. Physical helplessness means a person who is physically unable to communicate his or her willingness or unwillingness to engage in an act. A person may be incapacitated as a result of the voluntary or involuntary consumption of alcohol or other drugs, or due to a temporary or permanent physical or mental health condition.

A person is not necessarily incapacitated merely as a result of ingesting alcohol or other drugs. Incapacitation is an extreme form of intoxication. The impact of alcohol and other drugs varies from person to person. A person's level of intoxication can change rapidly, and incapacitation can be reached within a short period of time. Although every individual may manifest signs of incapacitation differently, typical signs include, but are not limited to, slurred or incomprehensible speech, unsteady gait, combativeness, emotional volatility, vomiting, outrageous or unusual behavior, and/or unconsciousness.

### **Consent Cannot Be Obtained By Force**

Consent cannot be obtained by **Force**. Force includes the use of physical violence, threats, intimidation, and/or coercion.

**Physical violence** means that a person is exerting control over another person through the use of physical force. Examples of physical violence include hitting, punching, slapping, kicking, pushing, restraining, choking, and brandishing or using any weapon.

**Threats** are words or actions that would compel a reasonable person to engage in unwanted sexual activity. Examples include threats to harm a person physically, to reveal private information to harm a person's reputation or cause a person academic or economic harm.

**Intimidation** is an implied threat that menaces or causes reasonable fear in another person. A person's size, alone, does not constitute intimidation; however, a person's size may be used in a way that constitutes intimidation (e.g., blocking access to an exit).

**Coercion** is the use of an unreasonable amount of pressure to gain sexual access. Coercion is more than an effort to persuade, entice, or attract another person to have sex. When a person makes clear a decision not to participate in a particular sexual activity or a form of sexual activity, a decision to stop, or a decision not to go beyond a certain sexual interaction, continued pressure can be coercive. To constitute coercion, conduct must impair the other individual's freedom of will to participate in sexual activity.

In evaluating whether Consent existed, consideration will be given to the totality of the circumstances including, but not limited to, the extent to which the words or clear, unambiguous actions of the alleged victim affirmatively communicated his or her willingness to participate in sexual activity; whether a reasonable sober person in the position of the individual alleged to have engaged in the prohibited conduct would have known or should have known that the alleged victim was incapacitated; and whether the circumstances indicate that Consent to sexual activity did not exist.

## **REPORTING AND CONFIDENTIALITY**

The following information is provided to help Community Members to make informed choices about where to turn if they or someone else is a victim of Sexual Misconduct. The College encourages victims to talk to someone about what happened so that they can

get the care and support they may need, and so the College can take prompt action to respond to the issue.

The College is committed to protecting the privacy of all involved in the response to a report of Sexual Misconduct in accordance with applicable law, and will take steps to limit disclosure of related information only to those individuals who have a need to know in order to assess the report and to take steps to eliminate conduct that violates this policy, prevent its recurrence, and remedy its effects.

The privacy of Student education records will be protected in accordance with the Family Educational Rights and Privacy Act (FERPA). The privacy of an individual's medical and related records generally are protected in the United States by the Health Insurance Portability and Accountability Act (HIPAA), excepting health and treatment records protected by FERPA.

### **Employee Confidentiality and Reporting Obligations**

It is important to understand that each Employee's obligations with respect to maintaining confidentiality and reporting disclosures concerning Sexual Misconduct will depend on the College's designation of the Employee as being either a "Confidential Employee" or "Responsible Employee."

#### **Responsible Employees**

The College has designated all Employees, including faculty members and Students employed as Resident Assistants, Community Desk Workers, Plourde Supervisors, Graduate Assistants and Teaching Assistants, as being Responsible Employees. However, Students employed by the College in positions other than those listed in the preceding sentence do not fall within the designation of Responsible Employees.

Responsible Employees are required to immediately report all information obtained, directly or indirectly, about incidents of Sexual Misconduct involving a Community Member to the Title IX Coordinator including the names, if known, of the victim and all others involved in, or having knowledge of the incident. This reporting allows the College's Title IX Coordinator to provide information concerning available resources, support and resolution options to a Complainant, to evaluate patterns, trends and risks to the safety of Community Members, and to initiate appropriate action to end the conduct, prevent its recurrence and remediate its effects.

Only those Employees the College has designated as being Confidential Employees are excepted from this reporting requirement.

#### **Confidential Employees**

A victim of Sexual Misconduct can seek assistance and support from a Confidential Employee without triggering a College investigation or a disclosure of information to the College that could reveal the victim's identity or that the victim disclosed the incident.

The College has designated certain individuals who in the performance of their job duties provide medical care, mental health services, and counseling to members of the College community, as well as Employees providing such services under their supervision, as being Confidential Employees. Confidential Employees are instructed to inform individuals of their right to file a Complaint, however, they are not required to disclose to the Title IX Coordinator or to the College any personal or other information that could reveal the identity of a victim of Sexual Misconduct who disclosed information to the Confidential Employee in connection with his or her provision of confidential services to the victim.

The designation of Confidential Employee extends to Employees whose job it is to provide administrative and/or related support to Confidential Employees in connection with their provision of confidential services. However, the designation extends only to information received or learned by such Employees in the course of performing their job duties in support of the Confidential Employee(s).

While Confidential Employees may maintain a victim's confidentiality with respect to the College, they may disclose personally identifiable information as required by law or a court order. For example, such information may be disclosed when: (i) the victim gives written consent for disclosure; (ii) there is an imminent threat of harm to the individual or others; or (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18.

## **CONFIDENTIAL AND NON-CONFIDENTIAL SUPPORT AND ASSISTANCE**

The College offers a wide range of resources to provide Students and Employees with care, support and guidance in response to incidents of Sexual Misconduct. Information about confidential and non-confidential College and community resources that can provide Community Members with emergency and ongoing medical treatment, counseling, support, victim advocacy services, and options for reporting incidents to the College and/or law enforcement is included below and in [Appendix B](#).

The following represent some of the resources and services available to Students and Employees.

### **On-Campus Confidential Resources**

#### **Assumption College Student Development and Counseling Center**

508-767-7409

26 Old English Road

[www.assumption.edu/stulife/StuDev/personal](http://www.assumption.edu/stulife/StuDev/personal)

The Student Development and Counseling Center provides support and counseling to Student victims of Sexual Misconduct and can explain common reactions to crises and discuss coping methods that may assist victims following a Sexual Assault.

#### **Assumption College Student Health Services**

508-767-7329

Armanet House (located across from the Moquin Townhouses)  
[www.assumption.edu/stulife/HealthServices/default.html](http://www.assumption.edu/stulife/HealthServices/default.html)

Student Health Services can provide free confidential medical care and referrals for Students to receive follow-up care and screening for sexually transmitted diseases.

**Campus Ministry**

508-767-7419

Tinsley Campus Ministry Center

<http://www.assumption.edu/campus-life/campus-ministry/pastoral-care>

Campus Ministry staff provide confidential pastoral counseling that affirms the dignity of the victim and helps them work through questions of faith that have arisen as well as emotional support and information about their options. Furthermore, clergy members and members of religious orders including members of the of the Assumptionist community, also provide confidential pastoral counseling.

**Campus Advocate**

Marie Vazquez

508-767-7641

[advocate@assumption.edu](mailto:advocate@assumption.edu)

The Campus Advocate provides confidential, nonjudgmental support to Student victims of Sexual Misconduct and their friends, significant others, roommates, teammates, classmates, family members, and faculty members, no matter when or where Sexual Misconduct occurred.

**Athletic Trainers**

Athletic Trainers who are licensed by the Commonwealth of Massachusetts and employed by the College to provide first aid and treatment to Student athletes can provide confidential care, support and guidance to Student victims of Sexual Misconduct.

**Advisor to Allies**

Paul F. Covino, Director of Campus Ministry

Tinsley Campus Ministry Center

508-767-7057

[pf.covino@assumption.edu](mailto:pf.covino@assumption.edu)

**Director of Disability Services**

Sharon de Klerk

508-767-7500

[sdeklerk@assumption.edu](mailto:sdeklerk@assumption.edu)

**Employee Assistance Program**

E4 Wellness

508- 842-2780 or 1-800-828-6025, 24 hours a day, 7 days a week

The EAP provides Employees with confidential assessment, counseling and referral services free of charge.

### **On-Campus Non-Confidential Resources**

These on-campus non-confidential resources can provide Community Members with information and assistance with respect to reporting Sexual Misconduct to the College and/or law enforcement, obtaining interim and protective measures, and access to College and community resources for emergency and on-going assistance, medical treatment, counseling, support, and victim advocacy services.

**Take Note:** All of the following, including employees of the identified offices and departments, are Responsible Employees and must immediately report all information (obtained directly or indirectly) about incidents of Sexual Misconduct involving a Community Member to the Title IX Coordinator. They must also report information as required under the Clery Act.

### **Title IX Coordinator and Deputy Title IX Coordinator(s)**

Contact information for the Title IX Coordinators is included above.

### **Campus Police Department**

Kennedy Hall, Lower Level

(508) 767-7777

Campus Police Officers are available 24 hours a day, seven days a week.

### **Office of the Dean of Students**

Hagan Campus Center, First Floor

(508) 767-7325

Office staff are available from 8:30 a.m. to 4:30 p.m., Monday through Friday.

### **Human Resources Office**

Alumni Hall, First Floor

(508) 767-7172

Staff are available from 8:30 a.m. to 4:30 p.m., Monday through Friday.

### **Resident Assistant (RA) or Residential Life Staff Member**

An RA or Residential Life staff member can provide immediate support and referrals for further care.

### **Off-Campus Resources**

Off-campus counselors, advocates, and health care providers will also generally maintain confidentiality and not share information with the College unless the victim authorizes the disclosure. Additional information concerning resources in the local community including contact information can be found at [Appendix B](#).



**Pathways for Change**

588 Main Street  
Worcester MA 01608  
24/7 Hotline (800) 870-5905 / TTY (888) 887-7130  
Office (508) 852-7600; Fax (508) 852-7870

Pathways for Change offers free, confidential services to sexual assault victims, their friends, and families. It also operates a 24-hour confidential hotline that provides victims of sexual assault with telephone counseling and personal support.

**Medical Facilities**

Immediate medical care can be obtained at local hospitals. Several area hospitals have SANE (Sexual Assault Nurse Examiner) nurses on staff who have been trained to work with victims of sexual assault through the medical process. This examination is a voluntary procedure and it does not commit you to any legal action. It is an individual’s right to ask for a SANE nurse to perform the examination. Hospitals in the Worcester area with sexual assault nurse examiners are:

<p>St. Vincent Hospital 123 Summer Street Worcester, MA 01608 508-363-5000 Web site: <a href="http://www.stvincenthospital.com">www.stvincenthospital.com</a></p>	<p>UMass Memorial Medical Center Memorial Campus 119 Belmont Street Worcester, MA 01605 508-334-1000 Web site: <a href="http://www.umassmemorial.org">www.umassmemorial.org</a></p>
<p>UMass Memorial Medical Center University Campus 55 Lake Avenue North Worcester, MA 01655 508-334-1000 Web site: <a href="http://www.umassmemorial.org">www.umassmemorial.org</a></p>	

**Law Enforcement**

**Worcester Police Department, Sexual Assault Unit**

9 - 11 Lincoln Square  
(508) 799-8661 (8am - midnight)  
(508) 799-8600 (midnight - 8am)  
Emergency – 911

**Worcester County District Attorney’s Office**

Child Abuse & Sexual Assault Unit  
255 Main Street, Worcester  
(508) 755-8601

**Financial Assistance**

Confidential financial assistance may be available for costs related to medical care, mental health counseling, and other expenses through the Victims of Violence Crime Compensation Program, which operates out of the Attorney General's Office. Victim Compensation (508) 755-8601.

## **REMEDIAL AND PROTECTIVE MEASURES**

The College will take and/or make available reasonable and appropriate measures to provide support throughout the initiation, investigation, and resolution of a report of Sexual Misconduct to protect the Complainant and to facilitate his or her continued access to and/or participation in the College's employment or education programs and activities. These measures may be both remedial (designed to address a Complainant's safety and well-being and continued access to educational opportunities) or protective (involving action against a Respondent or others). The College will also consider reasonable and appropriate remedial measures for the Respondent.

Remedial measures are available regardless of whether a Complainant pursues a Complaint or investigation under this policy. The College will maintain the privacy of any remedial or protective measures provided under this policy to the extent practicable and will promptly address any violation of protective measures.

The Title IX Coordinator, in consultation with other College administrators, has the discretion to impose and/or to modify any remedial or protective measure on an interim basis as may be needed based on available information, and is available to meet with a Complainant or Respondent to address concerns about the provision of such measures.

For information and assistance in arranging remedial and/or protective measures, individuals may contact the Title IX Coordinator or a Deputy Coordinator. The availability of remedial and/or protective measures will be determined by the specific circumstances of each case. The College will consider a number of factors in determining which measures to take, including the needs of the Student or Employee seeking remedial and/or protective measures.

When implementing such measures, the College will seek to minimize the burden on the Complainant. For example, if the Complainant and the Respondent share the same class or residence hall, the College will not, as a matter of course, remove the Complainant from the class or residence hall while allowing the Respondent to remain, without carefully considering other available options.

Remedial and protective measures may be interim or permanent and may be modified by the College as circumstances change. Examples of such measures include:

- Imposition of a no-contact order against an Employee or Student (i.e., an order directing one or both of the parties to refrain from contacting the other, directly or through proxies);
- Imposition of a temporary suspension from employment or removal from campus;
- Arranging access to counseling services and assistance in setting up initial

- appointments for Students, or providing contact information for available counseling services for Employees;
- Arranging access to medical services and assistance in setting up initial appointments for Students, or providing contact information for available medical services for Employees;
  - Assistance in seeking academic assistance or modifications;
  - Assistance in modifying College housing arrangements, including immediate temporary relocation to safe living quarters and/or permanent reassignment of College residence halls;
  - Assistance in modifying College employment arrangements, including changes in work schedules, job assignments, or work locations;
  - Changing an Employee's phone number at work;
  - Assistance in enforcement of Protective Orders in an Employee's work environment;
  - Arranging a meeting with Police to discuss the filing of a criminal complaint or protective order based on prohibited conduct;
  - Arranging a leave of absence from work or school;
  - Arranging a meeting with Police to discuss safety planning; and
  - Any other measures that may be arranged by the College (to the extent reasonably available) to ensure the safety and well-being of a Student or Employee who has been affected by Sexual Misconduct.

The College will provide reasonable remedial and protective measures to Third Parties as appropriate and available, taking into account the role of the Third Party and the nature of their relationship with the College.

## **REPORTING SEXUAL MISCONDUCT**

The College strongly encourages anyone who experiences, witnesses, or becomes aware of Sexual Misconduct to report such conduct immediately. No Community Member may discourage any individual from reporting alleged incidents of Sexual Misconduct.

The College provides multiple avenues for reporting. A Complainant may choose to make a report to the College under this policy, to law enforcement for potential criminal prosecution, to both, or to neither. Complaints with the College and law enforcement can be pursued simultaneously.

### **Filing a Complaint with Law Enforcement**

A Complainant has the right to notify or decline to notify law enforcement concerning an incident of Sexual Misconduct. A Complainant who wishes to pursue criminal action in addition to, or instead of, making a report to the College is strongly encouraged to immediately notify law enforcement directly by contacting:

#### **Campus Police Department**

Kennedy Hall, Lower Level  
(508) 767-7777

Campus Police Officers are available 24 hours a day, seven days a week.

**Worcester Police Department, Sexual Assault Unit**

9 - 11 Lincoln Square  
(508) 799-8661 (8am - midnight)  
(508) 799-8600 (midnight - 8am)  
Emergency – 911

**Worcester County District Attorney's Office**

Child Abuse & Sexual Assault Unit  
255 Main Street, Worcester  
(508) 755-8601

Police have the power to seek and execute search warrants, collect forensic evidence, make arrests, and assist in obtaining civil protective orders. Campus Police and/or the Title IX Coordinator can provide support and arrange transportation for a Community Member who wishes to seek the assistance of off-campus law enforcement authorities concerning incidents of Sexual Misconduct. Under limited circumstances, posing a threat to health or safety of a Community Member, the College may independently notify law enforcement of the incident(s).

Individuals may inform law enforcement authorities about Sexual Misconduct and discuss the matter with a law enforcement officer without making a formal criminal complaint or a Complaint to the College. Individuals who make a criminal complaint may also choose to pursue a College Complaint simultaneously. Although the investigations of these complaints may be conducted simultaneously, they will be independent of one another. However, where available, the College may obtain and use reports and information developed in the course of a law enforcement investigation in the College's investigation and resolution of a Complaint of Sexual Misconduct.

A criminal investigation into the matter will not preclude the College from conducting its own investigation. However, the College may temporarily delay its investigation while criminal investigators are gathering evidence. In the event of such a delay, the College may take interim measures as necessary to protect the alleged victim and/or the College community.

Neither the results of a criminal investigation nor the decision of law enforcement to investigate or decline to investigate the matter is determinative of whether Sexual Misconduct, for the purposes of this policy, has occurred.

**Reporting to the College**

The College strongly encourages anyone who has experienced, has knowledge of, or has witnessed Sexual Misconduct to make a report to the College. Making a report to the College does not require participation in any subsequent College proceedings, nor is a report required in order for an individual to receive support or remedial measures.

**Note:** All of the following, including employees of the identified offices and departments, are Responsible Employees and must immediately report all information (obtained directly or indirectly) about incidents of Sexual Misconduct involving a

Community Member to the Title IX Coordinator. They must also report information as required under the Clery Act.

The College reserves the right to initiate a Complaint, to serve as a Complainant, and to initiate resolution proceedings in any instance in which the College receives information concerning an alleged incident of Sexual Misconduct even in the absence of a Complaint or report by an alleged victim.

Individuals can make a report to the College by contacting any of the following (contact information for each of the following is included above):

### **The Title IX Coordinator and Deputy Title IX Coordinator(s)**

#### **Campus Police Department**

Campus Police Officers are available 24 hours a day, seven days a week.

#### **Office of the Dean of Students**

Office staff are available during business hours (8:30 a.m. to 4:30 p.m., Monday through Friday).

#### **Human Resources Office**

Human Resources staff are available during business hours (8:30 a.m. to 4:30 p.m., Monday through Friday).

### **Anonymous Reporting Options**

Anonymous reports may be made in writing to the Title IX Coordinator via mail, by email to [TitleIX@assumption.edu](mailto:TitleIX@assumption.edu), online at [assumption.edu/sexoffensereport](http://assumption.edu/sexoffensereport), or by calling (508) 767-7079. Individuals who choose to file anonymous reports of Sexual Misconduct are advised that the College will conduct an inquiry into the report. However, the College's ability to conduct an effective inquiry and to take action concerning the report may be significantly limited. Anonymous reports may be used for Clery Act data collection purposes.

No Employee is authorized to investigate and/or resolve any Report or Complaint of Sexual Misconduct without the authorization and involvement of the College's Title IX Coordinator.

Responsible Employees cannot make anonymous reports concerning information (obtained directly or indirectly) about incidents of Sexual Misconduct involving a Community Member. Responsible Employees must report all such information to the Title IX Coordinator.

### **Classroom Discussions and Public Awareness Events**

Classroom discussions and assignments as well as public awareness events such as "Take Back the Night," candlelight vigils, protests, survivor speak outs, film screenings, or other public forums in which incidents of Sexual Misconduct are disclosed shall not be

considered to place the College on notice of an incident of Sexual Misconduct for purposes of triggering its obligation to investigate any particular incident(s).

### **Clery Act Reporting**

Pursuant to the Clery Act, the College includes statistics about certain offenses in its daily crime log and annual security report and provides those statistics to the United States Department of Education, but does so in a manner that does not include any personally identifying information about persons involved in an incident. If a report of Sexual Misconduct discloses a serious and continuing threat to the College community, where timely notice must be given to protect the health or safety of the community, the College is required to issue a timely notification to the community under the Clery Act. The timely warning will not provide any personally identifying information about the victim.

### **Limited Immunity For Conduct Violations**

The College considers the reporting and resolution of Sexual Misconduct violations on campus to be of paramount importance. The College does not condone underage drinking or the use of drugs; however, the College may extend limited immunity from disciplinary actions for violations of College rules (e.g. Student violation of rules concerning alcohol, consensual sexual activity, and other infractions) to victims, witnesses, and other individuals who in good faith, provide information to the College in connection with the investigation or resolution of a report of alleged Sexual Misconduct.

## **PROCEDURES APPLICABLE TO ALL COMPLAINTS OF SEXUAL MISCONDUCT**

These procedures outline the steps the College will take upon receiving a report of alleged Sexual Misconduct to assess the report, and determine what, if any, actions including, but not limited to, remedial and protective measures, investigation and/or disciplinary action, are necessary to eliminate the prohibited conduct, prevent its recurrence, and remedy its effects.<sup>4</sup>

### **Initial Assessment**

After receiving a report of conduct that may constitute Sexual Misconduct under this policy, the Title IX Coordinator or his or her designee (the “Assigned Title IX Coordinator”) will conduct an initial assessment to evaluate the report, the Complainant’s safety and well-being, as well as the existence of any ongoing threat to the Complainant or other Community members, and the need for interim measures.

At the conclusion of the initial assessment, the Assigned Title IX Coordinator will make a determination as to whether the reported conduct may fall within the scope of conduct

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<sup>4</sup> If any person designated by this Policy to participate in the investigation or resolution of a Complaint is the Complainant or Respondent (including, but not limited to, the Title IX Coordinator), then the President of the College or his or her designee, will appoint a Deputy Title IX Coordinator or another College administrator to perform such person’s duties under this policy. (If the President is the Respondent, then the Title IX Coordinator will appoint another College administrator to perform his or her duties in connection with this Policy.)

prohibited under the Sexual Misconduct Policy.<sup>5</sup> The actions of the Assigned Title IX Coordinator in conducting the initial assessment will include, but are not limited to, the following:

- Contacting the Complainant<sup>6</sup> to arrange a meeting to discuss the report, the procedures and actions available under this policy to resolve the report, and the services and resources available to address Complainant's immediate safety, health and well-being.
- Inform the Complainant about how to access a copy of the Sexual Misconduct Policy.
- Assess the Complainant's safety and well-being and offer the College's immediate support and assistance, and determine whether a no-contact or no-trespass order should be issued for any person(s).
- Assess the nature and circumstances of the report and determine if the reported conduct demonstrates a threat to the health or safety of the College community that warrants issuance of a timely warning or entry of the report in the daily crime log.
- Provide the Complainant with written information about on-campus and off-campus resources and the range of appropriate and available interim remedial and/or protective measures based on the status of the Complainant (i.e. Student, Employee, or Third Party).
- Inform the Complainant of the right to seek medical treatment, and explain the importance of obtaining and preserving forensic and other evidence, and the right to contact law enforcement, or to decline to contact law enforcement, and/or to seek a protective order.
- Discuss any concerns or barriers to Complainant's participation in any investigation or resolution under these procedures and explain the College's policies concerning privacy and confidentiality with respect to such procedures.
- Discuss the Complainant's preferred resolution of the Complaint and assess the Complainant's willingness to participate in the procedures for resolution as set forth in the Sexual Misconduct Policy.
- Inform the Complainant of the prohibition against Retaliation and that the College will promptly take strong action in response to any act of Retaliation.

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<sup>5</sup> Any determination to be made by an individual with responsibility for the application or enforcement of any provision with this Policy, may be made in consultation with other College administrators and/or counsel.

<sup>6</sup> If the Complainant is not the alleged victim, the Assigned Title IX Coordinator will contact the alleged victim, if known, to arrange a meeting with him or her to conduct an initial assessment as described herein.

## **Determination of Covered Conduct**

The Assigned Title IX Coordinator will determine that an investigation of the Complaint will be conducted unless, based on his or her initial assessment, it is apparent that no reasonable grounds exist to believe that the conduct at issue could, in any way, fall within the scope of conduct prohibited by the Sexual Misconduct Policy.

In the event that the Assigned Title IX Coordinator determines that an investigation of the Complaint should not be conducted, he or she will notify the Complainant of that decision and will refer the Complaint to appropriate College administrators for review and response in accordance with any other College policy that may apply to the reported conduct. The College can decide to reevaluate a decision not to investigate at any time it deems such action to be appropriate. (e.g., the College becomes aware of additional information or activity that may bear some relation to the Complaint).

Even when an investigation is not conducted, the College will take strong action in response to any act of Retaliation, and provide the Complainant with ongoing access to support services and remedial measures.

## **Requests for Anonymity and/or No Action By The College**

A Complainant (or alleged victim, if not the Complainant) may request at any time after a Complaint is made that his or her personally identifying information not be shared with the Respondent or otherwise disclosed in connection with the Complaint and/or that the College not investigate or take any other action in response to the Complaint.

In such cases, the Assigned Title IX Coordinator will inform the Complainant that the College takes the request seriously, but must weigh the request against the College's obligation to provide a safe, non-discriminatory learning, living and working environment for all Community Members, including the Complainant.

The Assigned Title IX Coordinator will advise the Complainant that honoring the request may significantly limit the College's ability to investigate and to take action, including disciplinary action, in response to the Complaint. The Assigned Title IX Coordinator will also advise the Complainant of the College's prohibition against Retaliation and the availability of interim remedial and/or protective measures.

In order to determine whether the College can honor the request, the Assigned Title IX Coordinator may conduct a review of the circumstances of the reported conduct, consistent with the Complainant's request for anonymity, and evaluate whether the College can honor the request by weighing factors, including:

- The impact of moving forward on the Complainant's well-being;
- Indications of an increased risk that the Respondent will commit additional acts of sexual or other violence, such as, among other factors, any known history of arrests, violence, or other reports of prohibited conduct involving the Respondent,



any threats of violence made by the Respondent, and whether multiple perpetrators were involved in the reported incident;

- Whether the reported conduct involved the use or threat of the use of a weapon or physical violence;
- Whether the report reveals a pattern of prohibited conduct;
- The ages of those involved in the reported conduct, including the Complainant and Respondent;
- Whether the prohibited conduct occurred while the Complainant was unconscious, physically helpless or unaware that it was occurring;
- Whether the prohibited conduct was facilitated through the use of “date rape” or other drugs or intoxicants;
- Whether the College is able as a practical matter to pursue the investigation without the participation of the Complainant (e.g., whether there are other available sources of relevant evidence such as security cameras, witnesses, another victim, or physical evidence.); and/or
- Other circumstances exist that indicate a continuing threat to the College community, including the Complainant and/or victim.

The Assigned Title IX Coordinator, in consultation with other appropriate College personnel, will decide whether the College can or cannot honor the Complainant’s request and will notify the Complainant of that decision.

If the College can honor the request, it will take reasonable actions consistent with the request for anonymity to investigate and respond to the Complaint and to stop the Sexual Misconduct, limit its effects and prevent its recurrence. This may include actions such as increased monitoring, supervision or security at locations where the reported conduct occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and providing ongoing support services and remedial and/or protective measures to the Complainant.

If the College determines that it cannot honor the request for confidentiality, the Assigned Title IX Coordinator will notify the Complainant of the College’s intent to move forward with an investigation and resolution of the Complaint prior to commencing the investigation. In such cases, the College will make reasonable efforts to protect the privacy of the Complainant consistent with the needs of the investigation and resolution proceedings. However, it is likely that information concerning the Complainant, including his or her name, other personally identifying information, and/or relationship to the facts of the Complaint will be known by, or may need to be disclosed in the course of the investigation and resolution proceedings to, the Respondent and others who may have relevant information.

In all cases, the College will take strong action in response to any incident of Retaliation and will provide the Complainant with ongoing access to support services and remedial and/or protective measures regardless of his or her level of participation or engagement in the investigation or resolution of the Complaint.

### **Investigation and Resolution of Complaints**

The investigation is the first step in the College's process for resolving Complaints of Sexual Misconduct. This process may result in the resolution of a Complaint at the end of the investigation, through disciplinary proceedings, or informal resolution, if available and appropriate.

The Assigned Title IX Coordinator is responsible for overseeing the prompt, fair, and impartial investigation of the Complaint, and will be the primary point of contact for the Complainant and Respondents(s) concerning the investigation.

**Notices and Communications:** unless the Assigned Title IX Coordinator gives written direction otherwise, all notices and other communications made by the College in connection with these procedures shall be deemed to have been delivered to a participant (Complainant, Respondent, witness, etc.) when sent electronically to the participant's College issued email account.

**Time Period:** the College's investigation and resolution of a Complaint (not including an appeal, if applicable) will generally be completed within 60 calendar days from the date that the Assigned Title IX Coordinator gives notice of his or her determination that an investigation will be conducted. Hearings and/or other disciplinary proceedings, if any, will take place after the conclusion of the investigation. The Assigned Title IX Coordinator may extend the 60-day time period or any deadline in the investigation process if he or she determines that there is good cause to do so. The Assigned Title IX Coordinator will provide the parties with written notice of any such extension(s).

**Cooperation:** all Community Members involved in the investigation and resolution of Complaints are expected to cooperate with the Title IX Coordinator, Investigator and others with responsibility for implementation of these procedures. All Community Members participating as a Complainant, Respondent or witness under this policy are expected to do so honestly.<sup>7</sup> Individuals who make false or intentionally misleading statements in connection with any part of the process may be subject to disciplinary action.

**Advisors:** throughout the investigation and resolution process, the Complainant and Respondent have the right to be accompanied by an advisor of his or her choice during any College disciplinary proceeding, including any related meeting, interview, or hearing, held pursuant to the Sexual Misconduct Policy ("Proceeding"). An advisor may be any person, including an attorney, who is not otherwise a party or witness to the reported

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<sup>7</sup> Students are at all times bound by the College Honor Code.

conduct. The Complainant and Respondent need not use the same advisor throughout the investigation and resolution process. However, he or she may only have a single advisor present during any Proceeding.

Advisors may not participate actively in any Proceeding and may not speak on the part of the individual he or she is advising, although they may ask for brief breaks during meetings, interviews, or hearings to consult privately with the individual they are present to advise.

Advisors are subject to the same confidentiality expectations applicable to others in attendance. Accommodations, including scheduling of interviews or hearings, will not be made for any advisors if such will unduly delay the process. The College official presiding over a Proceeding may terminate the participation of an advisor who is disruptive or otherwise fails or refuses to comply with the College's rules and/or policies with respect to the Proceeding.

**Direct Interaction:** investigation and resolution procedures will not involve face-to-face meetings between the Respondent and Complainant, and neither party will be allowed to directly question or cross-examine the other. However, a face-to-face meeting may be allowed during informal resolution proceedings, if such proceedings are available and authorized.

**Past History:** in general, information concerning either party's sexual history beyond the conduct forming the basis of the Complaint, will not be solicited or considered as part of the investigation and resolution process. However, where Consent is at issue and the parties had engaged in a current or previous consensual sexual relationship, the prior sexual history between them including the manner and nature of communications between them, may be relevant to the assessment of issues concerning Consent, to explain the presence of a physical injury, or to help resolve other questions relevant to the conduct alleged in the Complaint. However, as previously stated in this policy, the mere fact that the parties had engaged in a current or previous consensual sexual relationship, by itself, is not sufficient to establish Consent to subsequent sexual activity, and there must be Consent for all sexual activity.

Information concerning incidents of similar conduct or acts of violence on the part of the Respondent prior to or subsequent to the conduct raised in the Complaint, whether or not the subject of another Complaint or finding of responsibility, may be deemed relevant to the assessment of responsibility for conduct alleged in a Complaint, if such information indicates a pattern of behavior related to the conduct alleged in the Complaint.

**Failure or Refusal to Participate:** The failure or refusal of a Complainant or Respondent to participate in investigation or resolution proceedings will not prevent the College from moving forward. If after appropriate notice is given, a party fails or refuses to participate in any such Proceeding, the College shall continue the process and will make its determinations based on the information available.

## **Investigation**

If the determination is made to conduct an investigation of the Complaint, the Assigned Title IX Coordinator will meet with the Complainant and Respondent, separately, to describe the investigation process. The Respondent will be notified of the Complaint in writing (via email), including a summary of the allegations and an initial list of potential violations based on the allegations. The Complainant will also receive a copy of this notice.

The Title IX Coordinator will promptly appoint an Investigator and will forward a copy of the Complaint to him or her.<sup>8</sup> The Title IX Coordinator will notify the Complainant and Respondent that an Investigator has been appointed and will provide the Investigator's name and contact information to both.

Within three days of such notice, the Investigator, the Complainant or the Respondent may notify the Title IX Coordinator, in writing, of any perceived conflicts of interest with respect to the appointed Investigator. The Title IX Coordinator will consider the issues raised in any such notice and will appoint a different Investigator if he or she determines that a material conflict of interest exists. The Title IX Coordinator's determination concerning the existence of a material conflict shall be final.

Throughout the investigation, the Investigator will remain neutral. The Investigator has the discretion to determine the relevance of any witness or evidence and may determine that certain types of evidence should be included or excluded in the course of the investigation. The Investigator may consult with the Title IX Coordinator, Deputy Coordinators, or others during the course of the Investigation as he or she deems necessary.

As part of the investigation, the Complainant and Respondent will be given an opportunity to provide a statement, to identify witnesses who may have relevant information, and to provide documents, information and other evidence relevant to the Complaint.

The Investigator will meet with each of the parties separately (e.g., the Complainant, the Respondent, and identified witnesses) and will gather other evidence and information relevant to the determination of whether or not a violation or violations of the Sexual Misconduct Policy occurred. Witnesses must have information deemed relevant to the Investigation and cannot participate solely to speak about an individual's character.

## **Investigative Report**

At the conclusion of the investigation, the Investigator will prepare a preliminary written investigative report that should include a statement of the allegations, a description of the events in question, information concerning the scope and conduct of the investigation, and summaries of interviews conducted and relevant evidence developed (for example, documents, photographs, electronic records, police reports, text messages, statements,

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<sup>8</sup> The Title IX Coordinator may appoint the Assigned Title IX Coordinator or another qualified individual to be the Investigator.

and other relevant materials). The report may also include the Investigator's observations with respect to the demeanor and participation of the parties and witnesses, relevant consistencies and inconsistencies in the information provided, and issues, if any, concerning the credibility of information and/or witnesses.

Both the Complainant and the Respondent will be given an opportunity to review the preliminary investigation report and to submit additional information and identify other potential witnesses to the Investigator. The Investigator will designate a reasonable time for the review and response. In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the Investigator at this juncture will not be included in the final investigation report.

The Investigator will finalize the written investigative report including a summary of additional information and/or witnesses offered by the parties and relevant facts and/or testimony obtained, if any. The Investigator shall distribute the final investigative report to the Title IX Coordinator.

### **The Title IX Coordinator's Determination**

The Title IX Coordinator is responsible for determining, based on the investigative report, whether reasonable grounds exist for the Complaint to proceed to adjudication. Reasonable grounds for the Complaint to proceed to adjudication will exist unless the Title IX Coordinator determines that there is no evidence in the investigative report that could, in any way, support a conclusion that the conduct at issue constitutes a violation of the Sexual Misconduct Policy.

If the Title IX Coordinator finds that reasonable grounds do not exist for the Complaint to proceed to adjudication, he or she will document the appropriate resolution of the Complaint and promptly notify the parties of that determination. The Title IX Coordinator shall also communicate with the Complainant concerning available assistance and support measures. All parties will be given notice that retaliation is prohibited and will not be tolerated by the College. The College can decide to reevaluate a decision not to proceed to adjudication at any time it deems such action to be appropriate (e.g., the College becomes aware of additional information or activity that may bear some relation to the allegations presented in the Complaint).

If the Title IX Coordinator finds reasonable grounds for the Complaint to proceed, he or she will document the finding and promptly notify the parties of that determination. The Title IX Coordinator will forward the Complaint and the investigation report to the College Administrator responsible for the adjudication process applicable to the Respondent.

The determination of the applicable adjudication process will be based on the Respondent's primary status with the College. For example, Complaints concerning Student Respondents will be directed to the Dean of Students for adjudication in accordance with student conduct policies <https://www.assumption.edu/sites/default/files/StudentHandbookOnLineVersion.pdf> ,

and Complaints concerning Employee Respondents will be directed to the Director of Human Resources for resolution under policies applicable to the Employee <https://my.assumption.edu/facstaffresource/humanresource/Documents/Handbook%20-%20August%202017.pdf>

The Director of Human Resources will coordinate the initiation of the applicable adjudication process with the senior administrator responsible for the Employee. For example, Complaints concerning faculty would be directed to the Provost.

### **Formal and Informal Resolution Proceedings**

The Title IX Coordinator will review and monitor the application of formal and informal resolution procedures and appeals, if applicable, concerning Complaints alleging violations of the Sexual Misconduct Policy for compliance with the requirements of Title IX and VAWA. The College reserves the right to amend, modify, suspend and/or change any College policy, procedure or rule in order to ensure such compliance.

All determinations concerning responsibility for violations of the Sexual Misconduct Policy will be made using a preponderance of the evidence standard. Preponderance of the evidence means that, based on the evidence, it is more likely than not that the Respondent engaged in prohibited conduct as defined in the Sexual Misconduct Policy.

Sanctions for a finding of responsibility depend upon the nature and gravity of the misconduct, and the adjudication and/or disciplinary procedures applicable to the Respondent. In general, sanctions for violations of the Sexual Misconduct Policy may include, without limitation, withholding a promotion or pay increase, reassigning employment, terminating employment, temporary suspension without pay, compensation adjustments, expulsion or suspension from the College, expulsion from campus housing, mandated counseling, assignment of points, educational sanctions, and/or the suspension or revocation any other privilege with respect to membership or participation in the College Community.

In all cases, when determining sanctions, consideration will be given to whether a particular sanction will (a) bring an end to the violation in question, (b) reasonably prevent a recurrence of a similar violation, and (c) remedy the effects of the violation.

Informal resolution, if available under the applicable procedure, will only be appropriate if (i) the Complainant or Respondent request it, (ii) the other party agrees to pursue informal resolution, (iii) the Complainant and the Respondent are both Students or Employees of the College, (iv) the College determines that informal resolution is an appropriate mechanism for resolving the Complaint, and (v) the Complaint does not involve Sexual Assault or Relationship Violence.

Informal resolution may not be selected for less than all of the misconduct alleged in the Complaint (for example, the parties may not choose to resolve a claim of Sexual Assault according to the formal resolution process but to mediate all other claims). If the parties agree to informal resolution (and informal resolution is appropriate for all of the claims at

issue), then all of the claims must be resolved according to the informal resolution process.

Complainant and Respondent shall each have the right to terminate the informal resolution process at any time and proceed with formal resolution. Furthermore, the College may, where appropriate, terminate or decline to initiate informal resolution, and proceed with formal resolution instead. In such cases, statements or disclosures made by the parties in the course of the informal resolution process may be considered in the subsequent formal resolution proceedings.

### **Final Accommodations and Corrective Action**

In addition to any sanctions imposed on the Respondent, promptly following the conclusion of the applicable adjudication procedure, the Title IX Coordinator will determine the final accommodations to be provided to the Complainant, if any, and will communicate such decision to the Complainant and, to the extent that it affects him or her, to the Respondent. Such accommodations may include, but are not limited to those listed above.

The Title IX Coordinator will also take steps to prevent Retaliation against the Complainant, the victim (if not the Complainant), or third parties, such as informing them about how to report subsequent issues, following up with them to ensure that there are no subsequent issues, providing trainings for the College community. The Title IX Coordinator will also, as appropriate, take steps to prevent the harassment of the Respondent.

The College will take strong corrective action in response to any incident of Retaliation or if the sanctions imposed on the Respondent are ineffective to protect the safety and well-being of the Complainant, the victim (if not the Complainant), or other members of the College community.

In cases involving Sexual Harassment, the College will also take reasonable steps to eliminate any hostile environment that has been created, such as arranging trainings and disseminating informational materials. In taking the above-outlined steps, the College will make reasonable efforts to minimize the burden on the Complainant and/or alleged victim.

### **PREVENTION AND AWARENESS**

The College is committed to the prevention of Sexual Misconduct through education and awareness programs. Incoming students and new employees receive primary education and prevention training as part of their orientation, and returning employees and students receive ongoing training and related programs. The Title IX Coordinator is charged with monitoring the College's education, prevention and training programs as required by Title IX and VAWA.

Resources are also available through the Campus Police Department which provides the College Community with safety information as well as programs and workshops on sexual assault, crime prevention, and personal safety.

The College has created a Title IX advisory group consisting of administrators from across the College community including representatives from, among other areas, Student Affairs, Athletics, Residential Life, Public Safety, and the Office of the Provost. This group advises the Title IX Coordinator with respect to the application of the College's Title IX policies and procedures, and acts as a resource in the planning, coordination, implementation, and evaluation of the College's Title IX compliance activities.

## **GENERAL**

The College reserves the right to modify, change or alter the procedures herein and to pursue other and/or additional actions if it determines, in its sole discretion, that such actions are appropriate or necessary under the circumstances.

In order to comply with FERPA and Title IX and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, the investigation and resolution procedures applicable to issues of Sexual Misconduct are not open to the general public. Accordingly, documents prepared in anticipation of the proceedings (including the Complaint, the Investigative Report, notices, and submissions referenced above) and documents, testimony, or other information introduced during the procedures may not be disclosed outside of the Proceedings, except as may be required or authorized by law.

If it is determined, however, that the Respondent engaged in Sexual Misconduct, the College does not prohibit disclosure of the final outcome letter by either the Complainant or the Respondent.

The College will retain documentation (including but not limited to the written Complaint, notifications, the Investigative Report, any written findings of fact, petitions for appeal, and any written communications to or from the parties), for at least seven years. Documentation pertaining to expulsions or educational sanctions may be retained indefinitely.



## APPENDIX A

### Definitions

The following are provided to give further definition to some of the terms referenced in the Sexual Misconduct Policy. Any questions concerning the definition, meaning or application of any term of the Sexual Misconduct Policy should be directed to the Title IX Coordinator.

**Assigned Title IX Coordinator.** The “Assigned Title IX Coordinator” means either the Title IX Coordinator or the Deputy Title IX Coordinator assigned by the Title IX Coordinator or President to handle a given Complaint.

**Clery Act.** The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”) is a federal statute codified at 20 U.S.C. § 1092(f), with implementing regulations in the U.S. Code of Federal Regulations at 34 C.F.R. 668.46. The Clery Act requires all colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses.

**Complainant.** A “Complainant” is an individual who reports or files a Complaint. A Complainant may be someone other than the person who may have been subjected to the Sexual Misconduct alleged.

**Complaint.** A “Complaint” is an allegation of Sexual Misconduct asserted against another party and reported to or filed with the College. The College reserves the right to initiate a Complaint, to serve as a Complainant, and to initiate resolution proceedings in any instance in which the College receives information concerning an alleged incident of Sexual Misconduct even in the absence of a Complaint or report by an alleged victim.

**Day.** A “day” is a business day, unless otherwise specified.

**FERPA.** The Family Educational Rights and Privacy Act (“FERPA”) is a federal statute codified at 20 U.S.C. § 1232g, with implementing regulations at 34 CFR Part 99. FERPA protects the privacy of student education records. FERPA grants to parents or eligible students the right to access, inspect, and review education records, the right to challenge the content of education records, and the right to consent to the disclosure of education records.

**Investigator.** The “Investigator” is a neutral fact-finder who is designated by the Assigned Title IX Coordinator to investigate a Complaint.

**Personally Identifiable Information.** Personally Identifiable Information includes, but is not limited to:

- a person's name;
- the name of a person's parent(s) or other family members;
- the address of a person or a person's family;
- a personal identifier, such as a person's social security number, student/employee number, or biometric record;
- other indirect identifiers, such as a person's date of birth, place of birth, or mother's maiden name;
- other information that, alone or in combination, is linked or linkable to a specific person and that would allow a reasonable person in the College community, who does not have personal knowledge of the relevant circumstances, to identify the Student with reasonable certainty; or
- Information requested by a person whom the College reasonably believes knows the identity of the person to whom the information relates.

**Report.** A report is the communication of information concerning an allegation of Sexual Misconduct. Depending on the circumstances, a report may constitute a Complaint. However, a report does not constitute a Complaint when made to a Confidential Resource as defined herein, or where the report does not identify the parties. In the latter case, the College will investigate the report to the extent possible based on available information.

**Respondent.** A “Respondent” is an individual who has been accused of committing Sexual Misconduct by the report or filing of Complaint.

**VAWA.** Section 304 of the Violence Against Women Reauthorization Act of 2013.

## APPENDIX B

### **Suggested Actions for Victims of Sexual Misconduct**

All types of Sexual Misconduct are inappropriate and are taken seriously by the College. In all cases, the College's first priority is to provide the victim of Sexual Misconduct with support and guidance in taking steps to address their safety and their physical and emotional health. Thus, if you have experienced a Sexual Assault or an act of Sexual Misconduct, you are strongly encouraged to seek immediate assistance.

You are encouraged to take the following actions, as applicable, regardless of whether you have made a decision about whether to pursue a criminal complaint or to make a complaint to the College.

#### **Ensure Your Physical Safety**

Immediately get to a safe place and call someone you trust. You may seek help from local law enforcement agencies or by contacting the Campus Police Department. The Campus Police Department can assist you with contacting local law enforcement and can provide or help you obtain transportation to the Worcester Police Department or to obtain medical care and/or counseling services. Contacting Police will not obligate you to file a criminal complaint or to filing a complaint with the College. Police may have an independent legal obligation to investigate reported conduct.

Campus Police Officers are on duty at the College 24 hours a day, seven days a week.

Campus Police Department  
Kennedy Hall, Lower Level  
(508) 767-7777

Worcester Police Department, Sexual Assault Unit  
9 - 11 Lincoln Square  
(508) 799-8661 (8am - midnight)  
(508) 799-8600 (midnight - 8am)  
Emergency – 911

#### **Seek Medical Assistance and Treatment**

It is crucial that you obtain medical attention as soon as possible after a Sexual Assault to determine and treat physical injury and to prevent or treat sexually transmitted diseases (such as HIV). Medical facilities can also screen for the presence of sedative drugs such as Rohypnol or GHB (date-rape drugs). Employees of the College Office of Student Health Services can help you obtain treatment and contact a support person, such as a family member, a friend or roommate.

**The College encourages you to obtain medical assistance at a hospital immediately after or within 72 hours of a Sexual Assault.**

In addition to obtaining care and other treatments, within this time period, a Sexual Assault Medical Examination can be conducted to evaluate the status of your health and to collect evidence that will be available in the event that you decide to pursue a criminal complaint.

Many hospitals provide you with a SANE (Sexual Assault Nurse Examiner) nurse who has been trained to work with victims of sexual assault through the medical process. This examination is a voluntary procedure and it does not commit you to any legal action. It is an Individual's right to ask for a SANE nurse to perform the examination.

If you choose to have an Evidence Collection Kit (or "rape kit") completed, it is important to do so within 72 hours. Even if you have not decided to file charges, it is advisable to have the Evidence Collection Kit completed so that you can preserve the options of obtaining a protective order and /or filing criminal charges at a later date. Hospitals administer Evidence Collection Kits. Individuals may go directly to a hospital or may be referred to the hospital by the College's Office of Student Health Services.

In order to best preserve evidence for an Evidence Collection Kit, it is advisable to avoid showering, bathing, going to the bathroom or brushing your teeth before the kit is completed. You should also wear (or take with you in a paper – not plastic – bag) to the hospital the same clothing that you were wearing during the assault. An Evidence Collection Kit can still be completed even if you have showered or bathed.

Hospitals in the Worcester area with sexual assault nurse examiners are:

<p>St. Vincent Hospital 123 Summer Street Worcester, MA 01608 508-363-5000 Web site: <a href="http://www.stvincenthospital.com">www.stvincenthospital.com</a></p>	<p>UMass Memorial Medical Center Memorial Campus 119 Belmont Street Worcester, MA 01605 508-334-1000 Web site: <a href="http://www.umassmemorial.org">www.umassmemorial.org</a></p>
<p>UMass Memorial Medical Center University Campus 55 Lake Avenue North Worcester, MA 01655 508-334-1000 Web site: <a href="http://www.umassmemorial.org">www.umassmemorial.org</a></p>	

**Pathways for Change (formerly the Worcester Rape Crisis Center)**

Pathways for Change can provide a free medical advocate to meet with the victim and their families in hospital emergency departments. In the immediate aftermath of a sexual assault or rape, victims face a host of emotional, medical, and legal decisions. Pathways for Change medical advocates are certified rape crisis counselors who provide information and support to the survivor and/or family at the hospital. Pathways for Change can be reached at its 24-hour hotline at **1-800-870-5905 or (for support in Spanish) 1-800-223-5001**

## **Obtain Emotional Support**

The College's Student Development and Counseling Center can help victims sort through their feelings and begin the recovery process. The professionals at the Student Development and Counseling Center are trained to provide crisis intervention counseling on short-term and emergency issues. The Student Development and Counseling Center can also provide referral services for outside providers and law enforcement. Counseling is free of charge to all Students.

## **Pathways for Change**

588 Main Street  
Worcester MA 01608

Pathways for Change also offers free, confidential services to sexual assault victims, their friends, and families. Pathways for Change operates a 24-hour confidential hotline that provides victims of sexual assault with telephone counseling and personal support. The Center also maintains a referral network of survivor support groups. 24/7 Hotline(800) 870-5905

## **Obtain Information / Report Misconduct**

You are encouraged to report incidents of Sexual Assault to the College's Title IX Coordinator or other designated individuals or offices as outlined in the Sexual Misconduct Policy (even if you have filed a report directly with law enforcement). Further information about how to report Sexual Assault is provided in the College's Sexual Misconduct Policy and Procedures. College personnel can help you access resources and can provide you with support and information, including information on the College's procedures for investigating and addressing instances of Sexual Assault and other Sexual Misconduct.

**The College's Title IX Coordinator is Daniel DiTullio**, whose office is located on the first floor of La Maison Française. Mr. DiTullio can be contacted by phone at **(508) 767-7172** or by email at [TitleIX@assumption.edu](mailto:TitleIX@assumption.edu).