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# Navigating Complex Relationships For Faculty

Massachusetts College of Liberal Arts

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# Agenda

- FERPA and Student Privacy
  - Guidelines for Faculty
- Discrimination, Harassment and Retaliation
- Sexual Harassment
  - Title IX Obligations
  - Consensual Relationships
- Responsibility to Report Certain Behaviors
- Liability for Unlawful Behavior
- How to Handle Complaints
- Where to go for Help
- Discussion Scenarios

# Sources of Students' Privacy Rights

- U.S. & Massachusetts Constitutions
- Massachusetts Law, M.G.L. c. 214
- Common Law (Invasion of Privacy)
- FERPA
  - The Family Educational Rights and Privacy Act protects students' privacy rights in their own college records.
  - The law is commonly known as FERPA or the Buckley Amendment.

# What Does FERPA Provide?

- Students have the right to know the purpose and content of their education records, and which college offices maintain those records.
- Students have the right to request changes be made to education records.
- Students have the right to have some **control** over the disclosure of information from education records.
- Students have a right to expect that their education records will be kept **confidential** and disclosed only with their **permission** or under provisions of the **law**.

# FERPA: Who Has Rights?

- In k–12, the parents or legal guardians have FERPA rights
- Once students are enrolled in college, the ***student*** has FERPA rights, regardless of the student's age
  - the rights continue to exist after graduation and expire only upon the student's death
  - education records may not be provided to parents without the prior written consent of the student, even if the student is a minor
- Parents of college students have no general right to see their children's records
- FERPA permits, but does not *require*, the college to disclose a student's education records to his or her parents if that student is a dependent for tax purposes

# What are Education Records under FERPA?

“**Education records**” are

- **records**, files, documents, and other materials that contain information directly related to a **student** and
- that are **maintained** by an educational agency or institution or by a person acting for such agency or institution.

“**Records**” are any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche

“**Student**” means any individual who is or has been in attendance; not applicants

“**Attendance**” means attendance in person or by correspondence (including online coursework)

“**Maintained**” means records that are in the possession, custody, or control of any employee or agent of the college

# Education Records

“**Directly Related**” personally identifiable information includes:

- the student’s name;
- the name of the student’s parent or other family member;
- the address of the student or student’s family;
- a personal identifier, such as the student’s social security number or student number;
- a list of personal characteristics that would make the student’s identity easily traceable; or
- other information that would make the student’s identity easily traceable.

# Education Records

Education  $\neq$  Academic

Education records include transcripts, exams, tests, papers, and the like, but they also include:

- financial aid and account records
- disability accommodation records
- disciplinary records, including complaints
- photographs
- records that are publicly available elsewhere
- information that the student has publicly revealed

**In short, “education records” include virtually any information about a student in any record that is in the hands of any institutional employee or agent.**



# What is Not an Education Record?

1. Records kept in the **Sole Possession** of the maker of the records and are used only as a personal memory aid (such as grade books).
2. Records created by the **Law Enforcement** unit of the college, created for law enforcement purposes, maintained by the unit, and not shared outside the unit.
3. **Employment Records** related exclusively to the individual in his/her capacity as an employee.

Exception: records of a person who is employed by the college as a result of his/her status as a student, such as graduate assistants and work-study students.

4. **Alumni Records** containing information about a person after s/he is no longer a student at the college (*e.g.*, information pertaining to alumni accomplishments and which does not “relate back” to the person’s enrollment).
5. **Medical Records** made or maintained by a physician, psychologist, psychiatrist, or other recognized professional or paraprofessional acting, made or used only in connection with treatment of the student, and disclosed only to persons providing the treatment.

## **Disclosures of Education Records**

A student's dated, written consent is required before the college may disclose the student's education records **UNLESS** a statutory exception applies.

Even then, nearly all disclosures under FERPA are permissive, not mandatory.

## Consent Exception: Directory Information

FERPA identifies a category of information as “directory information,” which the college may release **without** student’s consent.

At MCLA, directory information includes:

student’s name	MCLA mail box number
campus email address	home address
date of birth	major and minor fields of study
dates of attendance	enrollment status (FT/PT)
photograph	date of actual or expected graduation
participation in college-sponsored activities	weight and height of athletes
degrees, honors and awards received (including non need-based scholarships)	

## Consent Exception: Disclosures to School Officials

The college may disclose an education record without a student's consent if the disclosure is to “**school officials . . . whom the . . . institution has determined to have legitimate educational interests.**”

“**School Officials**” are:

- persons employed by the college;
- a person or company with whom the college has contracted to provide a service (such as an attorney, auditor, or collector);
- a person serving on the Board of Trustees; or
- a student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

A school official has a “**legitimate educational interest**” if s/he needs to review an education record in order to fulfill his or her professional responsibilities for the college.

## Other Permitted Non-Consensual Disclosures

- To other schools in which the student **seeks to enroll** at the request of the student or the school;
- To certain **government** agencies, educational authorities, auditors and accrediting organizations;
- In connection with a student's **financial aid**;
- To comply with a **judicial order** or lawfully issued **subpoena**;
- To parents of **dependent** students (defined by the IRC);
- To appropriate parties in a **health or safety emergency**;
- To the alleged **victim** of any crime of violence or forcible sexual assault the results of any disciplinary proceedings conducted by the college; and
- The college may disclose the result of a disciplinary proceeding to a parent/guardian as long as the student is under the age of 21 at the time of the incident and the proceeding has resulted in a **violation of college drug or alcohol policies**, or any federal, state, or local law.

## Personal Observations and First-Hand Knowledge

- **FERPA = Records**
- FERPA covers education records, not observations.
- If a college employee develops a concern about a student based on the employee's observations of or personal interactions with the student, the employee may disclose that concern to anyone without violating, or even implicating, FERPA.
- If you know something about a student independent of a record regarding that student, that knowledge is not governed by FERPA.

## FERPA Enforcement and Penalties

- Enforced by Family Policy Compliance Office (“FPCO”) of the U.S. Department of Education
- The ultimate penalty: withholding of federal funding
- There is no private right of action (a student cannot sue the college for a violation of FERPA)

## FERPA Guidelines for Faculty

- **DO** refer all subpoenas, summons, legal and other requests for information from educational records to the Registrar.
- **DO** secure all papers or lab reports containing student names and grades. Students should not have access to the scores and grades of others in the class.
- **DO** properly dispose of all documents that contain MCLA IDs.
- **DO** use blind copies when e-mailing groups of students.
- **DO** keep only those student records necessary for the fulfillment of your teaching and advising responsibilities. (Private notes = sole possession records).
- **DO** remember that medical, mental health, and law enforcement records should not be put in the student's file with the student's education records.
- **DO** remember that a violation of FERPA by a faculty or staff member could result in the termination of eligibility to receive funding under any applicable federal program, including student loans.



# FERPA Guidelines for Faculty

- **DO NOT** share information from a student's education record with any other student under any circumstances.
- **DO NOT** share student educational records with other faculty or staff members unless their official responsibilities identify their legitimate educational interest in that information for that student.
- **DO NOT** request information about a student's educational record without a legitimate educational interest and the appropriate authority to do so.
- **DO NOT** share information from a student's education records with parents or others outside the institution without: **(1)** written permission from the student, **AND (2)** consulting a supervisor.
- **DO NOT** display student grades publicly in association with names, SSNs or other personal identifiers. If grades are posted, use a code known only to you and the students.
- **DO NOT** include MCLA IDs in the subject line of an e-mail message, or on any document mailed by surface mail where the MCLA ID is visible.
- **DO NOT** circulate printed class lists containing non-directory information such as, MCLA IDs, for purposes of taking attendance. Use only blank "sign in" sheets.

**WHEN IN DOUBT**, contact the Registrar for guidance.

# Discrimination, Harassment and Retaliation

Under MCLA policy, federal and state law, all MCLA employees and students have the right to work in an educational environment free of discrimination, harassment and retaliation on the basis of the following personal characteristics:

Age

Disability

Religion/Creed

Race/Color

National Origin

Veteran Status

Gender/Sex

Sexual Orientation

Gender Identity

Gender Expression

Genetic Information

## What are the Goals of MCLA's Anti-Discrimination Policies?

- To **prohibit** discrimination, harassment and retaliation.
- To **prevent** the occurrence of discrimination, harassment and retaliation.
- To timely **address** complaints of discrimination, harassment and retaliation.
- To **comply** with the laws regarding workplace and educational discrimination, harassment and retaliation.

# MCLA's Affirmative Action Plan and Discrimination Complaint Procedures

- The state universities maintain a common **Affirmative Action Plan (AAP)** that governs:
  - the hiring and employment of all employees; and
  - the student's right to a non-discriminatory educational environment.
- The AAP contains **Discrimination Complaint Procedures (DCP)** that are available to students, employees, and applicants for admission and employment who believe they have been treated unfairly based upon any protected characteristic and/or who believe they have been the victim of retaliation.
- At MCLA, MaryEllen Olenyk is the **Director of Affirmative Action** responsible for the implementation and enforcement of the AAP.

(413) 662-5599 [m.olenyk@mcla.edu](mailto:m.olenyk@mcla.edu)

## **The Laws and MCLA Policies Prohibit Discrimination Against and the Harassment of:**

Students	by	Students
Faculty/Staff	by	Faculty/Staff
Students	by	Faculty/Staff
Faculty/Staff	by	Students
Faculty/Staff/Students	by	Third Parties
Third Parties	by	Faculty/Staff/Students

# What is Discrimination?

Discrimination means: treating an individual differently than others who are not of the individual's protected class

- providing new sports equipment to men's teams and only used equipment to women's teams
- referring to male students by name but female students by "sweetie" or "honey"
- hiring only those under 40 for faculty positions
- denying promotions to black assistants but promoting white assistants
- evaluating homosexual faculty less favorably than heterosexual faculty

# Harassment:

## It is A Lot More Than an Inability to Get Along

- Harassment often, but not always, involves a **power imbalance**: faculty/student, supervisor/employee, administrator/student
- A work or academic environment is not hostile unless it involves:
  - **unwelcome** conduct that **unreasonably interferes** with an individual's employment or studies
- **OR**
  - creates an **intimidating** or **hostile** employment or academic environment,
- **AND**
  - the conduct is based on the target's **protected class** status as defined by MCLA policy or law.
- Unless the conduct is egregious, a single or isolated incident of offensive conduct is unlikely to create a hostile environment. A **pattern** of conduct is necessary to establish hostility
- Hostile environment harassment is **not limited** to sexual harassment.

# What Forms of Behavior or Conduct Might Harassment Take?

## **Verbal**

- Telling off-color jokes about a person's sexual orientation

## **Nonverbal**

- Mocking a person's physical disability by imitating the way s/he moves

## **Visual**

- Displaying racially offensive materials, such as cartoons or pictures

## **Physical**

- Hugging or kissing, back rubs, forced sexual contact, assault, rape

## **Written**

- Circulating sexually offensive emails



## Harassment and Classroom Behavior

- X Making suggestive remarks about a student's attire or appearance
- X Talking about your personal romantic or sexual exploits
- X Invoking stereotypes/making jokes based on classification (Asians are good at math; women are overly-emotional; Vietnam veterans are all crazy)
- ~ *Using of profanity or inappropriate language in class?*
- ✓ **Have a pedagogic, academic purpose for what you say to your students.**
- ✓ **There is no academic freedom to violate a student's right to a harassment-free educational environment.**

## What About Retaliation?

- Retaliation is unlawful in both employment and academics.
- Retaliation against the following is prohibited:
  - Individuals who file complaints;
  - Individuals who participate in an investigation; and
  - Individuals who openly oppose discrimination or harassment.
- Retaliation is a separate policy violation at MCLA and will be disciplined separately.
  - Even in the absence of provable underlying discrimination, retaliation constitutes a violation as serious as proved discrimination.
- Individuals and groups of persons can be liable for retaliation.

## Retaliation in Real Life on Campus

- Publicly scorning/badmouthing a complainant.
- Refusing to speak to or shunning a witness in a discrimination investigation.
- Giving only unpopular assignments to a person known to vocally oppose discrimination.
- Refusal to provide a recommendation for a complainant.
- Negatively grading a complainant.
- Demoting or involuntarily transferring a complainant.
- Professionally isolating or sabotaging a complainant.

# Sexual Harassment

While all forms of discriminatory harassment are prohibited, sexual harassment requires particular attention.

- Sexual harassment is a form of behavior that fundamentally **undermines the integrity** of academic and employment relationships.
- Sexual harassment includes sexual assault, rape and other forms of **sexual violence**.
- Sexual harassment **violates MCLA policy**.
- Sexual harassment is **unlawful** under Title VII of the Civil Rights Act of 1964, Title IX of the Higher Education Amendments of 1972, M.G.L. chapters 151B and 151C, and other state and federal laws.

# What Exactly is Sexual Harassment?

1. Conduct of a **sexual** nature;
2. That is **unwelcome**; and
3. That **denies or limits** an individual's ability to participate in or receive the benefits, services or opportunities of the school's programs or activities

**OR**

**unreasonably interferes** with an individual's employment or studies

**OR**

creates an **intimidating or hostile** employment or academic environment.

## What is “Unwelcome” Conduct?

- To be unwelcome, the conduct must not be solicited or invited, and the complainant must have regarded the conduct as undesirable or offensive.
- The relevant consideration is the impact on the recipient of the behavior.
- A recipient of the behavior need not make a contemporaneous complaint or protest for the conduct to be unwelcome.

## What is “Conduct of a Sexual Nature?”

It can be many things, including, for example...

- Unwelcome sexual advances
- Requests for sexual favors
- Comments about an individual’s body
- Sexually suggestive touching, vocal sounds, obscene gestures and/or comments
- Sexual assault, including rape
- Comments based on gender-stereotypes

# What is the Standard of Review for Sexual Harassment?

**Subjective** for the person who is the victim of the behavior

AND

**Objective** for a third party fact finder (MCLA AAO, court, or administrative agency).

## What are the Relevant Factors to Consider?

- Was the conduct severe or pervasive?
- Was the conduct repeated?
- What was the duration of the conduct?
- What was the type of conduct?
- What is the relationship of the parties?
- What was the location of the conduct?
- What is the impact on access to programs or activities?
- Was physical conduct or sexual violence involved?



# What About Consensual Relationships?

From MCLA's Policy Against Sexual Harassment:

“Under this Policy, consenting romantic and/or 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.”

## Sexual Harassment and Title IX

Title IX of the Higher Education Amendments of 1972 **prohibits** any person from being:

- (1) excluded from participation in,
- (2) denied the benefits of, or
- (3) subjected to discrimination with respect to

any education program or activity on the basis of sex/gender.

**What does “education program or activity” include?** *Everything.*

**Who is covered by Title IX?** *Nearly Everyone.*

- Students
- Faculty/staff
- Third-parties if there is an impact on access to education programs/activities

## What Does Title IX Require?

- MCLA **must** designate at least one employee to coordinate its efforts to comply with Title IX (“Title IX Coordinator”);
- MCLA **must** notify its students and employees of the name, office and telephone number of the designated coordinators;
- MCLA **must** adopt and publish grievance/complaint procedures providing for prompt and equitable resolution of student and employee complaints alleging gender-based misconduct; and
- MCLA **must** implement specific and continuing steps to notify applicants, students, employees and others that it does not discriminate on the basis of sex in the educational programs and activities that it operates.

# Why are We Talking About Title IX?

## -Title IX in the News-

### Yale University (Settlement with OCR June 2012)

- In March 2011, 16 students filed a complaint stemming from an incident on Oct. 13, 2010, in which members of Delta Kappa Epsilon marched across campus to a dorm where many female students lived and chanted “No means yes! Yes means anal!” A video of the incident went viral, spurring an uproar at Yale and nationwide.
- The complainants alleged that Yale did not adequately punish the male students involved in the incident, or in several other incidents; and, in failing to do so, Yale created a sexually hostile environment on campus.
- The complainants alleged that Yale’s failings precluded women from having the **same access to education** as their male counterparts in violation of Title IX.

# Title IX in the News

## Boston University (2011 and 2012)

Corey Trivino was a 2008 draft pick in December 2011, when he was arrested on indecent assault & battery charges after he forced his way into a female student's dorm room, tried to kiss her and repeatedly groped her.

- He was kicked off the team and suspended.
- He pleaded guilty to the charges and is no longer enrolled at BU.

Junior defenseman Max Nicastro, a 2008 draft pick, was charged with raping a female student in February 2012.

- While the criminal charges against him were later dropped, he was kicked off the team and suspended. He is no longer enrolled at BU.

Following an investigation, a BU task force issued a report on the “**culture of sexual entitlement**” and the “elevated social status” of the hockey team that led to “frequent sexual encounters with women absent an emotional relationship or ongoing commitment.”

# **Title IX in the News**

## **Penn State (2012)**

Did the school's handling of sex abuse allegations against assistant football coach Jerry Sandusky violate Title IX?

## The DOE's 2011 Dear Colleague Letter on Title IX

The U.S. Department of Education (DOE) enforces Title IX

- The DOE's Office for Civil Rights (OCR) investigates complaints and pursues its own actions against schools, colleges and universities.
- OCR does not have the power to write laws, but it can issue guidance on how the agency will interpret and apply the laws it enforces.
- In April of 2011, OCR issued a Title IX guidance in the form of a **Dear Colleague Letter** (DCL)

## Why Does the DCL on Title IX Matter Now?

- OCR is fixated on the issue of Title IX!
- From OCR's Title IX Enforcement Highlights:
  - Since January of 2009, OCR has issued three policy guidances pertaining to Title IX topics such as sexual harassment, sexual violence and equity in athletics programs
  - In the last three fiscal years, OCR received nearly 3,000 Title IX-related complaints, more than ever before in a similar time period
  - In the last three fiscal years, OCR has launched more than 35 proactive, system-wide investigations

<http://www2.ed.gov/documents/press-releases/title-ix-enforcement.pdf>



## What Did the DCL Explain Sexual Harassment?

- Sexual violence is a form of gender discrimination prohibited by Title IX
- MCLA's responsibility is to ALL students on campus, not just an individual complainant
- The location of an incident does not matter; what matters is the impact on access to a MCLA's programs
- MCLA cannot promise confidentiality
- MCLA cannot mediate issues involving sexual violence
- MCLA must provide interim measures to a victim during an investigation
- MCLA may not rely on the local police to investigate an incident; MCLA must conduct its own investigation

# What are Interim Measures?

- Measures to Ensure the Victim's Safety
  - Temporary suspension of the alleged perpetrator from residences halls or campus
  - No Contact orders
- Academic Adjustments
  - Allowing a complainant to take a test or submit a paper late
- Living situations addressed
  - Separating the alleged perpetrator and the victim
- Counseling

## What Does Title IX Require Once MCLA Has Notice of a Possible Problem?

1. Any MCLA employee with notice or information regarding possible sexual harassment, sexual violence or gender-based discrimination **MUST** inform the Title IX Coordinator or his/her immediate supervisor.
2. The Title IX coordinator or a trained designee must take immediate steps to investigate.
3. MCLA must take interim measures to protect the victim during the investigation.
4. If MCLA determines that sexual discrimination occurred, it must take reasonable, timely, and effective steps to end the conduct, prevent its recurrence, and address its effects.

## Let's Talk About Notice

This applies to everyone – from the President to faculty to maintainers.

- Once you know, OCR will deem the college to know, whether or not you properly report the matter to the Title IX Coordinator
- If you fail to report, you will hamper the college's ability to comply with Title IX
- If you fail to report, you will also expose yourself to personal liability under state law
  - MCLA may not pay for your legal counsel if sued
  - Any MSCA insurance policy may not cover you
  - The Commonwealth may not indemnify you

Let's think about the maintainer at Penn State who witnessed Sandusky abuse a child in the locker room.

- Could the abuse have been stopped earlier had he known he was required to report the incident to someone other than Coach Paterno?

## How Serious Are The Legal Risks for Faculty Regarding Discrimination, Harassment or Retaliation?

There is the potential for significant damages under the civil rights laws

(1) against MCLA and (2) **against you individually**

for discrimination, harassment or retaliation against students and employees, including compensatory and punitive damages.

- Example: under Title VII, MCLA can be liable for harassment by supervisors *even where it had no knowledge* of the harassment
- Example: Chapter 151B holds individuals liable for harassment as perpetrators, conspirators, aiders or abettors.

# What if a Supervisor Harasses, Discriminates or Retaliates Against an Employee or Student Worker?

## Who is a Supervisor?

- President, Provost, VPs and other Officers
- an Administrator with staff reports
- possibly a Department Chair
- possibly a Program Director
- possibly a faculty member supervising a work-study student

## What if a Supervisor Harasses, Discriminates or Retaliates Against an Employee or Student Worker?

- Under MA law, MCLA is **strictly liable** for harassing conduct by a supervisor even if MCLA is unaware of the conduct, and even though MCLA has a policy prohibiting the conduct.
- MCLA is also **strictly liable** for supervisory conduct even if, upon learning the conduct, MCLA conducts a prompt investigation and takes immediate actions to address the situation.
- The **strict liability** rule applies not only to actual supervisors, but also to those who hold themselves out as having supervisory authority over the employee, whether or not they have actual authority.

## What if a Faculty Member Harasses, Discriminates or Retaliates Against an Employee or Student?

- Any person can be held **individually liable** under state law for harassment, discrimination or retaliation as perpetrators, conspirators, aiders or abettors.
- MCLA's insurance will likely NOT cover the legal representation of any MCLA employee who is determined to have purposefully engaged in unlawful harassment, discrimination or retaliation.
- Any judgment of individual liability may have to be paid out of the individual's pocket; the Commonwealth retains discretion in matter of indemnification. Such damages might include:
  - Compensatory damages for lost wages and benefits (back pay and front pay)
  - Emotional distress
  - Attorneys' fees
  - Statutory interest (at the rate 12%)
  - Injunctive relief
  - Punitive damages



# What is the Role of the AAO at MCLA?

- The Affirmative Action Officer (“AAO”) is responsible for providing campus-wide leadership to promote affirmative action, equal opportunity and diversity at MCLA.
- The AAO works closely with the President and MCLA Administration in the implementation, monitoring and evaluation of the MCLA’s anti-discrimination policies.
- The AAO serves as the Title II/Section 504 Coordinator and a Title IX Coordinator.
- The AAO serves as the ombudsman for all complaints of discrimination, including discriminatory harassment, and retaliation.

## **What Do I Do if Someone Approaches Me with an Issue Regarding Discrimination, Harassment or Retaliation?**

### **DOs:**

- ✓ **Report every inquiry or complaint to MCLA's AAO, even if the person does not wish to make a formal complaint.**
- ✓ Take all complaints seriously.
- ✓ Determine if there is a threat of physical violence.
- ✓ Encourage the reporting of perceived or observed harassment.
- ✓ Follow MCLA policies; if necessary, seek clarification from the AAO.
- ✓ Explain that retaliation is illegal and will not be tolerated at MCLA.
- ✓ Inform the complainant about other available support services (the EAP or Student Counseling).
- ✓ Document all steps that you take in regard to the inquiry or complaint; provide any copies of your documentation to the AAO if requested.
- ✓ Communicate with those outside of the AAO on only a "need-to-know" basis.

## **What Do I Do if Someone Approaches Me with an Issue Regarding Discrimination, Harassment or Retaliation?**

### **DON'Ts:**

- ☒ Don't attempt to resolve the complaint yourself.
- ☒ Explain you cannot resolve the complaint on your own, and that MCLA policy requires you to refer the complaint to the AAO.
- ☒ Don't suggest complainants "just ignore it."
- ☒ Don't adopt an "I don't want to know" or "I don't want to be bothered with this" attitude.
- ☒ Don't delay once you are aware of a problem.
- ☒ Don't make quick judgments or act biased.
- ☒ Don't promise or guaranty confidentiality to a complainant.
- ☒ Don't breach the appropriate "need to know" communication level.

# Where to Go For Help and Where to Direct Others for Help

## On Campus

MaryEllen Olenyk,  
Director of HR, Affirmative Action Officer,  
Title IX Coordinator  
m.olenyk@mcla.edu (413) 662-5599

## For Victims of Sexual Violence

Emergency Dial 911  
MCLA Public Safety (413) 662-5100

## External Agencies

U.S. Dept. of Education/Office for Civil Rights (OCR)  
5 Post Office Square, Boston, MA 02109-3921 (617) 289-0111

Massachusetts Comm. Against Discrimination (MCAD)  
436 Dwight Street, Room 220, Springfield, MA 01103 (413) 739-2145

Equal Employment Opportunity Commission (EEOC)  
JFK Fed. Bldg., 475 Gov't. Ctr., Boston, MA 02203 (800) 669-4000

# Scenario One

- You are attending an opening at MCLA's Gallery51 downtown. Students and other colleagues are attending as are community members.
- You notice that one of your faculty colleagues is talking to an MCLA student whom you have in class. It seems to you there may be a flirtation going on.
- After the opening a group goes to a local restaurant for dinner; you go along. The colleague and student you have notice are part of the group. They sit next to each other, the colleague is having drinks, and there is physical contact. They leave together.
- What should you do?
- In the next few weeks you notice (and others notice) the professor and student around campus, together, perhaps holding hands from time to time. Do you say something or do something?

## Scenario Two

- You and another faculty member are accompanying students on a college field trip involving car travel and an overnight stay. On the way back to campus you stop off for dinner. Your colleague orders a beer and suggests you are free to do the same. What should you do?
- Some of the students on the trip are over 21, and your colleague invites them to order alcoholic drinks as well.
- Does the situation change if those ordering alcohol are also the drivers? Does it not change?

## Scenario Three

- You are a faculty advisor to a freshman student, who reports to you that she and another freshman were assaulted at an off-campus party by other MCLA students.
- The student reports that she and her friend had consumed a lot of alcohol, and that upperclassmen had pressured them into drinking.
- The student asks you to keep it quiet. She is embarrassed, and doesn't want to cause a problem.
- She doesn't want her name to be connected with such an incident.
- What should you do?

# Parting Thoughts

- When you have questions or concerns about student privacy or FERPA, ask for help.
  - Don't do anything until you speak with a supervisor or the Registrar.
- Don't try to solve issues of discrimination, harassment or retaliation on your own.
  - When someone brings a complaint of discrimination, harassment or retaliation to your attention, **report it.**
  - When you have first-hand knowledge of a situation involving discrimination, harassment or retaliation, **report it.**
  - When in doubt, **report it.**