



University of Massachusetts Amherst

November 3, 2014

Subject: Restroom Policy

The University of Massachusetts Amherst strives to create and sustain a campus environment that supports and values all members of our community. One aspect of creating a supportive environment is providing safe, accessible, and convenient restroom facilities. Students, staff, faculty, and campus guests should use the restroom facilities that correspond to their sex or gender identity, or utilize single-user facilities that are designated as a restroom or gender-inclusive restroom.

Other Relevant Laws and Policies

- ▶ UMass Amherst includes “gender identity and expression” in its [Affirmative Action and Nondiscrimination Policy Statement](#).
- ▶ On October 1, 2016, the state law [An Act Relative to Transgender Anti-Discrimination](#) took effect in Massachusetts, which extends protections against discrimination for gender identity/expression to any place of public accommodation, and allows trans individuals to use the public restrooms and locker rooms that match their gender identity.
- ▶ Pursuant to this legislation, the [Massachusetts Attorney General’s Office](#) and the [Massachusetts Commission Against Discrimination](#) (MCAD) issued guidance on how places of public accommodation with public restrooms and locker rooms should implement the law and specifically address the improper use of facilities.
- ▶ The Attorney General’s guidance states (emphasis added):
 - “If a patron complains about the mere presence of a transgender person in a sex-segregated facility, or a patron expresses concern that someone may be using the incorrect facility based on that person’s appearance, a place of public accommodation should first assess whether there is any reasonable basis to believe that person is not using the appropriate facility most consistent with their gender identity.”
 - “Employees of a place of public accommodation **should not assume an individual’s gender identity solely by appearance**. The fact that a woman, whether transgender or not, is perceived as having a ‘masculine’ appearance is not a legitimate reason to exclude her from,

or question her presence in, a sex-segregated facility intended for women. Similarly, the fact that a man may appear ‘feminine’ is not a credible basis to exclude him from, or question his presence in, a sex-segregated facility intended for men.”

- “Misuse of sex-segregated facilities is exceedingly rare. As a general matter, **employees of a place of public accommodation should presume that an individual is using the correct facility (the one most consistent with their gender identity), if the person is not engaged in any improper or unlawful conduct,**” such as loitering in order to spy on others, taking photos or videos, or harassing others.
 - **“Inquiry into a person’s gender identity is generally not necessary.** However, if a place of public accommodation has a legitimate concern about whether a person is using the appropriate facility, an employee may attempt to resolve the issue through a private and discrete conversation with that person. . . **In most cases, if the person confirms that they are using the facility most consistent with their gender identity, that should be the end of the inquiry . . .**”
- ▶ On May 13, 2016, the Department Education (DOE) and the Department of Justice (DOJ) issued guidance which, while it does not add requirements to Title IX, provides information and examples as to the Departments’ interpretation of Title IX requirements. Pursuant to this guidance, the DOE/DOJ interprets Title IX as follows:
- The DOE/DOJ treats an individual’s gender identity as the individual’s sex for the purposes of Title IX.
 - The DOE/DOJ interprets Title IX to require that “a school must not treat transgender students differently from the way it treats other students of the same gender identity.”
 - With regard to restrooms and locker rooms, the DOE/DOJ’s interpretation requires that a school **“must allow transgender students access to such facilities consistent with their gender identity”** (emphasis added) and that “[a] school may not require transgender students to use facilities inconsistent with their gender identity or to use individual-user facilities when other students are not required to do so.”
- ▶ Further, pursuant to the DOJ/DOE Guidance, “requiring students to produce [identification documents that reflect their gender identity] in order to treat them consistent with their gender identity may violate Title IX when doing so has the practical effect of limiting or denying students equal access to an educational program or activity.”

Frequently Asked Questions

What exactly does the UMass restroom* policy mean in practice?

The aim of the policy is to enable transgender and gender nonconforming people on campus to use restrooms without harassment. People may use the gendered restrooms in which they feel safe and most comfortable.

What do I do if I have a reasonable basis to believe that someone is not using the facility most consistent with their gender identity/expression or that someone is using a facility for an improper or unlawful activity?

Please do not ask anyone to leave a restroom because their gender appears to you not to correspond to the gender of the restroom. If you truly believe that someone is in the “wrong” restroom, you can report the incident.

- If you are a student and the incident is in a residence hall: please report the incident to a Resident Assistant, Assistant Residence Director, or Residence Director.
- If you are a student and the incident is in a building other than a residence hall: please report the incident by clicking on the “Report an Incident” button on the Dean of Students’ web page: https://www.umass.edu/dean_students.
- If you are a maintainer, custodian, or tradesperson: please report the incident to your supervisor.
- Other staff and faculty: please report the incident to your Building Coordinator.

If I have been discriminated against in a gendered facility because of my gender identity or expression, to whom can I report the incident?

If you are a student: you are encouraged to contact the Dean of Students Office at 413-545-2684 or the University of Massachusetts Police Department (UMPD) at 413-545-3111.

If you are a faculty or staff member: you are encouraged to contact your supervisor, the Office of Equal Opportunity and Diversity (EO&D) at 413-545-3464, or the University of Massachusetts Police Department (UMPD) at 413-545-3111.

What restrooms should non-binary gender people use?

Non-binary individuals should use the restrooms in which they feel safer and most comfortable. This may include gender-inclusive restrooms, when available, as well as gendered restrooms.

Are gender-inclusive restrooms only for trans and gender nonconforming people?

No. Gender-inclusive restrooms are open to and benefit **all** campus community members. These individuals include, but are not limited to, a male parent with a young female child and vice-versa; people who have disabilities, people who are temporarily injured, and anyone who requires a personal care assistant and that individual is of a gender different from them; and anyone who feels more comfortable in a private restroom/bathroom space.



How can I tell if a restroom is gender-inclusive?

Almost all restrooms on campus that have a single set of fixtures (one toilet and one sink) are gender-inclusive. In the 2016-17 school year, the signage on these facilities is being standardized to say just “restroom,” and where appropriate, have the wheelchair access symbol, along with an L/R for the transfer side from a wheelchair.

How many restrooms on campus are gender-inclusive?

By the end of the 2016-17, there will be more than 150 gender-inclusive restrooms in academic buildings, 122 gender-inclusive restrooms on the first floors of residence halls, and 19 gender-inclusive bathrooms on residence hall floors.

How do I know where there are gender-inclusive restrooms?

An interactive map of gender-inclusive restrooms is available on the “Living at UMass” app. A map and list are also available at www.go.umass.edu/map and through the restroom/bathroom icon on the front of the [Stonewall Center website](#).

This document was developed by the University’s Bathroom and Restroom Committee, 2016.

* For brevity, “restroom” is used throughout the document to mean both restrooms and bathrooms.

Terminology

For Facilities

Bathroom: A facility that is used for bathing—it includes a shower or a tub and may have a toilet(s) and sink(s).

Restroom: A facility that includes at least one toilet and sink, but no bathing fixture.

Gendered Restroom: A restroom labeled “men” or “women.”

Gender-Inclusive or All-Gender Restroom/Bathroom: A restroom/bathroom that is open to people of all genders. Typically it is a single-user, lockable facility.

For Identities

Gender Identity: An individual’s internal sense of their gender, which may be different from or the same as the person’s sex assigned at birth.

Sex Assignment at Birth: Sex designation given at birth based on one’s biology. Someone who medically transitions would have a “legal sex” different from their sex assigned at birth.

Gender Expression: The ways in which a person expresses their gender identity through clothing, behavior, posture, mannerisms, hair style, speech patterns, body characteristics, etc.

Trans or Transgender People: Umbrella terms for individuals whose gender identity and/or expression is different from the sex assigned to them at birth.

Trans Women: Individuals who identify as female but were assigned male at birth.

Trans Men: Individuals who identify as male but were assigned female at birth.

Non-Binary People: Individuals who do not fit into traditional “male” and “female” gender categories, such as agender, bigender, gender fluid, and genderqueer individuals.

Gender-Nonconforming People: Individuals who do not to adhere to the traditional gender expectations for appearance and behavior of people of their assigned gender. Some identify as transgender, but others do not.

Cis or Cisgender People: Individuals who identify with the sex that was assigned to them at birth (i.e., people who are not transgender).