

6/6/24 [AllUnit] Title IX

Dear colleagues,

As you know, UMass Amherst recently instituted a new policy on Title IX. The MSP has serious concerns about the policy. We will be holding an open meeting for MSP members on **Wednesday, September 18 at noon** – more details and registration information are coming in a separate email. In the meantime, here is an update.

New federal guidelines state that all instructional faculty are “responsible employees” under the law, which means we are mandatory reporters when students or colleagues report sexual harassment or discrimination. However, the regulations do not provide details about the policies and procedures that institutions should implement. The law is clear that the implementation of the new Title IX rules must be negotiated with the unions, as this represents a significant change in our working conditions. The UMass Amherst administration has not negotiated with the MSP, GEO, USA, PSU, or AFSCME which is why we have filed charges with the Massachusetts Department of Labor Relations.

We believe that the new regulations are misguided in many ways, as they create a disincentive for students and colleagues to talk with faculty or staff about their most difficult and traumatic experiences. We also disagree on the question of what constitutes a disclosure of sexual harassment or discrimination. If a student mentions something in a seminar discussion, is that a disclosure that requires reporting? What if they speak out at an open mic? If they write something in a journal or creative essay? What if a faculty member runs a research survey and someone responds to a question about sexual assault? Broad legal definitions will unacceptably infringe our academic freedom and our students’ rights.

We have more questions that must be answered before we can act as “responsible employees.” If we report a possible incident, at what point does our report trigger a formal investigation? What is the process for anonymous reports? Will students be forced into processes that could harm them? Why is UMass choosing to include librarians and, in fact, all employees who need not be mandatory reporters under the new regs? Faculty and librarians have received no training about how to be “responsible employees” under the law. And our experiences with EOA have left us skeptical that their office will represent the best interests of students, staff, or faculty.

Let’s be clear: this debate is not about sexual harassment or discrimination. We all support gender equity in education and a safe campus for all. The question is who is legally liable. Forcing vulnerable individuals to report their experiences to the administration does not make the campus safer, as we have heard repeatedly from survivors of sexual harassment and violence, as well as our own experts in the field. The university simply wants to transfer legal liability away from the administration and onto individual staff and faculty members, with no clear process in place. That doesn’t make anyone safer; it makes us more vulnerable.

Since July, a court-ordered injunction is in place that specifically names UMass Amherst, which means that the federal government cannot enforce the new regulations on our campus. We now have plenty of time to negotiate processes, definitions, and training requirements.

While the legal issues are being debated, MSP members are in a confusing position. We have a clear dictate from the administration: report all incidents (with no clear guidance about what to tell our student, what exactly counts as a reportable incident, or what happens when we report it). At the same time, we have strong protections in our contract, including language on academic freedom that states that faculty cannot be required to disclose certain kinds of information. While the court injunction is in place, the administration should negotiate with the MSP about how to reconcile these conflicting priorities.

The MSP does not want our members to violate the law or university policy, and we also don't want you to violate your conscience, your students' confidence, or your colleagues' trust. If you are told about an incident that concerns you, we urge you to talk with the union.

MSP leaders and staff are a confidential resource to our members, so you can share any details with us confidentially. We can help you think about what constitutes a reportable incident, we can provide support and guidance, and we can connect you with an attorney at no cost if necessary. We hope to negotiate these policies and procedures with the EOA office soon.