Policies Regarding:
Affirmative Action/Non-Discrimination and Sexual Harassment

Affirmative Action Policy

It is the policy and commitment of Fitchburg State University not to discriminate on the basis of race, color, religion, creed, age, gender, sexual orientation, gender identity, genetic information, disability, veteran status, marital status, or national origin in its educational programs, activities, admissions, or employment policies, and to comply 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 Act of 1972, Sections 503 and 504 of the Rehabilitation Act of 1973, Section 402, Vietnam Era Veterans Readjustment Assistance Act of 1974, the Civil Rights Restoration Act of 1988, the Americans with Disabilities Act of 1990 (ADA), the Civil Rights Act of 1991, and pertinent laws, regulations, and Executive Orders, directives of the Board of Higher Education of the Commonwealth of Massachusetts, the Commonwealth of Massachusetts, and other applicable state and federal statutes.

Inquiries concerning the application of, or compliance with, the laws and regulations prohibiting such discrimination should be addressed to:

Jessica Murdoch, Assistant Vice President, Human Resources and Affirmative Action
Designated Coordinator for Title IX, Section 504 and Title II of the ADA
(978) 665-3172.

For inquiries regarding sex, gender, disability, age, race, color and/or national origin, you may also contact:

U.S. Department of Education
Office for Civil Rights/ED
8th Floor
5 Post Office Square
Boston, MA 02109-3921
Telephone: (617) 289-0111
FAX: (617) 289-0150
TDD: 877-521-2172
Email: OCR.Boston@ed.gov

Prohibition Against Sexual Harassment

The Massachusetts State Universities prohibit any member of the university community, male or female, from sexually harassing another employee, student or other person having dealings with the institution. The universities are committed to providing a working, living and learning environment that is free from all forms of sexually abusive, harassing or coercive conduct. This policy seeks to protect the rights of all members of the university community (faculty, librarians, administrators, staff and students) and other persons having dealings with the institutions, to be treated with respect and dignity.

Sexual harassment is a form of behavior, which fundamentally undermines the integrity of academic and employment relationships. It is of particular concern within educational institutions where all members of the community, including students, faculty, librarians, staff and administrators, are connected by strong bonds of intellectual interdependence and trust. Both the Federal Courts and the Equal Employment Opportunity Commission have ruled that sexual harassment constitutes sex discrimination as defined under Title VII of the Civil Rights Act of 1964. Sexual harassment has also been judged to be prohibited sex discrimination under Title IX of
the Higher Education Amendments of 1972 as amended, and under Chapters 151B and 151C of the Massachusetts General Laws.

Definition and Description of Sexual Harassment

The Massachusetts State Universities, in response to the issue of sexual harassment, provide the following definition that applies to any individual of either sex who participates in the university community as a student, faculty member, librarian, administrator, staff member or other person having dealing with the institution:

Sexual harassment consists of unwelcome verbal, non-verbal and/or physical behavior of a sexual nature, which has the effect of interfering with a person’s academic, employment or other status, or of creating a sexually intimidating, hostile or offensive environment. Sexual harassment incidents can involve a male harasser and a female victim, a female harasser and a male victim, and also same gender harassment.

Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or education;
2. Submission to, or rejection of, such conduct by an individual is used as a basis for academic or employment decisions affecting that individual;
3. Such conduct has the purpose or effect of substantially interfering with an individual’s academic or professional performance or creating a sexually intimidating, hostile or offensive employment, educational or living environment.

Examples of sexual harassment may include, but are not limited to:

- Verbal harassment or abuse
- Subtle pressure for sexual activity
- Sexual remarks about an individual’s or group’s clothing, body or sexual activities
- Unnecessary touching, patting or pinching
- Demands for sexual favors accompanied by implied or overt threats or offers concerning one’s job, grades, letter of recommendation, etc.
- Physical sexual assault

Consensual Relationships

Under this policy of the Massachusetts State Universities, consenting romantic and sexual relationships between faculty and student, librarian and student, administrator and student, classified staff member and student or supervisor and employee are deemed unprofessional. Because such relationships interfere with or impair required professional responsibilities and relationships, they are looked upon with disfavor and are strongly discouraged under this policy.

Codes of Ethics for most professional associations forbid professional-client sexual relationships. In this context and for purposes of this policy, the professor-student relationship is properly regarded as one of professional and client. The respect and trust accorded a professor by a student, as well as the power exercised by the professor in giving praise or blame, grades, recommendations for further study and employment, and other benefits or opportunities diminish the student’s actual freedom of choice such that relationships thought to be consensual may in fact be the product of implicit coercion. Many elements of the administrator-student, librarian-student, classified staff member-student and the supervisor-employee relationship are similar to those of the professor-student relationship because of a similar imbalance of power and a similar need for trust. For purposes of this policy, therefore, these relationships are also discouraged and looked upon with disfavor.

Faculty, librarians, administrators, classified staff members and supervisors are warned against the dangers of apparently consensual relationships. A faculty member, librarian, administrator, or classified staff member who enters into a romantic or sexual relationship with a student, or a supervisor who enters into such a relationship with
an employee, where a power differential exists, must realize that, if a charge of sexual harassment is subsequently lodged, it will be exceedingly difficult to disprove the claim on the grounds of mutual consent. Because that is so, it should be understood that relationships of this kind pose serious professional risks to any who enter into them.

**Institutional Measures to Confront Sexual Harassment**

Whenever it has been properly determined that sexual harassment has occurred, the university will take prompt and corrective action including appropriate disciplinary action. In determining whether the alleged conduct constitutes sexual harassment, the university will look at the entire record and the circumstances, such as the nature of the sexual conduct and the context in which the alleged incidents occurred and will make a decision on a case-by-case basis. The universities are committed to promoting, to the greatest degree possible, an environment free from sexual harassment. To this end, the universities will take the following steps:

1. Distribute annually the policy statement against sexual harassment to all segments of the university community.
2. Conduct educational programs for the university community regarding the causes, character and consequences of sexual harassment as well as the steps available to stop such practices on the campus.

**Institutional Complaint Procedures**

The Massachusetts State Universities have established specific internal discrimination complaint procedures to help resolve claims and complaints of discrimination on the campus. These Procedures will serve as a system of review and resolution for both informal claims and formal complaints of discrimination. Any member of the university community and/or any applicant for employment who believes she/he has been a victim of discrimination, discriminatory harassment or retaliation may initiate an informal claim or formal complaint as outlined in the Discrimination Complaint Procedures.

Hard copies of the Discrimination Complaint Procedures are available in the Human Resources and Affirmative Action Office. The Discrimination Complaint Procedures are also available on our web site at www.fitchburgstate.edu on the Human Resources and Payroll Services page.

Further advice or information regarding the Universities Discrimination Complaint Procedures may be obtained by contacting Jessica Murdoch, Assistant Vice President, Human Resources and Affirmative Action, and Designated Coordinator for Title IX, Section 504 and Title II of the ADA, at (978) 665-3172.

**Retaliatory Action Prohibited**

The university prohibits retaliatory action against persons who file claims, complaints or charges under these procedures, under applicable local, state or federal non-discrimination statutes, who are suspected of having filed such claims, complaints or charges, who have assisted or participated in an investigation or resolution of such claims, complaints or charges, or who have protested practices alleged to be violative of the non-discrimination policy of the university, the Higher Education Coordinating Council, or local, state or federal non-discrimination regulation or statute. Such retaliation is cognizable under these procedures as well as under state and federal law. Retaliation, even in the absence of provable discrimination in the original complaint, charge or allegation, constitutes a violation as serious as proven discrimination under the original claim, complaint, charge or allegation. Any person who believes she/he has been retaliated against in this manner is encouraged to immediately file a claim or complaint under these procedures.

**Other Administrative Options**

It is the intent of Fitchburg State University to actively respond to all complaints of discrimination and/or harassment with the hope that it can fully, quickly and adequately resolve them internally. The university also recognizes the right of all complaining persons to file charges of unlawful discrimination and/or retaliation with the
appropriate federal or state agency without first pursuing an internal resolution of the complaint through the university’s discrimination complaint procedures.
These agencies include:

Massachusetts Commission Against Discrimination
Room 601
One Ashburton Place
Boston, MA 02108
(617) 994-6000
Fax: (617) 994-6124
TTY: (617) 994-6196

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

U.S. Equal Employment Opportunity Commission
John F. Kennedy Federal Building
475 Government Center
Boston, MA 02203
(800) 669-4000
Fax: (617) 565-3196
TTY: (800) 669-6820

U.S. Department of Education
Office for Civil Rights/ED
8th Floor
5 Post Office Square
Boston, MA 02109-3921
Telephone: (617) 289-0111
FAX: (617) 289-0150
TDD: 877-521-2172
Email: OCR.Boston@ed.gov