

Amherst College

About Amherst **Nondiscrimination and Harassment Policy**

A

Amherst College is committed to creating and maintaining an equitable and respectful environment for all members of its community. Discrimination and harassment on the basis of a person's legally protected identity can cause both individual and community harm, is unlawful, and is contrary to the mission of the College.

Amherst College also recognizes that sexual misconduct, which is a type of sex discrimination, is harmful in all of its forms. The 2020 amendments to Title IX regulations exclude from Title IX many forms of sexual misconduct that, though not covered by Title IX, are strictly prohibited by the College. These behaviors, collectively referred to as sexual misconduct, constitute discrimination based on sex, gender, or sexual orientation, and are prohibited by this policy. The College encourages anyone who is seeking help or intending to share information about a concern of sexual misconduct, or any other form of identity-based harm, to come forward. The College does not require or even expect any person to understand with certainty which policy may apply to the concern they are reporting. The College will decide whether a report of sexual misconduct falls under this policy or the *Interim* Title IX Policy and will support all individuals regardless of the applicable policy.

In conjunction with the College's Nondiscrimination Statement and the Amherst College Statement of Freedom of Expression and Dissent, this policy represents the College's strong commitment to an environment free from unlawful identity-based discrimination and harassment and to upholding, within the bounds of the law, the free expression of ideas and pursuit of knowledge that are so critical to the College's mission.

Purpose of this Policy

The purpose of this policy is to provide the College community with: definitions of prohibited behaviors; options to report those behaviors; clearly-articulated expectations regarding the College's response to and assessment of those reports; options to address prohibited behaviors; and resources for community members affected by prohibited behaviors.

Scope

This policy applies to all members of the Amherst College community, including students, employees (faculty and staff), as well as all visitors and independent contractors.

Prohibited Behavior

Discrimination: The adverse treatment of any individual or group of individuals based on their protected identity, rather than on the basis of their individual merit. Pursuant to this policy, as well as state and federal law, Amherst prohibits discrimination against individuals or groups on the basis of one or more protected identities (as defined below).

Harassment: Harassment is verbal or physical contact, or conduct using technology, that is based on a person's protected identity and is so severe or pervasive that it has the purpose or effect of unreasonably interfering with an individual's work performance or educational program participation, or that creates an intimidating, hostile, or offensive work or educational environment. Sexual misconduct is a form of harassment based on sex, gender identity, gender expression, or sexual orientation.

Some forms of sexual misconduct fall exclusively under the College's *Interim* Title IX Policy, like, for instance, a sexual assault that occurs on campus. Others fall under this policy because, for instance, the behavior happened off-campus or meets this policy's definitions, but not the more narrow definitions under Title IX. Sexual misconduct also includes relationship violence; sexual assault; and stalking. See Glossary, below, for complete definitions.

Protected Identities

In accordance with the College's Nondiscrimination Statement, the following identities are protected by law and/or College policy: race, national or ethnic origin, color, religion, sex or gender (including pregnancy, sexual orientation, gender expression, and gender identity), age (over 40), disability, genetic information, military service, or any other characteristic or class protected by applicable federal or state law.

Reporting to the College

The College strongly encourages all individuals to report concerns about identity-based discrimination or harassment, including sexual misconduct, regardless of the reporting party's certainty about whether the reported behavior would violate this policy and regardless of where the alleged harm occurred. The College seeks to support all community members, including those who feel they have been aggrieved. Reporting as soon as possible will, in most instances, increase the ability of the College to address the reported behaviors.

How to Report a Concern

Person-to-Person:

The College has established the Review Team to assess reports of identity-based harm. Any person may contact any member of the Review Team to report a concern. Team members can be reached by email or telephone.

Review Team contact information:

Laurie Frankl
Title IX Coordinator
413-542-5707
lfrankl@amherst.edu

Solsiree del Moral
Faculty Equity and Inclusion Officer
413-542-5582
sdelmoral@amherst.edu

Dina Levi
Director of Workforce Equity and Inclusive Leadership
413-542-5945
dlevi@amherst.edu

Advisory Members:

Catherine Epstein
Provost and Dean of the Faculty, Winkley Professor of History
413-542-2334
cepstein@amherst.edu

Larry Hunt
Ombudsperson
413-542-2372
lhunt@amherst.edu

Jodi Foley
Director of Accessibility Strategy and Resources
413-542-5447
jfoley@amherst.edu

On-Line Reporting Portal:

Any person may submit a report via the College's Identify-Based Harm Reporting Portal.

Sexual Misconduct Reporting Portal:

Any person may submit a report of sexual misconduct via the College's Sexual Misconduct Reporting Form.

Anonymous Reporting Option:

Anonymous reports may be made by telephone by calling 888-497-1022 or online at www.amherst.ethicspoint.com.

Depending on the level of information available about the incident and the involved parties, the College's ability to respond to an anonymous report may be very limited.

Time Frame for Reporting:

The College welcomes and encourages reporting of identity-based discrimination, harassment, and sexual misconduct and does not limit the time frame for reporting. The College encourages prompt reporting where possible, because it increases the College's ability to respond to the reported behavior and to provide support to affected community members. Reporting parties should be mindful that delays in reporting may affect options for response, particularly when an accused individual is no longer a student, faculty, or staff at the College.

Report Assessment

The Review Team will assess reports of identity-based discrimination and harassment to consider and evaluate the following:

Known or potential individual and/or community safety concerns;

Known or potential harm to individuals or the community;

The wishes of the reporting and/or aggrieved parties;

Parties' needs for supportive measures and resources; and

Options for responding to the alleged harm.

Referrals of Reported Information:

The Review Team's assessment may lead to the referral of some or all of the reported information to campus partners, such as: Amherst College Police Department; the Office of Student Affairs; the Office of Diversity, Equity, and Inclusion; the Office of the Provost and Dean of the Faculty; and/or the Office of Human Resources. Such information will be shared on a "need-to-know" basis and in accordance with the Statement on Privacy, below.

The College may determine that a report of harassment based on sex, gender identity, gender expression and/or sexual orientation falls under the College's *Interim* Title IX Policy. These matters will be promptly forwarded to the Title IX Office and the reporting and/or aggrieved parties will be contacted by the Title IX Coordinator or a Deputy Title IX Coordinator.

Reports involving: 1) discrimination or harassment on the basis of disability; or 2) failure to provide appropriate accommodations may be handled under the [College's Section 504 Grievance Procedure](#).

Not all reports of identity-based harm will meet the definitions of harassment and discrimination (above) and may constitute reports of Bias Incidents, defined below. These concerns deserve attention and response and will, therefore, be forwarded to the College's Bias Education Response Team (BERT).

Outreach to Named Reporting Party and/or Aggrieved individuals

As part of its assessment, and if identities are known, the Review Team will make outreach to those who have reported the concern and/ or those who are identified as having been aggrieved. This outreach will indicate that a report has been received. When outreach is to an aggrieved person, the communication will: indicate that the College has received a report; provide information about supportive measures; provide information about the options to resolve the concern; and include an offer to meet with a member of the Review Team.

Supportive Measures

Supportive measures are actions taken by the College that are intended to restore or preserve equal access to the College's educational program or activities, including the work environment. Supportive measures may be available to individuals affected by identity-based harm and/or sexual misconduct regardless of where the alleged conduct took place and regardless of whether or not aggrieved individuals choose to pursue a formal remedy. Supportive measures may include, but are not limited to:

No Communication and Restricted Proximity Order (NCRPO);

Academic, employment, or residence modification;

Emotional support; and

Interim separation / investigative leave.

Even when a College community member does not specifically request supportive measures, the College may choose to implement supportive measures, at its discretion, in the interest of the safety and/or wellness of any individual and/or the broader College community. In considering and implementing supportive measures, the College will value the wishes of involved individuals, overall fairness, and every community member's equitable access to educational and/or employment opportunities. Supportive measures will be reviewed as needed and/or requested, by the Chair of the Review Team.

Requests for, or concerns about, supportive measures should be directed to Angie Tissi-Gassoway, Chair of the Review Team.

Options for Resolution of Reported Behavior

These options, available for reports against College community members, may not be mutually exclusive. Reports against visitors or independent contractors will be managed at the discretion of the College.

No College-Facilitated Resolution:

Aggrieved individuals can choose to receive supportive measures from the College and request that no further action be taken. Pursuant to the Community Standards Adjudication Process, the Office of Community Standards has discretion to bring forward a complaint against students for violation of this policy. The College will seriously consider the wishes of the aggrieved person(s) and keep them apprised should the College decide to move forward with an adjudication.

Educational Meeting:

When appropriate and/or by request, a member of the Review Team can address reported behavior through an educational conversation with the individual(s) who allegedly engaged in identity-based discrimination or harassment. The purpose of the meeting is to help community members understand how their alleged behavior may align with this policy. Members of the Office of the Provost and Dean of the Faculty, Office of Human Resources, or Office of Student Affairs may participate in the meeting, as appropriate.

Referral to The Center for Restorative Practices:

Parties to a reported concern of identity-based discrimination or harassment may voluntarily choose to utilize restorative practices. When appropriate, the Review Team will refer parties to College staff who are trained to facilitate a restorative resolution.

Grievance Processes:

Grievances processes are available for the formal investigation and resolution of identity-based harm and sexual misconduct allegations against students, staff, and faculty. Individuals who believe that they have experienced conduct that is prohibited by this policy may seek to have their concern resolved through a grievance process.

Allegations Against Students:

Aggrieved individuals may work with the Office of Student Affairs' Community Standards Office. [The Community Standards Adjudication Process](#) will govern.

Allegations Against Staff:

Aggrieved individuals may work with the Office of Human Resources. [The Staff Grievance Policy](#) will govern.

Allegations Against Faculty:

Aggrieved individuals may work with the Office of the Provost and Dean of the Faculty. [The Resolution of Student Grievances with Members of the Faculty](#) will govern complaints by students against faculty. [The Grievance Procedures for Members of the Faculty](#) will govern all other complaints against faculty.

Each respective grievance process provides information about the range of responses and sanctions available in matters where an accused person is found responsible for violating this policy.

The Review Team will continue to support individuals who are involved in a grievance process.

Notice of Initiation of Grievance Process—Complaint Notification

When a complaint initiating a grievance process is filed against a student, staff, or faculty member alleging a violation of this policy, the person(s) who have been named in the complaint as allegedly violating this policy will be provided notice that a complaint has been filed and a copy of the relevant policies. This notice will include the date, time, and location, if known, of the alleged incident(s) of violations of this policy and information regarding which portion(s) of this policy they are alleged to have violated.

Investigation of Grievance Process Complaints

Matters that are referred for resolution through a grievance process will be investigated. Investigations will be conducted by a College staff member or by an outside investigator. Investigators will have training and experience investigating allegations of identity-based discrimination and harassment. The Chair of the Review Team will oversee investigations.

At the conclusion of the investigation, the investigator may draft an investigation memorandum. This memorandum may be utilized by the Review Team in its ongoing assessment of reported concerns. The memorandum may also, at the discretion of the Chair of the Review Team, be provided to campus partners involved in the resolution of the reported concern.

Coordination with Law Enforcement

Behaviors that violate this College policy may also be criminal under state and/or federal law. In addition to working with the College, any aggrieved individual may seek to notify or may decline to notify law enforcement, whether it is Amherst College Police Department, local, or state police. The College can assist individuals in connecting with law enforcement and will cooperate with law enforcement agencies to the extent permitted by law. Individuals can choose to work with law enforcement exclusively, concurrently with, before, or after, any on-campus resolution process.

Court-Issued Protective Orders

In some cases, an individual may wish to consider requesting that a local district court issue a protective order (known in [Massachusetts as Abuse Prevention Orders or Harassment Prevention Orders](#)). These requests are civil proceedings that are independent of the College. The Amherst College Police Department can assist community members in learning about and, if requested, filing paperwork with the Court to request an order of protection.

Individuals who obtain a court-issued protective order and College community members who are subject to court-ordered protective orders are encouraged to notify either the Chair of the Review Team, the Title IX Coordinator and/or the Amherst College Police Department. The College will work with parties to court-issued protective orders to understand the nature of the order and whether and how it impacts their activities on campus.

Resources

The College is committed to treating all individuals with dignity, care, and respect. All Amherst College community members who have been affected by identity-based discrimination or harassment and/or sexual misconduct have access to various forms of support through the College.

On-Campus Support for Students

Amherst College Health Services | 413-542-2266

Amherst College Counseling Center | 413-542-2354 (24/7)

Office of Identity & Cultural Resources | 413-542-5114

Office of Religious & Spiritual Life | 413-542-8149

Office of Student Affairs Administrator on Call | 413-542-2337 (after hours, by contacting ACPD dispatch at 413-542-2291)

Off-Campus Support for All Community Members | Sex/Gender Based Concerns:

Center for Women & Community | 413-545-0800 (24/7)

The Center for Women and Community (“CWC”) provides confidential 24/7 counseling to support victims of sexual violence, regardless of their sex or gender. CWC also provides advocates to support individuals before, during, and after sexual assault examinations.

Safe Passage | 413-586-5066 (24/7)

Safe Passage provides support, resources, and safety planning assistance to dating and domestic violence survivors of any sex or gender.

Confidential 24/7 hotline staffed with trained advocates.

Cooley Dickinson Hospital: 413-582-2000 (24/7)

Sexual Assault Nurse Examiner (SANE) available to conduct examinations

Individuals who would like to be supported by an advocate before, during, and after a SANE exam should contact the Center for Women and Community; see above.

(Student only) University Health Services - University of Massachusetts Amherst: 413-577-5000

Generally, open weekdays 8:00am to 8:00pm and weekends 11:00 am to 5:00 pm during the academic year.

Support for Employees:

Employee Assistance Plan | 800-828-6025

Amherst Omsbudperson: Larry Hunt | 413-542-5156

Preservation of Evidence:

The College encourages all individuals to seek assistance from a medical provider and/or law enforcement. This is the best option to preserve evidence and to begin a timely investigative and remedial response. The College will assist any College community member with safety concerns and will provide transportation to the hospital, coordination with law enforcement, and information about the College’s resources and complaint processes.

Confidential Resource Provider for Individuals Affected By Sexual Misconduct:

The College has designated Confidential Resource Providers to assist individuals affected by sexual misconduct to obtain information about resources, policies, and supportive measures, confidentially. The Confidential Resource Provider can provide information about:

reporting options and the effects of each option;

counseling services available on campus;

relevant off-campus services and resources;

supportive measures at the College;

formal resolution processes available at the College;

the legal process carried out through local law enforcement agencies; and

information about relevant court orders, like protective orders and College issued no contact orders

The Confidential Resource Provider will not disclose personal information without your consent.

Confidential Resource Provider:

Dean Gendron

Senior Associate Dean of Students

Keefe Campus Center

413-542-2337

dgendron@amherst.edu

Statement on Amnesty

The College encourages reporting and seeks to remove barriers to reporting. The College recognizes that a student who was drinking alcohol or using drugs at the time of an incident may be hesitant to make a report because of potential consequences for their own conduct under the *Student Code of Conduct*. Accordingly, a student who reports identity-based discrimination or harassment will not be subject to disciplinary action by the College for that student's own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. The College may, however, initiate an educational discussion or pursue other educational remedies regarding alcohol or other drug use.

Statement on Privacy

The College is committed to respecting privacy in responding to reported concerns of identity-based discrimination or harassment. Consistent with the Family Educational Rights and Privacy Act of 1974 ("FERPA"), information related to a report of discrimination or harassment will be shared with only those individuals who "need-to-know" the information in order for the College to properly assess and resolve the matter or as may be required by law.

Although the Review Team may choose to release aggregate statistics regarding implementation of this policy, no individually-identifiable information will be released by the College except as permitted by law or College policy.

If a report of identity-based discrimination or harassment discloses an immediate threat to the College campus community, the College may, in accordance with its obligation under the Clery Act, issue a Timely Warning notice of the conduct to the community in the interest of the health or safety of the broader campus community. Immediately threatening circumstances include, but are not limited to, reported incidents of recently occurring identity-based discrimination or harassment that include the use of force, a weapon, or other circumstances that may represent a serious and ongoing threat to College students, faculty, administrators, staff or visitors.

Statement Against Retaliation

Amherst College prohibits retaliation. Depending on the circumstances, retaliation may also violate applicable state and/or federal law.

Retaliation is any adverse action taken against a person because of their participation in the processes described in this policy. Such participation includes, but is not limited to: filing a report under this policy; providing information to, or otherwise cooperating with, the Review Team, Human Resources, or another College department; or supporting an individual in the process of resolving an allegation of discrimination or harassment and/or sexual misconduct. This policy's prohibition against retaliation applies to an individual reporting discrimination or harassment or sexual misconduct under this policy — even if the content of the report is later disproved — as long as the report was made in good faith.

The College recognizes that: retaliation can take many forms; retaliation can be committed by an individual or a group; and reporting parties, responding parties, and witnesses can both perpetrate and/or be the subject of retaliatory behavior.

Any Amherst College community member who believes that they have experienced retaliation is encouraged to report it to a member of the Review Team as soon as possible.

Glossary

As used in this policy, certain terms are defined as follows:

Bias Incident: Acts, not otherwise covered by this policy, that one could reasonably conclude stem from bias against the perceived or actual identity of a person or group, that cause harm to the person or to the larger community.

Consent: Where definitions of sexual misconduct (below) include the concept of consent, this policy incorporates the Statement on Consent from the College's Interim Title IX Policy.

Report: A disclosure of any information regarding alleged identity-based discrimination or harassment to the Review Team or to any person who subsequently shares the information with the Review Team.

Severe or Pervasive: The standard for determining whether alleged conduct relating to a person's protected identity is sufficiently severe or pervasive such that it creates a hostile academic or work environment depends on whether the complainant subjectively perceives the conduct to be intimidating, hostile or abusive and whether an objectively reasonable person in the same or similar circumstances would also find the conduct to be intimidating, hostile or abusive. Whether an environment is "hostile" is based on the totality of circumstances.

Sexual Misconduct: an incident of sexual violence, dating violence, domestic violence, gender-based violence, violence based on sexual orientation or gender identity or expression, sexual assault, sexual harassment or stalking that is not otherwise covered by the College's Interim Title IX policy. The following are prohibited forms of sexual misconduct:

Sexual Violence: Having or attempting to have sexual contact with another individual without consent. Sexual contact may include, but is not limited to: kissing; touching the intimate parts of another; causing the other to touch one's intimate parts; or disrobing of another without permission. Intimate parts may include the breasts, genitals, buttocks, mouth or any other part of the body that is touched in a sexual manner.

Relationship Violence: any violent or controlling behavior by a person who is currently or was previously in an emotionally, romantically, and/or physically intimate relationship with the Complainant. Relationship violence includes actual or threatened physical injury to self or others, sexual abuse, psychological abuse, economic control, displaying and/or threatening to use weapons, and/or progressive social isolation.

Sexual Exploitation: An act or acts committed through non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage or any other non-legitimate purpose.

Stalking: A course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

Contact Information

Laurie Frankl

Director for Civil Rights and Title IX Coordinator
Amherst College
Converse Hall, 103-E
Amherst, MA 01002
413-542-5707
Email: lfrankl@amherst.edu

Massachusetts Commission Against Discrimination

1 Ashburton Place
Suite 601
Boston, MA 02018
617-994-6000
Email: mcad@mass.gov

U.S. Department of Education, Office for Civil Rights

Lyndon Baines Johnson Department of Education Bldg.
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: (800) 421-3481
FAX: 202-453-6012; TDD: 800-877-8339
email: OCR@ed.gov

Boston Office, Office for Civil Rights

US Department of Education
8th Floor
5 Post Office Square
Boston, MA 02109-3921
Telephone: 617-289-0111
FAX: (617) 289-0150; TDD: (800) 877-8339
Email: OCR.Boston@ed.gov

Amherst College
220 South Pleasant Street
Amherst, MA 01002

(413) 542-2000