Diversity & Nondiscrimination in the Classroom

Office of Equal Opportunity
Disability Support Services
Division of Student Life
Office of Sexual Assault & Violence Prevention
Step 1: Reach Out for Help

Who are we and when do you call us?
Student Behavioral Expectations

- UMPD (911 or 581-4040)
- Dean of Students (581-1406)
- Counseling Center
- Student Behavior Review Team (581-1406)
  - Charge and Role
  - What to Report/Then What Happens
  - Questions/Consultations
  - Resources
Student Behavioral Review Team

UMaine SBRT Case Flow Process

Concern Reported to Team

Reachback Interview With Reporting Party

Initial Review Process
Collect Initial Review Information

Doesn't Meet Criteria: Refer to Partners

Meets Criteria

Open Threat Assessment Case
Collect Deep Dive Information, Conduct Threat Assessment, Design Management Plan

Leverage Threat Management Partners
Update Assessment & Management Plan

Other UMaine Campus Offices
Other Law Enforcement, Other Services
Step 2: Do Not Discriminate

- Protected Criteria . . .
  - Race/Color
  - Sex (gender identity, gender expression, sexual orientation, pregnancy)
  - National Origin
  - Religion
  - Age
  - Pregnancy
  - Disability
  - Veteran Status
  - Genetic Information
Some are less obvious than others . . .

• For example,

- Maine law defines disability as a physical or mental impairment that:
  - (1) Substantially limits one or more of a person's major life activities
  - (2) Significantly impairs physical or mental health
  - (3) Requires special education, vocational, rehabilitation, or related services
Also . . .

- Per se disabilities: Absent, artificial or replacement limbs, hands, feet or vital organs; alcoholism; amyotrophic lateral sclerosis; bipolar disorder; blindness or abnormal vision loss; cancer; cerebral palsy; chronic obstructive pulmonary disease; Crohn's disease; cystic fibrosis; deafness or abnormal hearing loss; diabetes; substantial disfigurement; epilepsy; heart disease; HIV or AIDS; kidney or renal diseases; lupus; major depressive disorder; mastectomy; intellectual disabilities; multiple sclerosis; muscular dystrophy; paralysis; Parkinson's disease; pervasive developmental disorders; rheumatoid arthritis; schizophrenia; and acquired brain injury

- Also includes having a record of, or being regarded as having or likely to develop a disability
And . . .

• Sexual Orientation: homosexuality, bisexuality, heterosexuality (actual or perceived), \textbf{AND}

• Gender Identity: An individual’s gender-related identity, whether or not that identity is different from that traditionally associated with that individual’s assigned sex at birth, including, but not limited to, a gender identity that is transgender or androgynous
  – One’s inner concept of self as male or female or both or neither

• Gender Expression: The manner in which an individual’s gender identity is expressed, including, but not limited to, through dress, appearance, manner, speech, or lifestyle, whether or not that expression is different from that traditionally associated with that individual’s assigned sex at birth
  – The external communication of one’s gender identity

• Be Sure to Use Preferred Names on Rosters!
Activities also may be protected . . .

• For example, if:
  – An individual raises a complaint that he or she was discriminated against; or
  – An individual participates in an investigation of a complaint of discrimination;

• The individual may not be retaliated against because of these actions

• Note: See also University policy on Reporting Wrongdoing
Discrimination 101

• Classic Example = Discrimination

  – Treating someone differently (e.g., refusing to hire, firing, demoting, giving a bad grade, etc.)

  – Because of . . .

  – A protected criteria or a protected activity
But also discrimination if . . .

• Discriminatory Harassment - Hostile Environment
  – Harassment that is severe or pervasive enough to alter the terms and conditions of employment or educational experience because of a protected criteria (race, disability, veteran status, sexual orientation, sex etc.)

• The more severe the behavior the less often it must occur to create a hostile environment, and vice versa

• Important Note: Harassment does not need to reach the level of a hostile environment to get you into lots of trouble!!!
Most Common Form of Harassment = Sexual

- Sexual harassment can include harassment based on gender, such as:
  - a pattern of demeaning jokes or comments about women or men
  - or exclusionary behavior that negatively impacts the terms or conditions of an individual’s employment or education

- Sexual harassment is also unwelcome conduct of a sexual nature
Wide Spectrum of Behavior Included

- Wide spectrum of behavior can be considered sexually harassing – includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature

- May include off-campus and off-hours behavior if the behavior has a connection to the work or educational environment
What behaviors can lead to claims of sexual harassment?

- Verbal:
  - e.g., sexual or highly personal comments, repeated requests for dates, jokes based on sex or gender, detailed or suggestive comments about appearance

- Non-verbal conduct:
  - e.g., winking, lingering glances/staring, posting of sexual pictures (screen savers), gifts of a personal nature

- Physical contact:
  - e.g., patting (especially on leg, etc.), hugging, blocking movement, shoulder rubs, standing too close to another, blocking doorways
How About in Role as a Teacher?

• How is this different?
• Power differential dramatically changes the equation
  – Do not think of your students as peers; they do not think of you that way.
• Would repeated requests for date would be required before the situation was problematic?
• What about a request to go for a cup of coffee?
• What about visiting students in your class in their rooms?
• What about a Facebook friend request?
• Boundaries are crucial . . .
What is the problem?

• **Quid pro quo**
  
  – Conditioning favorable treatment on a subordinate’s agreement to provide sexual favors; e.g., telling a student that you will give him/her an A if he/she kisses you
  
  – Threatening unfavorable treatment if a subordinate refuses sexual favors; e.g., telling a student that you will fail him/her if he/she refuses to go on a date with you
Consenting Relationships Guidelines

• What is the issue?
  – Romantic or sexual relationships between those with a professional power differential may result in:
  – Complaints of quid pro quo sexual harassment
  – At the very least, complaints of favoritism from other students

• Guidelines established by University of Maine System
  – Entering into such a relationship with someone over whom you have authority is strongly discouraged by policy
  – If in a consenting relationship, need to act promptly to eliminate the conflict of interest—must contact your supervisor promptly to disclose the relationship and ensure any conflict of interest created by the relationship is addressed appropriately
Sexual Harassment and Criminal Conduct

- Sometimes criminal conduct may also be a form of sexual harassment.

- For example, sexual assault would be a severe incident of unwelcome conduct of a sexual nature which could create a hostile environment.

- Other criminal behavior that may also constitute sexual harassment are stalking and relationship abuse (dating violence and domestic violence).
Sexual Assault

- Sexual assault means an offense that meets the definition of rape, fondling, incest, or statutory rape.

- For full definitions, please see University of Maine Policy and Procedure on Sex Discrimination, Sexual Harassment, Sexual Assault, Relationship Violence, Stalking and Retaliation.
**Dating and Domestic Violence**

- Dating violence is violence committed against a person by an individual who is or has been in a social relationship of a romantic or intimate nature with that person.

- Domestic Violence is a felony or misdemeanor crime of violence committed—
  - By a current or former spouse or intimate partner of the victim;
  - By a person with whom the victim shares a child in common;
  - By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner or by someone who is similarly situated to a spouse of the victim, or
  - By any other person against an adult or youth victim who is protected from that person’s acts under domestic or family violence laws.
Consent – “Yes means yes”

• Consent must be informed, freely and actively given, and consist of a mutually agreeable and understandable exchange of words or actions

• Consent is clear, knowing and voluntary

• Consent is active, not passive
  – Silence, in and of itself, cannot be interpreted as consent.
  – Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and conditions of) sexual activity
When “Yes” Is Not Enough . . .

• Any consent that is given is invalid or moot when:
  – the exchange involves unwanted physical force, coercion, intimidation, and/or threats
  – If an individual is mentally or physically incapacitated or impaired such that one cannot understand the fact, nature or extent of the sexual situation, and the incapacitation or impairment is known or should be known to a reasonable person, there is no consent
  – This includes conditions resulting from alcohol or drug consumption, or being asleep or unconscious

• Maine law provides further information about when consent is not adequate
• Sexual misconduct includes, but is not limited to:
  – prostituting another
  – nonconsensual image capturing of sexual activity
  – presentation or unauthorized viewing of a nonconsensual videotaping of sexual activity
  – letting others watch you have sex without the knowledge or consent of your sexual partner
  – possession of child pornography
  – peeping tommerly
  – knowingly transmitting an STD or HIV to another person
Stalking

• Stalking is intentionally or knowingly
  – engaging in a course of conduct
  – directed at or concerning a specific person
  – that would cause a reasonable person to suffer serious inconvenience or emotional distress
Bystander Intervention

5 Step Model for Bystander Intervention

1. Notice the event
2. Interpret the event as an emergency
3. Assume responsibility
4. Know appropriate form of assistance
5. Provide help

Latané & Darley (1970); Nickerson, Aloe, Livingston, & Feeley (in press)
Mandatory Reporting

• As a student employee, if within the scope of your employment, you
  – witness or are told about possible sexual discrimination (which can include sexual harassment, sexual assault, stalking, and relationship abuse)
  – that involves members of the University community

• You MUST report what you observed or are told to appropriate University officials
“Who You Gonna Call?”

• If you witness criminal conduct while it is occurring or perceive an immediate threat to the safety of the campus - call 911

• Otherwise, if you learn of (reported to you or witnessed) sexual discrimination (including sexual harassment, assault, dating/domestic violence, and stalking) involving members of the University community
  – Report incidents of sexual discrimination by students to the Office of Sexual Assault and Violence Protection at 581.1406
  – Report incidents of sexual discrimination by employees or other non-students to the Office of Equal Opportunity at 581.1226
What information must be reported?

• Whatever you know

• You will need to report all relevant details about the alleged sexual discrimination or violence that the University will need to determine what happened—including
  – the names of those involved
  – the identity of any witnesses
  – any other relevant facts, including the date, time and specific location of the alleged incident

• Note: You do not need to ask questions to collect this information.
Respecting Privacy

• To the extent possible, information reported should only be shared with those responsible for handling the University’s response to the report.

• Unless you perceive an immediate danger, you should not share information with law enforcement without the student’s consent, unless the student has already reported to the law enforcement or you are otherwise required to do so by law.
  – You should encourage the student to make a report to police and offer to connect the student with support services for doing so.
  – Suggest that he or she preserve any evidence of a possible crime to share with police at a later date if the person does not wish to go right away.
What about confidentiality?

- If possible, you should try to ensure that students understand your reporting obligations before they reveal information to you that you are required to report
  - Language about mandatory reporting and resource information MUST be included on your syllabus – see http://umaine.edu/upcc/forms/

- If the student wants to maintain confidentiality, you should direct him or her to confidential resources (but anything reported to you before this must be reported)

- For confidential resources on campus: Counseling Center: 207.581.1392 or Cutler Health Center: at 207.581.4000

- For confidential resources off campus: Rape Response Services: 1.800.310.0000 or Spruce Run: 1.800.863.9909
Confidentiality Requests

- However, once a disclosure is made, you are required to report even if the student would prefer to maintain confidentiality.

- You should inform the student that the University will consider her or his request for confidentiality, but cannot guarantee that the University will be able to honor it.

- If a student has requested confidentiality, you should share this information when you make the report.
How Does the University Decide?

• The University will weigh the individual’s request for confidentiality against the institution’s obligation to provide a safe, nondiscriminatory environment for all students.

• If the University determines that it can maintain confidentiality, the student must understand that the institution’s ability to meaningfully investigate the incident and pursue disciplinary action, if warranted, may be limited.

• Although rare, there are times when the University may not be able to honor a student’s request for confidentiality because doing so would pose a risk to its ability to provide a safe, nondiscriminatory environment.

  — If the University determines that it cannot maintain confidentiality, the University will advise the student, prior to starting an investigation and, to the extent possible, will share information only with those responsible for handling the institution’s response.
What Happens Once a Report is Made?

- An employee from the Office of Sexual Assault & Violence Prevention or the Office of Equal Opportunity will reach out to the student and offer support, resources, and information.

- The student will be invited to meet with the employee to discuss the situation and the various options available to him or her.

- The University can offer a number of different services to individuals involved in a report of sexual discrimination including: housing changes, academic accommodations, no-contact orders, advocacy services, and information about the internal complaint procedures.

- For more information, please see the Office for Sexual Assault & Violence Prevention website.
What to Do if You are Being Harassed?

- If someone in the University community engages in harassing behaviors toward you
  - Of course, you can address situation yourself
    - Change your interactions with that person -- become more formal or physically step away from someone who is standing too close to you
    - Directly and honestly address the situation with the person
• BUT, if you are not comfortable approaching the situation directly or your efforts are unsuccessful
  • Bring the situation to University officials for help
    • If the person discriminating against you is a student, contact the Office of Sexual Violence Prevention, 581.1406
    • If the person discriminating against you is an employee or other non-student, contact the Office of Equal Opportunity, 581.1226
  • Various options available from an informal approach to a formal investigation, depending upon the circumstances
  • For more information, see the Equal Opportunity Complaint Procedure in your materials.
What other conduct could be discriminatory?

• Failure to Reasonably Accommodate
  • The University must provide reasonable accommodations to qualified individuals to enable them to participate in our workplace, educational programs, or other services
  • Questions regarding religious or gender identity/expression accommodations should be referred to the Office of Equal Opportunity at 581.1226
Accommodations for Students with Disabilities

• The University has designated Student Accessibility Services (SAS) located in East Annex, as the office that coordinates services for students with disabilities

• SAS can be reached at 581.2319 or um.sas@maine.edu

• Students with disabilities requesting accommodations must provide documentation to SAS staff unless the disability and the need for accommodation are readily apparent

• Students are also required to meet with SAS staff
What is a “reasonable” accommodation?

• A student’s request for accommodation would be considered reasonable if it
  – Is based on documented or obvious individual needs
  – Allows the most integrated experience possible
  – Does not compromise essential requirements of a course or program
  – Does not pose a threat to personal or public safety
  – Is not considered a personal service

• Fortunately for you, you don’t need to make this decision
What Should I Do with a Student Request?

- When a student brings an accommodation letter from Student Accessibility Services to an instructor, the professor is expected to work with the student and SAS to put the required accommodations in place.

- If a student requests an accommodation without an official letter of accommodation from SAS, we ask that faculty refer the student to:
  - Student Accessibility Services, 121 East Annex
  - Phone 581.2319
• How will I even know if a student is requesting an accommodation?
• Student may not say “I need an accommodation for my disability.”
  • More likely:
    • “I can’t do _____ because of [some physical or mental condition].”
    • “I need _____ because of [some physical or mental condition.]”
• When in doubt, reach out for assistance from Student Accessibility Services
Syllabi Information about Disability Accommodations

• Be sure to include information regarding accommodations in your syllabi. That language reads:

  • “If you have a disability for which you may be requesting an accommodation, please contact Student Accessibility Services, 121 East Annex, 581.2319, as early as possible in the term. Students who have already been approved for accommodations by SAS and have a current accommodation letter should meet with me (the instructor of the course) privately as soon as possible.”

• Umaine.edu/studentaccessibility/information-for-faculty/
Accessibility of Course Materials

• Students with disabilities must be able to access course materials in a manner that is equally effective to the way it is accessed by students who do not have disabilities.

• Designing course materials with accessibility in mind allows the University to meet its obligations to students with disabilities in a timely way.
Print Materials

• Through Student Accessibility Services, almost all textbooks can be provided in an alternative format to students with visual impairments or other print-related disabilities.
   - It is important, however, that you designate a textbook well before the start of the semester so that SAS can make arrangements to get the text in an alternative format.

• If you are providing other written materials for students to read, please be sure that these are also available in an electronic format that can be read by a screen reader or otherwise converted by SAS into some other alternative format.
If you will be using a video in your classroom or on-line, check to be sure that it has captioning available.
How to make a complaint of discrimination

- Internally: Contact the Office of Equal Opportunity
  - University of Maine EO Complaint Procedure
    http://www.umaine.edu/eo/policy/complaint-internal.htm
  - Informal Process
  - Formal Process
External Options

• External Agencies also have processes for complaints of discrimination –

  • Maine Human Rights Commission - [www.maine.gov/mhrc](http://www.maine.gov/mhrc)

  • Equal Employment Opportunity Commission - [www.eeoc.gov](http://www.eeoc.gov)

Thank you!