

# ANTI-HARASSMENT AND ANTI-DISCRIMINATION POLICIES

## Anti-Harassment/Anti-Discrimination

In order to achieve its mission of educating students to become leaders in their careers and communities, the University depends on an educational and work environment of tolerance and respect. It is committed to providing an environment that is free of discrimination and illegal harassment, including sexual harassment for all faculty, staff and students working for the University, and for all students according to the additional Anti-Harassment/Anti-Discrimination Policy located in the Student Guidebook. This commitment includes a Bay Path University policy that expressly prohibits discrimination and harassment based on an employee's sex, age, race, color, national origin or ancestry, disability, religion, sexual orientation, military status or veteran's status, gender identity, genetic testing or information. These forms of discrimination and harassment are illegal, and Bay Path University will not tolerate any form of such discrimination or harassing conduct or behavior by an employee, vendor, client, contractor, Board Member or any visitor of Bay Path University. The University recognizes the right of all employees and students to be treated with respect and dignity. Harassment and discrimination in any form is unacceptable behavior and will not be tolerated.

This policy is designed to do the following:

- reaffirm the University's commitment to providing a positive, humane environment for study and work free from harassment;
- let all members of the University community know what kind of conduct is expected and what kind of conduct is proscribed;
- inform victims of harassment, including sexual harassment, of their options and rights;
- inform all members of the University community about the procedures available at the University for addressing, investigating, and resolving harassment complaints, including sexual harassment complaints;
- protect the rights and confidentiality of all parties to harassment complaints to the extent possible; and
- prevent retaliation against persons alleging sexual and other unlawful harassment or against persons cooperating in an investigation.

## Prohibited Conduct

Harassment – Acts or communications addressed to individuals or groups because of race, national origin or ancestry, religion, gender, sexual orientation, age, disability, marital status, military or veteran's status, gender identity, genetic testing or information is similarly prohibited by this policy.

Examples of impermissible harassment, including racial harassment, include the following:

- The use of physical force or violence to restrict the freedom or movement of another person or to endanger the health and safety of another person based on the person's race, color, gender, national origin or ancestry, disability, religion, sexual orientation, military or veteran's status, gender identity, or genetic testing or information;

- Physical or verbal behavior that involves an express or implied threat to interfere or has as its purpose or has the reasonably foreseeable effect of interfering with an individual's personal safety, academic efforts, employment, participation in University-sponsored extracurricular activities because of the individual's race, color, gender, national origin or ancestry, disability, religion, sexual orientation, military or veteran's status, gender identity, or genetic testing or information and which causes that individual to have a reasonable apprehension that harm is about to occur;
- Any type of conduct that has the effect of unreasonably interfering with an individual's work or academic performance or creates an intimidating, hostile or offensive working or learning environment;
- Epithets, slurs or derogatory comments based on a person's race, color, gender, national origin or ancestry, disability, religion, sexual orientation, military or veteran's status, gender identity, or genetic testing or information. It should be emphasized, however, that isolated instances (e.g. a single comment or joke) ordinarily will not constitute harassment unless it is repeated or egregious.

Harassment may not be present if the conduct is welcomed and encouraged. Even though the behavior may not constitute harassment or discrimination, corrective action may be warranted.

## Sexual Harassment

Sexual harassment is a form of behavior that adversely affects the employment relationship and is prohibited by State and Federal law. The University condemns and prohibits sexual harassment by any employee or student.

Sexual harassment does not refer to voluntary social activities among employees. Instead, it refers to behavior that is not welcomed by the employee, which is purely offensive to them, and which undermines morale and /or interferes with the ability of the employee to work effectively.

Sexual harassment includes unwelcome actions such as:

- sex-oriented verbal abuse
- sexual remarks or jokes
- physical contact including patting, pinching or repeated brushing against another person's body
- demands or requests for sexual favors accompanied by implied or overt promises of preferential treatment or threats concerning an individual's status as an employee
- actual or attempted rape or assault

It is, therefore, against the policies of the University for any employee, male or female, to harass another employee sexually, that is, by making unwelcome sexual advances, requests for sexual favors, or other uninvited verbal or physical conduct of a sexual nature when:

- submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term of condition of employment or as a basis for employment decisions;
- such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating, or sexually offensive work environment;
- retaliation is threatened or undertaken against an individual who complains that such conduct is interfering with their work performance.

Under these definitions, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether intended or not, that is unwelcome and has the effect of creating an educational environment or workplace environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment.

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

- unwelcome sexual propositions, invitations, solicitations, and flirtations; leering;
- unwelcome and inappropriate touching, patting, fondling, pinching, or obscene gestures;
- seeking sexual favors or relationships in return for the promise of a favorable grade or other academic or employment benefit or opportunity;
- conditioning an academic-related action (such as a grade, assignment, or refraining from discipline) on a sexual favor or relationship;
- unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes, or innuendos; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls;
- sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body; comment about an individual's sexual activity, deficiencies, or prowess;
- sexually suggestive objects, pictures, cartoons, videotapes, audio recordings or literature, or computerized transmissions placed in the work or study area, that may embarrass or offend individuals, subject to general principles of academic freedom as defined in the Faculty Handbook;
- in the case of co-workers or individuals in positions of authority, conduct of the nature set forth above when the effect is to unreasonably interfere with the ability of a person to perform their employment or academic responsibilities, or when the effect is to create an offensive, intimidating and/or hostile working or learning environment for that person.

Unwelcome sexual behavior toward another employee or student, which is sufficiently severe or pervasive to alter the conditions of the victim's employment or academic surroundings and results in a work or educational environment that a reasonable person would find abusive or offensive creates a "hostile environment."

Isolated instances (e.g., a single sexual overture, comment, invitation or joke) ordinarily will not constitute sexual harassment unless there is repetition or the circumstances are egregious. In this regard, occasional compliments also do not constitute sexual harassment. Sexual behavior that is welcomed and consensual may not constitute sexual

harassment. Even though the behavior may not constitute harassment or discrimination, corrective action may be warranted.

## **Nepotism Policy**

Bay Path University very strongly discourages consensual relationships of an intimate or sexual nature among co-workers. These types of relationships can result in a breach of confidentiality, reduced objectivity, slowed productivity, excessive socializing, preferential treatment, arguing on the job and charges of sexual harassment if the relationship ends badly.

Although Bay Path University does not prohibit consensual relationships among co-workers, it has adopted a policy prohibiting supervisor/supervisee consensual relationships. Under this policy parties have a thirty-day penalty free window to report the relationship to Human Resources. Human Resources will work with the Vice President of the division(s) to determine how the reporting relationship can be removed. Actions could include transfer of either party and/or demotion of the supervisory level of employee. Supervisors who engage in dating relationships with subordinates and do not report the relationship to Human Resources will be subject to disciplinary action, up to and including discharge from employment.

The University prohibits relationships of an intimate or sexual nature between faculty or staff members and students, because among other reasons, they pose great potential for sexual harassment problems. For example, consider students who are currently enrolled in a class taught by a faculty member or who are currently employed by a faculty or staff member in any capacity. Because the question of consent is complicated by the difference in power that exists between faculty or staff and students in such circumstances, and, the difference in power can give rise to the appearance of impropriety, faculty and staff are prohibited from entering such relationships with students.

## **Procedure for Dealing with Harassment**

An initial course of action for anyone who feels that they have been harassed may be for that person, either alone or with another employee, or another student in the case of a student working for the University, to emphatically tell or otherwise inform the harasser that the conduct is unwelcome, offensive, violates this policy, and must stop. This may solve the problem, and if it does, further proceedings will usually not be necessary.

Employees who become aware of inappropriate discriminatory or harassing conduct toward another employee that they believe is prohibited by this policy must immediately report the matter to the Director of Human Resources. An employee who in good faith reports a suspected violation of this policy shall not suffer harassment, retaliation or adverse employment consequences from other employees or the University. An employee who retaliates against someone who has reported a suspected violation in good faith is subject to discipline up to and including termination.

Any faculty or staff who perceives herself or himself as a victim of harassment may also contact their division Vice President to discuss the harassment complaint. The Vice President has an obligation to notify the Director of Human Resources of such a complaint and will work with the director to determine if an acceptable solution can be achieved. If an acceptable solution is not attained, a formal investigation will be initiated.

If the person who believes they have been the victim of harassment decides to file a formal complaint this may be done in writing or orally to the:

Director of Human Resources  
588 Longmeadow Street  
Longmeadow, MA 01106  
telephone: (413) 565-1252

## Complaint Investigation

When the University receives the complaint it will promptly investigate the allegation of harassment in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent possible under the circumstances. The division Vice President and/or the President will be notified that an investigation is being initiated. Our investigation will include a private interview with the person filing the complaint and with the witnesses. We will attempt to interview the person alleged to have committed the harassment. Only those with a need to know will be apprised:

1. that an investigation is taking place;
2. of the results of an investigation; or
3. of the facts upon which the allegation of harassment is based.

Following the investigation, the University will make the final determination as to the merits of the complaint. If the University finds that the allegations in the complaint have been established by the investigation, the University will act promptly to attempt to eliminate the offending conduct, and where it is appropriate, it will impose disciplinary action appropriate to the offense. Such action may range from counseling to termination and may include such forms of disciplinary action as deemed appropriate under the circumstances.

When a complaint or the outcome of an investigation warrants notification of local law enforcement, the President will be notified and the University will cooperate with the investigation to the best of its ability.

## Harassment Involving Only Students

Every effort has been made to make this policy and the procedures set forth herein consistent with the Policy for students. A student who perceived herself or himself to be the victim of harassment may report the incident to the Vice Provost for Academic Affairs and Dean/Title IX Coordinator, the Dean of Students and Director of Persistence, the Dean of Academic Support Services and Assistant Coordinator of Title IX, or the counselors in the counseling center at 588 Longmeadow Street, Longmeadow, MA 01106, in accordance with the Anti-Harassment/Anti-Discrimination Policy in the Student Guidebook.

## Confidentiality

It is expected that, at all states of any proceedings under this policy, confidentiality will be maintained to the greatest extent possible in the discretion of the University.

All records of all alleged incidents of harassment, resolution, and any disciplinary action shall be kept in confidence for three years after the termination of all individuals involved.

## Retaliation

Any retaliation against an individual bringing a complaint or participating in an investigation under this policy is strictly forbidden and unlawful, and will result in appropriate disciplinary actions.

## Malicious, False Accusations

Any knowingly false or malicious complaints of discrimination or harassment will result in disciplinary action, up to and including termination of employment and/or permanent expulsion.

## State and Federal Remedies

In addition to the above, if you believe you have been subjected to discrimination or harassment, including sexual harassment, you may file a formal complaint with either or both of the government agencies set forth below. Using the University complaint process does not prohibit you from filing a complaint with these agencies. The following agencies are responsible for the enforcement of employment discrimination laws:

Massachusetts Commission Against Discrimination Boston Office  
One Ashburton Place – Room 601  
Boston, MA 02108  
(617) 994-6000  
TTY: (617)994-6196

Massachusetts Commission Against Discrimination  
436 Dwight Street, Room 220  
Springfield, MA 01103  
(413) 739-2145

Equal Employment Opportunity Commission  
One Congress Street, 10th Floor  
Boston, Massachusetts 02114  
(617) 565-3200