

University Policy Number 200.29

POLICY ON SEXUAL MISCONDUCT AND HARASSMENT

sexual misconduct. The purposes of this Policy include:

- Defining harassment and sexual misconduct;
- Educating all students and employees on the different types of behavior that can be considered harassment or sexual misconduct;
- Explaining procedures for reporting incidents of harassment or sexual misconduct;
- Explaining the investigation process; and
- Identifying the types of disciplinary actions that may be imposed upon persons who violate this Policy.

III. APPLICABILITY

This Policy is applicable to all sexual misconduct and harassment by and among all members of the University community, including all faculty, staff, temporary employees, students, customers, and other third parties within the University's control.

This Policy applies to harassment and sexual misconduct:

- a) on property within the jurisdiction of the University;
- b) in University-owned or University-operated vehicles;
- c) at University-sponsored activities;
- d) at other off-campus activities;
- e) that has an adverse impact on the education or employment of a member of the University community; or
- f) that otherwise threatens the health or safety of a member of the University community.

Harassment and sexual misconduct can be committed by both men and women, and can occur between people of the same or opposite sex, and can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship.

Note: Consensual relationships among members of the University community in which one party exercises academic or administrative authority over the other may be inappropriate because of a perception of power or influence. Any faculty member, teaching associate, or administrator or other staff member who engages in such relationships must accept responsibility for assuring that it does not result in a conflict of interest or raise other issues of professional ethics.

For matters involving discrimination based on pregnancy, pregnancy related conditions, and/or parenting status, please refer to University Policy No. 400.06: Title IX Policy on Pregnancy.

IV. DEFINITIONS

Deputy Coordinator and Appeals Representative: Individual(s) designated by the President or designee with special responsibility to carry out the provisions of this Policy.

Coercion: Coercion is the use of an unreasonable amount of pressure to gain sexual access. Coercion is more than an effort to persuade, entice, or attract another person to have sex. When a person makes clear a decision not to participate in a particular form of Sexual Contact or Sexual Intercourse, a decision to stop, or a decision not to go beyond a certain sexual interaction, continued pressure can be coercive. In evaluating whether coercion was used, the University will consider: (i) the frequency of the application of the pressure, (ii) the intensity of the pressure, (iii) the degree of isolation of the person being pressured, and (iv) the duration of the pressure.

Consent: Defined as an affirmative agreement to engage in mutually acceptable sexual activity. Consent is given by clear words or actions and may not be inferred from silence, passivity, or lack of active resistance alone. Consent to one form of sexual activity does not imply consent to other forms of sexual activity. A current or previous dating or sexual relationship is not sufficient to constitute consent. Conduct will be considered “without consent” if there is

Responsible Employee: A Responsible Employee is a University employee who has the authority to redress sexual violence, who has the duty to report incidents of sexual violence or other student misconduct, or who a student could reasonably believe has this authority or duty. See Section VII for more information on Responsible Employees.

Sexual Orientation: The actual or perceived sexual orientation or gender identity of the parties, including lesbian, gay, bisexual, transgender, and queer (LGBTQ), does not change the University's obligations under this Policy.

Title IX Coordinator: The Title IX Coordinator shall be responsible for monitoring compliance with all aspects of this Policy. Accordingly, the Title IX Coordinator must be informed of all reports and complaints raising Title IX issues (subject to the exception for mental-health counselors described in Section IX-A), even if the report or complaint was initially filed with another individual or office or if the investigation will be conducted by another individual or office. Shirley Biggs is the Title IX Coordinator / Senior Director of Human Resources for the University. See Sections VII, VIII, and IX of this Policy for details regarding the Title IX Coordinator's duties.

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Title IX Coordinator / Senior Director of Human Resources
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University Community: Includes all faculty, adjunct faculty, persons engaged in research, teaching assistants, administrators, staff, students, and persons who conduct business with the University but are not employees.

Unwelcome Conduct: Conduct is unwelcome if the individual does not request or invite it and regards the conduct as undesirable or offensive.

V. RELEVANT FEDERAL LAWS

The University complies with all applicable laws, federal regulations, and other requirements, including those set forth below:

A. Title IX of the Education Amendments of 1972

Title IX is a federal civil rights law that prohibits discrimination on the basis of sex in education programs and activities.

The law provides that “[n]o person in the United States shall, on the basis of sex, be

excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.” *Title IX of the Education Amendments of 1972*, 20 U.S.C. § 1681, et seq.

The U.S. Department of Education’s Office for Civil Rights mandates that schools take “prompt and effective action to end harassment and prevent its recurrence.”

Title IX protects all students at recipient institutions in the United States regardless of national origin, immigration status, or citizenship status.

C. Title VII of the Civil Rights Act of 1964

Title VII of the Civil Rights Act of 1964, as amended, prohibits employment discrimination based on sex, race, color, religion, or national origin. Accordingly, harassment of an employee on the basis of sex violates this federal law. In the event of a complaint of sexual harassment or sexual misconduct, whether in the academic or employment setting, the University will investigate the complaint pursuant to the Title IX reporting procedures set forth below.

D. The Violence against Women Reauthorization Act (VAWA) of 2013

VAWA prohibits sexual assault, domestic violence, dating violence, and stalking. This federal legislation is sometimes referred to as the Campus Sexual Violence Elimination (SaVE) Act.

E. The Clery Act

unwelcome verbal or other expressive behaviors, or physical conduct commonly understood to be of a sexual nature.

Offensive physical contact such as unwelcome touching, fondling, patting, pinching, brushing the body, or obscene gestures;
Continued or repeated verbal abuse of a sexual nature, such as suggestive comments and sexually explicit jokes;
Sexually degrading language or remarks of a sexual nature used

2. Consent and the use of alcohol and/or other drugs

Being intoxicated does not diminish an individual's responsibility to obtain the consent of the other party before engaging in sexual activity. Being intoxicated or high is never an excuse for sexual misconduct.

B. Other Misconduct

a. Harassment and Bullying

The University will not tolerate bullying on the basis of sex. Harassment and Bullying are defined as repeated unwelcome verbal or physical conduct, based on any actual or perceived trait or characteristic of the individual, such as sex, race, color, religion, sexual orientation, gender, gender identity,

b. Intimate Partner Violence

Intimate Partner Violence includes any act of violence or threatened act of violence, including emotionally abusive behaviors, that occurs between individuals who are involved or have been involved in a sexual, dating, spousal, domestic, or other intimate relationship. Intimate Partner Violence may include any form of harassment or misconduct prohibited in this Policy, including sexual assault, stalking, and physical assault. Intimate Partner Violence includes “dating violence” and “domestic violence,” as defined by VAWA:

Dating Violence: Dating Violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party’s statement and with

media, such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of communication.

Examples of stalking include, but are not limited to:

- Following an individual;
- Approaching or confronting that individual in a public place or on private property;
- Appearing at the workplace or residence of the individual without invitation (unwelcome);
- Making threatening or obscene gestures;
- Repeated or continuing non-consensual communication, including personal telephone calls, voice messages, text messages, social media, electronic mail, written correspondence, unwanted gifts, etc.;
- Non-consensual touching;
- Trespassing;
- Vandalism; or
- Surveillance or other types of observation.

e. Sexual Assault

This Policy defines sexual assault as an intentional (attempted or intended) physical sexual act perpetrated against a person's will, including situations where a person is incapable of giving consent. Sexual assault may involve a person of either sex against a person of the opposite or same sex.

f. Rape

Rape is defined as any act of sexual intercourse that takes place against a person's will and that is accompanied by physical coercion or the threat of bodily injury. This includes the sexual penetration of any bodily orifice with a body part or other object. Rape also includes intercourse with a person who is unable to consent as a result of conditions including, but not limited to, those caused by the intake of alcohol or drugs, or because intellectual or other disability prevents the person from having the capacity to give consent.

C. False Complaints

Individuals who knowingly or recklessly file a false harassment complaint and/or give false statements in an investigation against another are in violation of this Policy. If, upon the conclusion of an investigation of any complaint regarding a violation of this Policy, the University learns that an individual has provided false information regarding the complaint or investigation, disciplinary action may be taken against that individual, up

to and including, termination of employment, expulsion or suspension, removal from campus, cancellation of contract, and any other appropriate institutional sanctions.

D. Retaliation

Retaliation is defined as conduct causing any interference, coercion, restraint, or reprisal against a person complaining of harassment or against a person assisting in any way in the investigation and resolution of a complaint.

VII. REPORTING PROCEDURES

The University has instituted procedures for the proper handling and treatment of harassment and sexual misconduct allegations.

Prompt reporting is encouraged. It is the responsibility of students and employees to immediately report incidents of sexual misconduct and harassment. In order to best preserve evidence in cases of assault, campus police / law enforcement officials should be contacted as soon as possible after an assault has occurred. Preserving evidence may be necessary in proving criminal domestic violence, dating violence, sexual assault, stalking, or in obtaining a protection order.

Who to contact:

Students and employees who believe that they have been victims of sexual misconduct are encouraged to report the incident **immediately to Campus Public Safety** at (803) 535-5444 (24 hours a day, seven days a week) or to law enforcement by dialing 911.

Students should report any incident of harassment and / or sexual misconduct to any of the following:

resolution.

Once an individual reports his or her allegations to the appropriate University personnel (as listed previously), the Title IX Coordinator shall assign a single or dual investigator to the case. The Investigator(s) will discuss the procedure with the complainant and have him or her describe the problem. The Investigator(s) will conduct a separate discussion with the accused to review the allegations. The information may be used to conduct a fact-finding investigation pursuant to Section IX of this Policy.

Resolution of complaints handled under the Informal Complaint Procedure shall be completed as soon as possible, and in most cases within thirty (30) calendar days of receipt of the complaint, unless valid extenuating circumstances occur. If a resolution cannot be completed within thirty (30) calendar days because of valid extenuating circumstances, the complainant will be notified and given a projected time for completion. If the complaint is resolved through the Informal Complaint Procedure, a written record of the allegations and the resolution will be retained in the Office of Human Resources, and the file will be closed.

If the Investigator(s) determines that a formal investigation is necessary, the complaint will be handled under the Formal Complaint Procedure described below.

B. Formal Complaint Procedure

The Formal Complaint Procedure will be followed if the individual elects to skip the Informal Complaint Procedure and proceed directly under the Formal Complaint Procedure, or if the Informal Complaint Procedure is not successful or appropriate for addressing the allegations. For example, the University may determine that it is obligated to proceed under the Formal Complaint Procedure due to the seriousness or nature of the allegations, even if the individual making the complaint would prefer to proceed under the Informal Complaint Procedure.

The individual(s) accused of violating this Policy will be notified in writing as to which provision(s) of this Policy are alleged to have been violated.

An investigation will be conducted pursuant to Section IX of this Policy, and will include

In resolving complaints of sexual misconduct and harassment, the University will undergo a fact-finding investigation and decision making process to determine (1) whether the conduct occurred; and (2) if the conduct occurred, what disciplinary actions and/or remedial measures the University will take. The proper evidentiary standard for determining whether the conduct occurred is the preponderance-of-the-evidence standard (i.e. more likely than not that sexual misconduct occurred).

Both parties should have an equal opportunity to present witnesses and other evidence.

A. Confidentiality

To the extent possible, the University will make every effort to maintain the privacy of all parties involved in alleged sexual misconduct and harassment complaints. However, confidentiality cannot be guaranteed because the University must also consider fairness to the individual accused as well as the safety and welfare of all members of the University community; these considerations may require the University to disclose the harassment allegation and the identity of the complainant to the accused or other University or law enforcement officials.

The Title IX Coordinator will evaluate the request for confidentiality in the context of the University's responsibility to provide a safe and nondiscriminatory environment for all members of the University Community.

Counselors and Chaplains: Some people, such as counselors or victim advocates, can talk with the complainant in confidence without triggering an investigation by the University. Professional, licensed counselors and pastoral counselors who provide mental-health counseling to member

opportunity for the advisee to secure a new advisor. Additionally, the University will determine its own schedule, and it is incumbent upon the reporting party and responding party to ensure their advisors are available. The schedule for interviews, appeals, or any meeting necessary will not be driven by advisor availability.

C. Interim Measures Available

If appropriate, the University may take interim measures during the investigation designed to promote the safety and well-being of the parties, including, but not limited to:

- Restricting contact between the parties by issuing a “No Contact” Order;
- Providing an extension of time or other course-related adjustments;
- Modifying work or class schedules;
- Providing campus escort services;
- Changing work or housing locations;
- Offering leaves of absence;
- Increasing security and monitoring of certain areas of the campus.

Note: Appropriate applicable guidelines will be applied to students on a visa.

X. DISCIPLINARY ACTIONS

Employees and students who violate this Policy are subject to appropriate discipline by the University. If an investigation results in a finding that this Policy has been violated, the mandatory minimum discipline is a written reprimand.

Upon the finding of a serious violation of this Policy, the University reserves the right to take disciplinary measures, up to and including, termination of employment, expulsion or suspension, removal from campus, cancellation of contract, and any other appropriate actions necessary to address the violation.

Appropriate disciplinary actions shall be taken against any person found to have participated in any acts of retaliation.6(r)- Tf1 0 0 1 72.024 592.06an0000912 0lqf1 (c)4(o)3(c)4(lu)4(di)

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The University shall publish a “Sexual Misconduct & Harassment” brochure providing information on the categories of misconduct, the reporting procedures, and resources available on campus. Copies of this brochure shall be available in University offices throughout campus.

C. Public Notification

As required by law, the University shall collect and annually report statistical information concerning sexual misconduct occurring within its jurisdiction. To promote public safety, the University will alert the campus community of incidents and developments of immediate concern.

D. Resources

Information on Counseling and Victim Services: For further information on the counseling services available to victims of harassment and sexual assault, contact the Title IX Coordinator (see contact information in Section VII) or The Counseling Department directly at (803) 535-5285.

Health Services: (803) 535-5328

University Chaplain: (803) 535-5150

CASA Family Systems: (803) 534-2272

E. Contact

**CLAFLIN UNIVERSITY
STUDENT/EMPLOYEE**

The information contained in this document is confidential and must be submitted to the Title IX Coordinator (Office of Human Resources, Tingley Hall, Floor 1, Suite 4).

Name:

Local Address:

Work Phone: _____ Local Phone: _____ Cell Phone:

Date of Incident: _____ Time of Incident: _____ AM
_____ PM

Location of Incident:

Identify the name(s) of the individual(s) against whom you are submitting this complaint:

Please describe the nature of the incident, providing as much detail as possible to assist with the investigation of this complaint.

Please provide the names and contact information of any witness(es).

Name/Status	Address	Telephone #

By signing this form I understand that this complaint will be investigated, and the alleged harasser(s), any witnesses, and persons of interest will be interviewed.

The information provided in this Sexual Misconduct and Harassment Reporting Form is true and accurate to the best of my knowledge. I will cooperate fully in the investigation and provide the University with requested evidence a24 51QnSen.ir3(r)-le4(

Note: The Office of Human Resources should provide a copy of this form to the complainant.

Students and employees who believe that they have been _____ of sexual misconduct should report their complaint/incident _____ to Campus Police at 803-535-5444 (24 hours a day, seven days a week).