

## 8/13/24 [AllUnit] Title IX policies and processes

Dear Colleagues,

Last week, you received an “important update” from Associate Vice Chancellor Kerri Tillett, about the university’s new approach to Title IX. The MSP strongly disagrees with the administration’s plans and their failure to negotiate in good faith with the union, so we are filing “unfair labor practice” charges with the Massachusetts Department of Labor Relations to stop the administration from implementing policies that will harm faculty, staff, and students. Here is the background.

This spring, the federal Department of Education adopted new guidelines for reporting sexual harassment or sex-based discrimination under Title IX. The MSP absolutely supports the intent of Title IX, which is to eliminate sex-based discrimination in education. And some of the new rules are welcome, including a broader definition of discrimination that includes protection for LGBTQ, non-binary, and pregnant people, for example. However, we have serious concerns about specific aspects of the new policies:

1. Making all faculty and staff mandatory reporters (“responsible employees” in the DOE’s terminology) is harmful to students and faculty. When students come to us with questions about something that happened to them, or something they witnessed, we are now being told to stop them from disclosing anything, and to let them know that if they tell us their experiences, we will have the legal obligation to formally report them to the Associate Vice Chancellor’s office. Students will not have the option of having a confidential conversation with a trusted faculty member – even if the faculty member is an expert on sexual harassment or discrimination. Furthermore, any disclosures in student work (including journals, papers, or reading responses) will have to be reported to the administration, even if the student asks us not to share their words. This is infantilizing; it creates a serious legal liability for faculty and staff; and it imposes a dangerous climate of fear where students remain silent about their experiences.
2. The UMass administration had the responsibility to negotiate the implementation of the new regulations with the MSP and the staff unions. They cannot unilaterally change our working conditions. Any mandatory trainings for responsible employees will have to be negotiated as well. The administration’s failure to negotiate a new Title IX policy is the basis of the MSP’s legal charges at the state level.
3. Subsequent to the release of the new regulations, but before the implementation deadline, a court order issued an injunction preventing most universities from implementing the new regulations as written. UMass Amherst was on that list, and therefore the university should not yet be implementing the new rules.
4. The MSP has very serious concerns about the Equal Opportunity and Access (EOA) office that oversees Title IX on our campus. In just the past year, faculty members have been subject to outrageous “investigations” under university policies, based on a single complaint by one student or colleague. In each case, the Title IX office did not investigate complaints in a timely manner,

instead taking a full year or more to investigate a complaint. These delays deprive the complainant of justice and deprive the respondent of due process under the law. Given these serious problems, we have grave concerns about how complaints will be handled by the University under the new regulations.

We do want to reassure you that the MSP remains a confidential advisor to our members, as always. You have the right to talk confidentially with your union staff and leaders if you have any questions or concerns. Given our experience, we strongly encourage you to talk with MSP before engaging with the EOA office around any Title IX issues.

We will update you as our legal charges are heard at the state level, and we remain hopeful that the administration will fulfill their legal obligation to negotiate new policies and procedures with the MSP.