MCPHS UNIVERSITY
PROTECTION FROM DISCRIMINATION AND HARASSMENT POLICY

I. POLICY STATEMENT

MCPHS University ("MCPHS" or the "University") does not discriminate in admission, treatment, or access to its programs or activities or in employment in its programs or activities on the basis of race, color, national origin, sex, age, disability, creed, religion, sexual orientation, gender identity, gender expression, marital status, or veteran status in admission and access to, and treatment and employment in, its educational programs and activities and actively complies with the requirements of Federal Executive Orders 11246 and 11375 as amended; the Civil Rights Act of 1964 as amended; Title IX of the Educational Amendments of 1972; Sections 503 and 504 of the Rehabilitation Act of 1973; Section 402, Vietnam Era Veterans Readjustment Assistance Act of 1974; the Age Discrimination Act of 1975; the Americans with Disabilities Act of 1990 (as amended by the ADA Amendments Act of 2008); and pertinent laws, regulations, and executive directives of the Commonwealth of Massachusetts and other applicable state and federal statutes.

The University will not tolerate acts of discrimination or harassment based upon Protected Classes, or related retaliation against or by any employee or student. For purposes of this policy, "Protected Classes" refers to race, color, national origin, sex, pregnancy, age, disability, creed, religion, ethnicity, sexual orientation, gender, gender identity, gender expression, or veteran status.

The process outlined in this policy applies to all complaints of unlawful discrimination or harassment, except those alleging any form of Sexual Harassment. Any person alleging Sexual Harassment on the part of any University student, faculty or staff member, affiliate (e.g. visitor, vendor, etc.) or non-affiliate, should refer to the University’s Protection from Sexual Harassment (Title IX) Policy.

Inquiries regarding the University’s compliance with Equal Opportunity and Affirmative Action laws may be directed to Richard Lessard, Interim President, at 617.732.2132. He is the designated coordinator for complaints arising under Title VI and Title VII of the Civil Rights Act and Massachusetts General Laws Chapter 151B.

II. REPORTING OBLIGATIONS

Obligation to Report Discrimination and Harassment. In order to take appropriate corrective action, the University must be aware of discrimination, harassment, and related retaliation that occurs in University employment, educational programs, and activities. Anyone who believes that he or she has experienced or witnessed discrimination, harassment, or related retaliation shall immediately report such behavior. The duty to report applies to anyone who witnesses, receives notification of, or otherwise has knowledge of a complaint of discrimination,
harassment, or related retaliation that occurred in the course of University employment, educational programs, or activities.

Where to Report. Allegations or complaints may be directed to Human Resources, Deans, Department Chairs, Program Directors, and designated University Officers.

When to Report. All reports or complaints shall be made as promptly as possible after the occurrence.

Failure to Report is a Violation. A failure to report this information is a violation of this Policy, except in the case of an individual whose profession and university responsibilities requires them to keep certain communications confidential (e.g., a professional counselor). Such an individual is not required to report confidential communications received while performing those University responsibilities.

Right to file criminal complaint. A complainant has the right to file a criminal complaint before, during or after the University’s investigation.

Amnesty Policy. The University encourages the reporting of all concerns regarding Discrimination and Harassment. Sometimes individuals are hesitant to report instances of Discrimination or Harassment because they fear being charged with other policy violations. Because the University has a paramount interest in protecting the well-being of its community and remedying Discrimination and Harassment, other policy violations will be considered, if necessary, separately from allegations under the Policy.

Confidentiality. The University will maintain the privacy of the complaint, and the privacy of the persons involved, to the greatest extent possible, consistent with its goal of conducting a thorough and complete investigation and to the extent permitted by law. It is important to understand that while the University will treat information it has received with appropriate sensitivity, nonetheless there may be a need to share certain information within the University for the purposes of stopping or preventing Discrimination and Harassment.

Zero-Tolerance for Retaliation. The University will not tolerate retaliation by any employee or student. Retaliation is a serious violation of this policy, as well as of federal, state, and local law. Anyone who believes he or she is a victim of retaliation should report the matter immediately according to the same procedure provided in this policy for making complaints of discrimination, harassment, or sexual assault.
III. DISCRIMINATION AND HARASSMENT INVESTIGATION PROCEDURES

1. Initiating the investigation. The designated University officer shall determine the most appropriate means for addressing the report or complaint. The investigation will be prompt, thorough, and impartial. The complainant (the person bringing the complaint) and the respondent (the person who is the subject of the complaint) can request written notice of the complaint and a statement of the allegations, as soon after the commencement of the investigation as is practicable and to the extent permitted by law.

2. Withdrawing a complaint. Prior to the conclusion of a discrimination or harassment investigation, the complainant may withdraw his or her complaint. Withdrawal of the complaint will ordinarily end the investigation and resolution process. However, the University reserves the right to proceed with the complaint, even after the complainant withdraws it, to protect the interests and safety of the University community, as necessary.

3. Time frame. An investigation will be concluded within reasonable timeframes and a determination finalized no later than 30 days after the receipt of the report of the investigation, absent extenuating circumstances.

4. Standard of proof. The “preponderance of the evidence” standard is applied to the investigator’s findings to determine whether the respondent is responsible. The standard requires a finding that it is more likely than not that discrimination or harassment occurred in order to assign responsibility to the respondent.

5. Collecting information. The University will conduct prompt, thorough, and impartial interviews of the complainant, the respondent, and any witnesses.

The investigator will review evidence and consider information relevant to the complaint. Throughout the investigation, including at any hearing, both parties will have an equal opportunity to present relevant witnesses and other information. The complainant and the respondent have the same access to any information used at any hearings. Before the final determination, both parties will have an opportunity to respond.

6. Notice of outcome. At the conclusion of an investigation, the investigator shall prepare a written report that shall include a statement of factual findings and a determination of whether there is a policy violation.

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1 Access to any information must be provided consistent with FERPA. For example, if the University introduces an alleged perpetrator’s prior disciplinary records to support a tougher disciplinary penalty, the complainant would not be allowed access to those records. Additionally, access should not be given to privileged or confidential information. For example, the alleged perpetrator should not be given access to communications between the complainant and a counselor or access to information regarding the complainant’s sexual history.
The designated University officer may consult with the investigator, consult with the parties, and request that the same or another investigator, do further investigation. Once the investigator is satisfied that the investigation is completed the investigator will notify both parties, to the extent permitted by law.

7. **Remedy and enforcement.** The appointing authority or disciplinary authority must initiate formal action against the respondent for a policy violation or if they acted inappropriately or unprofessionally.

8. **Appeal Process.** Both respondent and complainant may appeal a final decision adjudicated under this policy. Student appeals are handled pursuant to the Student Code of Conduct. Employee appeals by staff members are handled pursuant to the Dispute Resolution section of the Employee Handbook. Faculty members should refer to the Faculty Manual for information regarding dispute resolution procedures for faculty. The University’s determination will be presumed to have been reached reasonably and appropriately.

9. **Document retention.** In all cases, the designated University officer shall retain the investigator’s report for a minimum of three (3) years or for such longer period as any administrative or legal action, arising out of the complaint is pending. In the case of a student respondent(s), records will be retained according to policies administered by the Office of the Dean of Students.

All records of discrimination and harassment and related retaliation reports and investigations shall be considered confidential and shall not be disclosed publicly except to the extent required by law.

**IV. COMPLAINTS BY AND AGAINST UNIVERSITY EMPLOYEES AND STUDENTS ARISING IN AN AFFILIATED ENTITY.**

University employees and students sometimes work or study at the worksite or program of another organization affiliated with MCPHS. When a violation of this policy is alleged by or against University employees or students in those circumstances, the complaint should immediately be directed to the designated University officer. The designated University officer will consult the affiliation agreement between MCPHS and the other entity for any language relating to the handling of the allegation. In the absence of an affiliation agreement or a provision addressing this issue, MCPHS will follow the designated protocol for all discrimination or harassment allegations.

**V. NO LIMITATION ON EXISTING AUTHORITY**

No provision of this policy shall be construed as a limitation on the authority of an appointing authority/disciplinary authority under applicable policies and procedures to initiate appropriate action.
VI. EDUCATION

MCPHS will broadly disseminate this policy, distribute a list of resources available to respond to concerns of Protected Class discrimination, harassment, and related retaliation and develop and present appropriate educational programs for students and employees.

VII. STATE AND FEDERAL REMEDIES

In addition to the above, students or employees may file a formal complaint with the U.S. Equal Employment Opportunity Commission (EEOC), the Office of Civil Rights, the U. S. Department of Education or the applicable state or local governmental agencies where they reside. Using the University’s complaint process does not prohibit a student or employee from filing a complaint with these agencies.

Equal Employment Opportunity Commission (EEOC)
JFK Federal Building
475 Government Center
Boston, MA 02203
800.669.4000

U. S. Department of Education (DOE)
Office of Civil Rights (OCR)
5 Post Office Square
Eighth Floor
Boston, MA 02109-3921
617.289.0111

Massachusetts Commission against Discrimination (MCAD)
John McCormack Building
One Ashburton Place
Sixth Floor, Room 601
Boston, MA 02108
617.994.6000

VIII. RELATED POLICIES

MCPHS University Protection from Sexual Harassment (Title IX) Policy provides that the University expect its employees and students to report sexual harassment.
MCPHS University Professional Conduct in the Workplace Policy Statement provides that the University expect its employees to respect the dignity of others and show the same respect and concern for all community members.

MCPHS University Student Conduct Policies and Procedures addresses student conduct that occurs on or as it relates to university property, or at official functions and university-sponsored programs conducted away from the campus. For related complaint, grievance or disciplinary processes see the Student Code of Conduct and Student Discipline System.